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ಇಲಾಖೆ / ವಿಷಯ: DEPARTMENT / SUBJECT: *Court Matter*

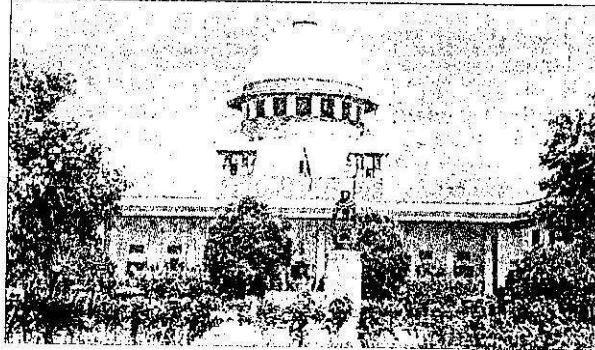
ಪತ್ರಿಕೆಯ ಹೆಸರು : NAME OF THE NEWS PAPER: *Deccan Herald*

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Promotion quota: Review plea filed in SC against May 10 verdict

Pavitra II judgement totally upset and diluted law on reservation

NEW DELHI: A review petition was filed in the Supreme Court on Monday against the May 10 judgement, which upheld the validity of the Karnataka's law for granting reservation in promotion to the Scheduled Caste and Scheduled Tribe employees.



Over 100 petitioners led by B K Pavitra contended the judgement by a two-judge bench has "totally upset and diluted" the settled criteria to determine the nature, extent and purpose of reservation in the entire state of Karnataka, contrary to the law laid down by the Constitution benches in Nagaraj (2006) and Jarnail Singh (2018).

The verdict has sought to "re-write the law of reservation defying the reasonable balance which the Supreme

Court followed for the last 70 years," their plea stated.

"The court has overlooked the individual right of equality as envisaged under Article 14 and 16(1) of the Constitution by deducing the conclusion by combining together the data of representation in different groups/services.

"Hence the judgment dated 10.05.2019 delivered in B K

Pavitra-II is per incurium and needs reconsideration," the petition drawn by advocate Kumar Parimal and settled by senior advocate Rajeev Dhavan stated.

In the petition, running over 100 page, the petitioners said the letter and spirit of the Pavitra II and its interpretation of Articles 16, 16(4A and B), 335, and the concepts of

"efficiency of administration," "merit" and "transformative constitutionalism" has in fact created a mandatory duty to introduce quota reservation with "a dilution of conditionalities, abjuring balancing and abdicating the scope of judicial review."

They contended in Pavitra II, the references are to premature debates of the Constitutional Assembly, irrelevant speeches of individuals in different contexts, which were meaningless and without application of mind.

Among others, the petitioners stated Pavitra II totally ignored the submissions on efficiency, saying "Merit as a principle of selection between all candidates including SC and ST inter se is quite different from meritocracy. As a principle of selection it simply underlines best person for the

job."

The petitioners also maintained the principle of retrospectivity applied in the judgement was flawed, while there were a clear misunderstanding of consequential seniority. They also claimed the criteria laid down in the Nagaraj case including implication of creamy layer was not examined in considering the validity of the law.

On May 10, the top court had dismissed a batch of petitions filed by Pavitra and others against the validity of the Karnataka Extension of Consequential Seniority to Government Servants Promoted on the Basis of Reservation (To the Posts in the Civil Services of the State) Act, 2018, passed to circumvent the 2017 verdict, then delivered on petitions by Pavitra and others.

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