



RP No.643 of 2025 and
410 of 2023

2025:KER:64729

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 26TH DAY OF AUGUST 2025 / 4TH BHADRA, 1947

RP NO. 410 OF 2023

AGAINST THE JUDGMENT DATED 03.02.2023 IN WA NO.1527 OF 2021
OF HIGH COURT OF KERALA

REVIEW PETITIONERS/NON PARTIES IN THE WRIT APPEAL:

- 1 DR THARA S.S.
AGED 46 YEARS
W/O AJITH KUMAR G., SNEHA, AMC 10/277, RRVRA 127,
VELANKONAM, ATTINGAL P.O., THIRUVANANATHAPURAM
DISTRICT, PIN - 695101
- 2 SOUMYA K.C.
AGED 35 YEARS
D/O CHOYIKUTTY K.C., KALLADICHUDALAYIL HOUSE,
VELIMANNA P.O., OMASSERY (VIA), KOZHIKODE DISTRICT,
PIN - 673582
- 3 SURESH PUTHENPARAMBIL
AGED 41 YEARS
S/O. CHERIYAKORAN, PUTHENPARAMBIL HOUSE, VALAKKULAM
P.O., KOZHICHENA, MALAPPURAM DISTRICT, PIN - 676508

BY ADVS.
SMT.NISHA GEORGE
SRI.GEORGE POONTHOTTAM (SR.)
SRI.A.L.NAVANEETH KRISHNAN



RESPONDENTS/RESPONDENTS/APPELLANT:

- 1 UNIVERSITY OF CALICUT
REPRESENTED BY ITS REGISTRAR, CALICUT UNIVERSITY P.O.,
THENJIPALAM, MALAPPURAM, PIN - 673635
- 2 THE REGISTRAR
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.,
THENJIPALAM, MALAPPURAM, PIN - 673635
- 3 THE VICE CHANCELLOR
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.,
THENJIPALAM, MALAPPURAM, PIN - 673635
- 4 DR PRAMOD C.
ASSISTANT PROFESSOR, DEPARTMENT OF BOTANY, UNIVERSITY
OF CALICUT, CALICUT UNIVERSITY P.O., THENJIPALAM,
MALAPPURAM, PIN - 673635
- 5 DR ANUPAMA K.P.
AGED 35 YEARS
RESIDING AT SOMA NIVAS, PALLIKKAL P.O., MALAPPURAM,
PIN - 673634

BY ADVS.
SRI.T.B.HOOD
SMT.M.ISHA
SRI.P.C SASIDHARAN, SC, UNIVERSITY

THIS REVIEW PETITION WAS FINALLY HEARD ON 11.08.2025 ALONG
WITH RP NO.643 OF 2025, THE COURT ON 26.08.2025 PASSED THE
FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 26TH DAY OF AUGUST 2025 / 4TH BHADRA, 1947

RP NO. 643 OF 2025

AGAINST THE JUDGMENT DATED 03.02.2023 IN WA NO.1527 OF 2021
OF HIGH COURT OF KERALA

REVIEW PETITIONERS/3RD PARTY SEEKING REVIEW:

- 1 SHIBLI K.
AGED 31 YEARS
S/O. UMMER KUTTY K., ILLIES LAND, NEAR MUNSIFF COURT,
TALIPARAMBA P.O KANNUR, PIN - 670141
- 2 NAJELA KOTTA PUTHUPARAMBATH
AGED 35 YEARS
D/O. UMMER KOTTA PUTHUPARAMBATH, MUTHU HOUSE, MONGAM,
MORAYUR, MALAPPURAM, PIN - 673642
- 3 JOSHIN JOSEPH
AGED 32 YEARS
S/O. P.C.JOSEPH, PARIYATH HOUSE, KURIANAD P.O.,
MONIPPALLY, KOTTAYAM, PIN - 686636

BY ADV SRI.ISAAC KURUVILLA ILLIKAL

RESPONDENTS/APPELLANT/RESPONDENTS:

