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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :03-11-2026

Pronounced on :17.11.2026

CORAM

THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

AND

Case QR

THE HON'BLE MR.JUSTICE E.MANOHARAN

W.P.No.34990 of 2007 AND
W.P.No.37033 of 2007
and
M.P.Nos.1 & 2 /2007 and 1 & 2 of 2007

CNR:{HCMA010142672007}

G. Nagrajan
S/o P. Govindan,
4, Tachers Colony,
Gudiyatham,
Vellore 632 602.

..Petitioner

Vs

1. The Government of Tamil Nadu
   Rep.by its Secretary Agriculture Department,
   Fort St. George,Chennai 600 009.

2. The Chief Engineer
   Agricultural Engineering Department,
   Chennai 600 005

3. The Tamil Nadu Public Service Commission,
   Government Estate, Chennai 600 002

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4. V. Sridhar,Assistant Engineer,
   O/o Chief Engineer,
   Agricultural Engineering Department,
   Nandanam, Chennai 600 035

   (Respondent 4 is also in a representative capacity to represent all other Assistant Engineers appointed by recruitment by transfer by 2nd respondent)

..Respondents

W.P.No.37033 of 2007

Case QR

CNR:{HCMA010147812007}

Confederation of Agricultural Engineers
Rep. by its President,
B2, Officials Quarters,
Tamil Nadu Agricultural University,
Coimbatore 641 003.

..Petitioner

Vs

1. The Government of Tamil Nadu
   Rep. by its Secretary,
   Agriculture Department,
   Fort St. George, Chennai 600 009.

2. The Chief Engineer
   Agricultural Engineering Department,
   Chennai 600 036.

3. The Tamil Nadu Public Service Commission,
   Government Estate, Chennai 600 002.

4. V.Sridhar
   Assistant Engineer,
   O/o Chief Engineer,
   Agricultural Engineering Department,
   Nandanam, Chennai 600 035.

..Respondents

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W.P.No.34990 of 2007:

Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring the Rules 2(a), 3 and other Rules to Tamil Nadu Agricultural Engineering Service in so far as permitting appointment to the category of Assistant Engineer by recruitment by transfer as illegal and unconstitutional and consequently direct the respondents 1 to 3 to notify all the vacancies in the category of Assistant Engineer as on date, including the vacancies now occupied by the Assistant Engineers, appointed by recruitment by transfer after 19.7.1994 by the 3rd respondent for selecting candidates by direct recruitment for appointment as Assistant Engineers in Tamil Nadu Agricultural Engineering Department within a time frame as may be fixed by this Hon'ble Court.

W.P.No.37033 of 2007:

Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring the Rules 2(a), 3 and other Rules of Special Rules to Tamil Nadu Agricultural Engineering Service in so far as permitting appointment to the category of Assistant Engineer by recruitment by transfer as illegal and unconstitutional and consequently direct the respondents 1 to 3 to notify all the vacancies in the category of Assistant Engineer as on date, including the vacancies now occupied by the Assistant Engineers appointed by recruitment by transfer by the 3rd respondent pursuant to the impugned Rules for selecting candidates by direct recruitment for appointment as Assistant Engineers in Tamil Nadu Agricultural Engineering Department within a time frame as may be fixed by this Hon'ble Court.

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For Petitioner: :N.Subramaniyan
(in both cases)

For Respondents :Mr.S.Illamvaludhi,
(in both cases) SGP for R1 and R2

Mr.B.Vijay, Standing counsel for R3
in W.P.No.34990 of 2007

Mr.I.Abrar Md.Abdulla,
St.Counsel for R3 in
W.P.No.37033 of 2007

No appearance for R4

COMMON ORDER

Dr.G.Jayachandran, J.
and
E.Manoharan, J.

The above writ petitions are filed to declare Rules 2(a) and 3 and other Rules of Special Rules to Tamil Nadu Agricultural Engineering Service in so far as permitting appointment to the category of Assistant Engineer by recruitment by transfer as illegal and unconstitutional and consequently direct the respondents 1 to 3 to notify all the vacancies in the category of Assistant Engineer as on date, including the vacancies now occupied by the Assistant Engineers appointed by recruitment by transfer by the 3rd respondent, pursuant to the impugned Rules for selecting candidates by direct recruitment for appointment as Assistant Engineers in Tamil Nadu Agricultural Engineering Department within a time frame as may be fixed by this Hon'ble Court.