- 1 DR.ANUPAMA K.P.
AGED 35 YEARS
RESIDING AT SOMA NIVAS, PALLIKKAL P.O., MALAPPURAM,
PIN - 673634



RP No.643 of 2025 and
410 of 2023

2025:KER:64729

- 2 UNIVERSITY OF CALICUT
REPRESENTED BY ITS REGISTRAR, CALICUT UNIVERSITY P.O.,
THENJIPALAM, MALAPPURAM, PIN - 673635
- 3 THE REGISTRAR
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.,
THENJIPALAM, MALAPPURAM, PIN - 673635
- 4 THE VICE CHANCELLOR
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.,
THENJIPALAM, MALAPPURAM, PIN - 673635
- 5 DR.PRAMOD C.
ASSISTANT PROFESSOR, DEPARTMENT OF BOTANY, UNIVERSITY
OF CALICUT, CALICUT UNIVERSITY P.O., THENJIPALAM,
MALAPPURAM, PIN - 673635

BY ADVS.
SRI.T.B.HOOD
SMT.M.ISHA
SRI.P.C.SASIDHARAN, SC, UNIVERSITY

THIS REVIEW PETITION WAS FINALLY HEARD ON 11.08.2025 ALONG
WITH RP NO.410 OF 2023, THE COURT ON 26.08.2025 PASSED THE
FOLLOWING:

**COMMON ORDER****Muralee Krishna, J.**

The petitioners in these review petitions are third parties to W.A.No.1527 of 2021, who have filed the respective review petitions under Order XLVII Rule 1 read with Section 114 of the Code of Civil Procedure, 1908 ('CPC' for short), seeking review of the judgment dated 03.02.2023 passed by a Division Bench of this Court in that writ appeal.

2. W.A.No.1527 of 2021 was filed by the petitioner in W.P.(C) No.16456 of 2021, challenging the judgment dated 06.10.2021 passed by the learned Single Judge. The appellant/writ petitioner was one of the aspirants for the post of Assistant Professor in various departments of the University of Calicut, notified by Ext.P1 notification dated 31.12.2019 issued by the University. Out of the total notified vacancies of 63, two vacancies were in the Department of Journalism and Mass Communication. In Ext.P4 ranked list, the appellant/writ petitioner was placed as rank No.2. Even though there were two vacancies, the candidate who secured rank No.1 alone was appointed, stating the reason that the second



vacancy is one to be earmarked for candidates belonging to special reservation category 'persons with disabilities' in terms of Section 34 of the Rights of Persons with Disabilities Act, 2016 ('the Act', for short). Contending that going by the respective dates of occurrence of vacancies in the Department of Journalism and Mass Communication, roster points of 31 and 54 are the slots to be applied for filling up the vacancies that arose in the department, of which the vacancy corresponding to roster point 31 is a slot due to open competition candidates and the vacancy corresponding to roster point 54 is a slot due to candidates belonging to Ezhavas, Thiyyas, and Billavas Communities (ETB Communities) and insofar as there were 63 vacancies, the first rank holder should have been appointed against the vacancy corresponding to roster point 31 and appellant/writ petitioner being the 2nd rank holder and also a candidate belonging to the category ETB communities should have been appointed against the vacancy corresponding to roster point 54, the appellant/writ petitioner filed the writ petition under Article 226 of the Constitution of India.

3. The learned Single Judge dismissed the writ petition,



taking the view that since the vacancy corresponding to roster point 54 has been filled up by appointing a candidate belonging to ETB communities, though not in the Department of Journalism and Mass Communication, there is no illegality in the appointments effected. Being aggrieved by the said judgment, the appellant/writ petitioner filed W.A. No.1527 of 2021. By relying on the judgments of the Apex Court in **Indra Sawhney v. Union of India [1992 Supp (3) SCC 217]**, **Rajesh Kumar Daria v. Rajasthan Public Service Commission [(2007) 8 SCC 785]**, **Anil Kumar Gupta v. State of UP [(1995) 5 SCC 173]** and **R.K Sabharwal v. State of Punjab [(1995) 2 SCC 745]** the Division Bench set aside the judgment of the learned Single Judge and disposed of the writ appeal with the following directions:

"i. The University is directed to appoint the petitioner as Assistant Professor in the Department of Journalism and Mass Communication in the vacancy corresponding to roster point 54 forthwith.

ii. The University is also directed to rework the rotation chart in respect of the appointments already made pursuant to Ext.P1 notification notionally, following the procedure prescribed by the Apex Court in Indra Sawhney, Anil Kumar



Gupta and Rajesh Kumar Daria and retain persons who are appointed otherwise than in accordance with the said procedure in supernumerary posts, so that they will not be affected by this decision and the University will be free to adjust their appointments against future vacancies as and when they arise.

iii. It is clarified that in the process of reworking the roster chart as directed, the University would be free to make up the shortfall due to the category "persons with disabilities", if qualified hands are available among the applicants for selection and if the reservation in favour of the category "persons with disabilities" cannot be completed even after following the said procedure, the shortfall can be made up by earmarking the requisite number of vacancies next arising in the category of Assistant Professor for the category "persons with disabilities".

iv. It is also clarified that the direction contained in this judgment will not affect the rights of parties in pending writ petitions where the selection and appointments made pursuant to Ext.P1 notification are already under challenge."

4. The review petitioners are aggrieved by the 2nd direction in the judgment of the writ appeal. According to the petitioners in R.P.No.643 of 2025, the 1st and 2nd petitioners belong to the Muslim community and are physically disabled, who are entitled to the vertical reservation of OBC and in the horizontal



reservation for persons with disability. The 3rd petitioner belongs to Christian community and is entitled to the open category as well as horizontal reservation for persons with disability. The petitioners in R.P.No.410 of 2023 are included in the ranked list dated 04.02.2021 for the post of Assistant Professor in different subjects in Calicut University. The petitioners contend that the 2nd direction in the appeal judgment granted the respondent University, the right to adjust the appointments of 24 persons who were illegally appointed against future vacancies as and when they arise. According to the petitioners, the said direction in the judgment is an error apparent on the face of the record.

5. Heard the learned Senior Counsel for the petitioners in R.P.No.410 of 2023, the learned counsel for the petitioners in R.P. No.643 of 2025, the learned Standing Counsel for the University of Calicut and the learned counsel for the party respondents.

6. The learned Senior Counsel and the learned counsel for the petitioners would submit that in the judgment dated 03.02.2023, the Division Bench declared that the procedure adopted by the University for effecting reservation in the University was faulty and



illegal. It was also found in the judgment that the procedure adopted by the University is violative of Rule 15 of Part II of the Kerala State and Subordinate Service Rules, since it is contrary to the rotation turns and that it is violative of the requirement under Section 34 of the Rights of Persons with Disabilities Act, 2016. It is also found in that judgment that the persons selected following the incorrect and wrong procedure have already been appointed and that they have been working in the University for quite some time. Therefore, the direction to rework the rotation chart in respect of the appointments already made pursuant to Ext.P1 notification notionally and thereafter retain persons who are appointed otherwise than in accordance with the said procedure in supernumerary posts and to adjust their appointments against future vacancies as and when they arise is an error apparent on the face of the record.

7. On the other hand, the learned Standing Counsel for the University and the learned counsel for the party respondents would contend that against the judgment in the writ appeal, the University filed Special Leave Petition before the Apex Court and



by the order dated 19.05.2023 in Special Leave to Appeal (C) No.10045 of 2023 the Apex Court dismissed the Special Leave Petition by a considered order and therefore the judgment in the writ appeal is merged with the order of the Apex Court and for that reason the review petitions are not maintainable. It is also argued by the learned counsel that the 2nd direction in the judgment is one passed by the Division Bench after considering the relevant provisions and the judgments governing the field, and hence it cannot be said as an error apparent on the face of the record. The learned Standing Counsel would further submit that the direction in the judgment was already complied.

8. To understand the circumstances that entitle the Court to exercise its power of review, it would be appropriate to go through the provisions concerned as well as the law on the point laid down by the judgments of the Apex Court and that of this Court. Section 114 and Order XLVII of CPC are the relevant provisions as far as the review of a judgment or order of a Court is concerned.



9. Section 114 of the CPC reads thus:

"114. Review-

Subject as aforesaid, any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed by this Code, or

(c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit."

10. Order XLVII Rule 1 of the CPC reads thus:

"1. Application for review of judgment.

(1) Any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face



of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

Explanation-

The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment."

11. It is trite that the power of review under Section 114 read with Order XLVII of the CPC is available to be exercised only on setting up any one of the following grounds by the petitioner.

- (i) discovery of a new and important matter or evidence, or
- (ii) mistake or error apparent on the face of the record, or
- (iii) any other sufficient reason.

12. In **Northern India Caterers v. Lt. Governor of Delhi [(1980) 2 SCC 167]** the Apex Court held that under the guise



of review, a litigant cannot be permitted to reagitate and reargue the questions, which have already been addressed and decided.

13. The Apex Court in **Parsion Devi v. Sumitri Devi [(1997) 8 SCC 715]** held thus:

“Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered has a limited purpose and cannot be allowed to be “an appeal in disguise”.

(Underline supplied)

14. In **N.Anantha Reddy v. Anshu Kathuria [(2013) 15 SCC 534]** the Apex Court held that the mistake apparent on the face of the record means that the mistake is self-evident, needs no search, and stares at its face. Surely, review jurisdiction is not an appeal in disguise. The review does not permit rehearing of the matter on merits.

15. In **Sasi (D) through LRs v. Aravindakshan Nair and**



others [AIR 2017 SC 1432] the Apex Court held that in order to exercise the power of review, the error has to be self-evident and is not to be found out by a process of reasoning.

16. In **Shanthi Conductors (P) Ltd. v. Assam State Electricity Board and others [(2020) 2 SCC 677]** the Apex Court by referring to **Parsion Devi [(1997) 8 SCC 715]** held thus:

“The scope of review is limited and under the guise of review, petitioner cannot be permitted to reagitate and reargue the questions, which have already been addressed and decided”.

17. Again in **Govt. of NCT of Delhi v K.L. Rathi Steels Ltd. [2024 SCC Online SC 1090]** the Apex Court considered the grounds for review in detail and held thus:

“Order XLVII does not end with the circumstances as S.114, CPC, the substantive provision, does. Review power under S.114 read with Order XLVII, CPC is available to be exercised, subject to fulfillment of the above conditions, on setting up by the review petitioner any of the following grounds:

- (i) discovery of new and important matter or evidence; or
- (ii) mistake or error apparent on the face of the record; or



(iii) any other sufficient reason.”

18. In **Sujatha Aniyeri v. Kannur University [2025 KHC OnLine 212]** in which one of us is a party [Muralee Krishna S., J], after considering the point, what constitutes an error apparent on the face of the record, this court held that review jurisdiction is not an appeal in disguise. The review does not permit rehearing of the matter on merits. If the direction in the judgment was erroneous, then the remedy was to challenge the same by filing an appeal and not by filing a review petition.

19. We have carefully verified the judgment dated 03.02.2023 passed by the Division Bench in W.A.No.1527 of 2021. In the judgment, the Division Bench considered the settled position pertaining to vertical reservation for candidates belonging to social reservation and also regarding the horizontal reservation as far as candidates belonging to special reservation, in detail and reached to a finding that the procedure adopted by the University in effecting reservation in favour of persons with disability, as illegal and faulty. For clarity of understanding the reasoning given by the Division Bench, we extract paragraphs 13 to 17 of that



judgment hereunder:

“13. The reservation provided for under the Act in favour of “persons with disabilities” being one that falls within the purview of Article 16(1) of the Constitution, there cannot be any doubt to the proposition that the said reservation has to be given effect to only horizontally. This aspect has been clarified by the Apex Court in **Indra Sawhney v. Union of India [(1992) Supp 3 SCC 217]**. In addition, in the said case, the Apex Court has also laid down the procedure for effecting such reservations. The relevant portion of paragraph 812 of the judgment reads thus:

“There are two types of reservations, which may, for the sake of convenience, be referred to as ‘vertical reservations’ and ‘horizontal reservations’. The reservations in favour of Scheduled Castes, Scheduled Tribes and other backward classes [under Article 16(4)] may be called vertical reservations whereas reservations in favour of physically handicapped [under clause (1) of Article 16] can be referred to as horizontal reservations. Horizontal reservations cut across the vertical reservations — what is called interlocking reservations. To be more precise, suppose 3% of the vacancies are reserved in favour of physically handicapped persons; this would be a reservation relatable to clause (1) of Article 16. The persons selected against this quota will be placed in the appropriate category; if he belongs to SC



category he will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (OC) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservations in favour of backward class of citizens remains — and should remain — the same. This is how these reservations are worked out in several States and there is no reason not to continue that procedure.”

(Underline supplied)

In the context of examining the correctness of the procedure followed by the Government of Uttar Pradesh and its authorities in the matter of effecting special reservations in favour of women for admission to medical courses, the Apex Court has elaborated and explained the procedure aforesaid in **Anil Kumar Gupta v. State of U.P. [(1995) 5 SCC 173]**. Paragraph 18 of the said judgment reads thus:

“18. Now, coming to the correctness of the procedure prescribed by the revised notification for filling up the seats, it was wrong to direct the fifteen per cent special reservation seats to be filled up first and then take up the OC (merit) quota (followed by filling of OBC, SC and ST quotas). The proper and correct course is to first fill up the OC quota (50%) on the basis of merit; then fill up each of the social reservation quotas, i.e., SC, ST and BC; the third step would be to find out how many



candidates belonging to special reservations have been selected on the above basis. If the quota fixed for horizontal reservations is already satisfied — in case it is an overall horizontal reservation — no further question arises. But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding number of candidates therefrom. (If, however, it is a case of compartmentalised horizontal reservation, then the process of verification and adjustment/accommodation as stated above should be applied separately to each of the vertical reservations. In such a case, the reservation of fifteen per cent in favour of special categories, overall, may be satisfied or may not be satisfied.) Because the revised notification provided for a different method of filling the seats, it has contributed partly to the unfortunate situation where the entire special reservation quota has been allocated and adjusted almost exclusively against the OC quota.” (Underline supplied)

In the context of special reservation for women provided for in the Rajasthan Judicial Service, the Apex Court has elaborated further the procedure aforesaid in **Rajesh Kumar Daria v. Rajasthan Public Service Commission [(2007) 8 SCC 785]**. Paragraph 9 of the said judgment reads thus:



"9. The second relates to the difference between the nature of vertical reservation and horizontal reservation. Social reservations in favour of SC, ST and OBC under Article 16(4) are "vertical reservations". Special reservations in favour of physically handicapped, women, etc., under Articles 16(1) or 15(3) are "horizontal reservations". Where a vertical reservation is made in favour of a Backward Class under Article 16(4), the candidates belonging to such Backward Class, may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their number will not be counted against the quota reserved for respective Backward Class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said that the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under open competition category. [Vide Indra Sawhney, R.K.Sabharwal v. State of Punjab, Union of India v. Virpal Singh Chauhan and Ritesh R.Sah v. Dr. Y.L.Yamul]. But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper



procedure is first to fill up the quota for Scheduled Castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of "Scheduled Caste women". If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social) reservation. Thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women. Let us illustrate by an example: If 19 posts are reserved for SCs (of which the quota for women is four), 19 SC candidates shall have to be first listed in accordance with merit, from out of the successful eligible candidates. If such list of 19 candidates contains four SC woman candidates, then there is no need to disturb the list by including any further SC woman candidate. On the other hand, if the list of 19 SC candidates contains only two woman candidates, then the next two SC woman candidates in accordance with merit, will have to be included in the list and corresponding number of candidates from the



bottom of such list shall have to be deleted, so as to ensure that the final 19 selected SC candidates contain four woman SC candidates. (But if the list of 19 SC candidates contains more than four woman candidates, selected on own merit, all of them will continue in the list and there is no question of deleting the excess woman candidates on the ground that "SC women" have been selected in excess of the prescribed internal quota of four.)" (Underline supplied)

14. Admittedly, the University has not adopted the procedure as has been laid down in the decisions aforesaid of the Apex Court. Instead, as pointed out by the petitioner, the University has effected the reservation in favour of "persons with disabilities" vertically as is done in the case of reservations in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes, by earmarking roster points 1, 26 and 51 for the said classes and additional slots were created in those roster points as slots 1A, 26A and 51A in order to protect the interests of candidates who are otherwise entitled to be considered for appointment against vacancies corresponding to the said roster points. In that process, the roster points fixed in terms of Annexure to Part II of KS & SSR for Scheduled Castes, Scheduled Tribes and all Other Backward Communities have been completely changed. As rightly pointed out by the learned Senior Counsel for the



petitioner, it is on account of the said reason that the vacancy corresponding to roster point 54 became the vacancy corresponding to roster point 51A earmarked for "persons with disabilities" and the petitioner, who would have otherwise been appointed against the vacancy corresponding to roster point 54, was denied appointment. In light of the decisions of the Apex Court referred to in the preceding paragraph, the procedure adopted by the University as referred to above is faulty and illegal. In **Indra Sawhney**, it has been held categorically by the Apex Court that while effecting the reservations in favour of category of persons like "persons with disabilities", it is obligatory for the employer to ensure that the percentage of reservations in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes remain intact. In the case on hand, it is seen that on account of the faulty procedure adopted by the University, candidates belonging to ETB Communities who were otherwise entitled to 9 posts in a process of selection for filling up of 63 vacancies, could get only 8 posts. That apart, the procedure adopted by the University is violative of Rule 15 of Part II KS & SSR also, for the same is contrary to the rotation turns provided for in the Annexure to Part II KS & SSR. In terms of the said Annexure, the rotation turns for ETB Communities are 2, 14, 18, 28, 34, 42, 54, 58 and 62 and on account of the introduction of



additional slots in the roster, the turns of ETB communities have been changed to 3, 15, 19, 30, 36, 44, 57 and 61. When a percentage of reservation is fixed in favour of a category by allotting reserve points in a roster, the same are to be filled from among the members of that reserved category only. It is so held by the Apex Court in **R.K. Sabharwal v. State of Punjab [(1995) 2 SCC 745]**. The relevant portion of paragraph 4 of the judgment in the said case reads thus:

“When a percentage of reservation is fixed in respect of a particular cadre and the roster indicates the reserve points, it has to be taken that the posts shown at the reserve points are to be filled from amongst the members of reserve categories and the candidates belonging to the general category are not entitled to be considered for the reserved posts.”

Again, the procedure adopted by the University is violative of the requirement under Section 34 of the Act also, as, if the said procedure is adopted, in a rotation of 104 appointments, only 4 persons with disabilities would be appointed, which may not satisfy the requirement of 4% reservation.

15. As noticed, the view taken by the learned Single Judge is that the vacancy corresponding to slot 54 in the 100 Point Roster has been filled up by the University by appointing a candidate belonging to ETB Communities and it is on



account of the said reason, the learned Single Judge chose to dismiss the writ petition. The petitioner also takes the stand that slot 54 in the 100 Point Roster has gone to the vacancy that arose in the Botany Department of the University on 31.05.2019 against which the fourth respondent in the writ appeal was appointed and it is on that premise, the petitioner has impleaded the said person in the writ appeal as the person who would be affected by the decision in the writ petition. It is seen that the vacancy corresponding to slot 54 has become slot 51A on account of the introduction of additional slots in the roster for effecting reservation in favour of "persons with disabilities", and no candidate was appointed by the University against the said slot since there were no candidates among the "persons with disabilities" who have applied for selection for appointment as Assistant Professor in the Department of Journalism and Mass Communication. The fourth respondent in the writ appeal is a person appointed against roster point 57 which was a slot due to an open competition candidate. The premise on which the learned Single Judge chose to dismiss the writ petition cannot, therefore, be said to be correct.

16. We have perused G.O.(P) No.46/2008/SWD dated 19.07.2008 and G.O.(P) No.8/17 dated 06.05.2017, copies of which were made available to us at the time of hearing, as also Ext.P7 order issued by the Government. The procedure prescribed by the Government in the said orders



are contrary to the decisions of the Apex Court in **Indra Sawhney, Anil Kumar Gupta and Rajesh Kumar Daria** as regards the procedure to be followed while effecting horizontal reservations, which we are bound to follow in terms of Article 141 of the Constitution. We have also perused paragraph 11 of the judgment of this court in *Muhazin P.*, on which emphasis was made by the learned Standing Counsel for the University, and we find that the case aforesaid is a case where the question was whether the reservation in favour of "persons with disabilities", if effected in terms of G.O.(P)No.46/2008/SWD dated 19.07.2008, would go against the rules of rotation provided for in Rules 15 and 17 of Part II KS & SSR, and the said question was answered in the negative. The said case, according to us, has nothing to do with the question which we are called upon to decide in this case.

17. Having found that the procedure adopted by the University for effecting reservation in favour of "persons with disabilities" was illegal and faulty, the next aspect to be considered is as to the relief to which the petitioner is entitled to. As explained by the Apex Court in *Anil Kumar Gupta and Rajesh Kumar Daria*, in the case on hand, the University should have first filled up slots in the roster due to open competition candidates and candidates belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes, and should have thereupon examined the number of candidates belonging to the category "persons with



disabilities” who could secure the appointments. Insofar as three persons are entitled to appointment in that process, the shortfall, if any, should have been made up by adjusting/accommodating the required number of candidates belonging to the category “persons with disabilities” against their respective social reservation categories. Had this been a case where the requirement under Section 34 could not have been satisfied by adopting the said procedure, the University should have deleted the corresponding number of candidates from the bottom of the list, instead of introducing additional slots for “persons with disabilities” in between. Be that as it may, inasmuch as it is found that slot 54 in the roster due to the second vacancy that arose in the Department of Journalism and Mass Communication on 01.04.2019 is one earmarked for appointment of a candidate belonging to the communities “Ezhavas, Thiyyas and Billavas”, in the absence of any candidate belonging to the category “persons with disabilities”, the petitioner being the second rank holder and a candidate belonging to the communities “Ezhavas, Thiyyas and Billavas”, she should have been appointed by the University against that vacancy. As noted, since no candidate was appointed by the University against the second vacancy that arose in the Department of Journalism and Mass Communication on 01.04.2019, no one would be affected also by such appointment”.

20. Challenging the appeal judgment, the University filed a



Special Leave Petition before the Apex Court, and it was dismissed by the order dated 19.05.2023 in Special Leave to Appeal (C) No.10045 of 2023. Paragraph 14 of the judgment in W.A.No. 1527 of 2021 is extracted by the Apex Court in that order and held that the additional slots in between for persons with disabilities could not have been provided with roster point. This Court has rightly directed that the process adopted by the University in applying the roster point was faulty and is contrary to the decisions in **Indra Sawhney [(1992) Supp 3 SCC 217]**, **Anil Kumar Gupta [(1995) 5 SCC 173]** and **Rajesh Kumar Daria [(2007) 8 SCC 785]**. In short, the order of the Apex Court is a considered order and hence there is merits in the submission of the learned counsel for the contesting respondents that the judgment in the writ appeal is merged with the order of the Apex Court in the Special Leave Petition.

21. Apart from the above, as noticed in the judgments with regard to the circumstances under which the review jurisdiction can be exercised, referred to supra, will make it clear that the contentions raised by the review petitioners at present will not fall



under any of the grounds stipulated under Order XLVII Rule 1 of CPC. Though during the course of arguments, the learned Senior Counsel and the learned counsel for the petitioners relied on various judgments of the Apex Court to argue against the merits of the contentions raised by the appellant-writ petitioner in the writ appeal, we are of the considered opinion that those judgments are irrelevant while exercising review jurisdiction, since, review jurisdiction is not meant for reconsideration of the matter already decided on merits. The attempt of the review petitioners appears as to use the review jurisdiction as an appeal in disguise, which is not permissible under law.

Having considered the pleadings and materials on record and the submissions made at the Bar, we find no ground to review the judgment in the writ appeal.

In the result, the review petitions stand dismissed.

Sd/-

ANIL K.NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

sks



APPENDIX OF RP 410/2023

PETITIONER ANNEXURES

Annexure-A1

TRUE COPY OF THE RELEVANT PORTION OF THE RANK
LIST BEARING NOTIFICATION NO. 157279/AD-REC-
ASST-2/2020/ ADMN. DATED 04.02.2021 ISSUED BY
THE CALICUT UNIVERSITY .



APPENDIX OF RP 643/2025

PETITIONER ANNEXURES

Annexure I	A PHOTOCOPY OF THE STANDING DISABILITY ASSESSMENT BOARD CERTIFICATE ISSUED BY THE GOVERNMENT TALUK H.Q HOSPITAL, TALIPARAMBA
Annexure II	A PHOTOCOPY OF THE STANDING DISABILITY ASSESSMENT BOARD CERTIFICATE ISSUED BY THE GENERAL HOSPITAL, THIRUVANANTHAPURAM DATED 15.10.2010
Annexure III	A PHOTOCOPY OF THE DISABILITY CERTIFICATE ISSUED BY THE DEPARTMENT OF EMPOWERMENT OF PERSONS WITH DISABILITIES, MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT, GOVERNMENT OF INDIA DATED 04.07.2017