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2. One petition is by an individual, who possess Agricultural Engineering Degree and another by the President of the Confederation of Agricultural Engineers. However, the relief sought in both the writ petitions are almost identical.

3. Thiru.G.Nagarajan, the petitioner in **W.P.No.34990 of 2007** is a B.E., Graduate in Agricultural Engineering. He claims that he completed his B.E., course in the year 1993. Though he is fully qualified to be appointed as Assistant Engineer by direct recruitment in the Tamil Nadu Agricultural Engineering Department, he could not get appointment, despite being a person from Schedule Caste community, because the Recruitment Rules been amended to give preferential treatment to the in-house candidates serving in the department as Assistant Soil Conservation Officer, Junior Drafting Officer and Agricultural Foreman. Earlier, the post of Assistant Engineer in the Agricultural Engineering Department was exclusively filled with Engineering Graduates by direct recruitment. Later, the Recruitment Rules were amended to provide yet another feeder category (ie) recruitment by Transfer from Tamil Nadu Subordinate Service, such as, Assistant Soil Conservation Officer, Junior Drafting Officer and Agricultural Foreman, who possess Engineering Degree in the ratio of 24:1. Later, the ratio changed into 91:9 from 09/11/1995 as per G.O.Ms.No.582, Agriculture (AA-III) Department, Dated 09/11/1995. By

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providing quota for the in-house candidates, who have close proximity with the higher officials, the Engineering Graduates, who have completed the course long ago, are not able to get employment. The priority to the in-house candidate deprives the fair opportunity of deserving candidates waiting for employment. Filling up the post of Assistant Engineer in the Agricultural Engineering Department with the in-house candidates, who have acquired B.E., degree through part-time Engineering Course and after several attempts at the cost of efficiency is against Article 335 of the Constitution of India. Further, filling up the post of Assistant Engineer through recruitment by transfer without following the communal roaster is against law. Therefore, the Special Rules governing the Tamil Nadu Agricultural Engineering Service – specifically Rule 2(a) and the proviso thereunder – in so far permitting the appointment of in-service candidates to the category of Assistant Engineer through recruitment by transfer is illegal and unconstitutional.

4. Thiru.G.P.Kamaraj, President of the Confederation of Agricultural Engineers representing its members, who are un-employed Agricultural Engineering graduates in his writ petition **W.P.No:37033 of 2007** states that, the post of Assistant Engineer in the Agricultural Engineering Department is a Class V post governed by Special Rules to Tamil Nadu Agricultural Engineering Service. Whereas, the post of Junior Engineer and other lower categories, like, Assistant Soil Conservation Officer, Junior Drafting Officer

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and Agricultural Foreman are governed by Tamil Nadu Agricultural Engineering Subordinate Service. The vacancies arising in Assistant Engineers post and Junior Engineers post used to be apportioned in the ratio of 75:25.

5. Initially, the Assistant Engineers were filled by direct recruitment. Subsequently, through G.O.Ms.No.582, dated 09/11/1995, the recruitment Rule got amended with retrospective effect, by including the recruitment by transfer from the categories of Soil Conservation Officer, Junior Drafting Officer and Agricultural Engineering Foreman in Tamil Nadu Agricultural Subordinate Rules on acquiring the B.E., degree. The amendment Rule does not prescribe any minimum service period in the lower category or any test to examine their suitability for the higher post. Subsequently, the Recruitment Rules got further amended vide G.O.Ms.No.431, Agriculture Department, dated 20.10.1996 permitting redesignation of Junior Engineers as Assistant Engineers on acquiring B.E. degree with effect from the date following the last date of examination. The said amendments have enabled the department to fill all the vacancies in the post of Assistant Engineers from recruitment by transfer from lower categories or by redesignation of Junior Engineers on acquiring B.E. degree. This has deprived the fresh Engineering un-employed graduates to get employment as Assistant Engineers in the Agricultural Engineering Department. Instead of calling for application to fill-up the quota reserved for the Agricultural Engineering graduates by direct recruitment agency, the

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department continue to make illegal appointment contrary to Rules. To give undue advantage for the in-service candidates, through G.O.Ms.No.479, Agriculture (AA-3) Department, dated 16.11.2007, the respondents had upgraded 399 Assistant Soil Conservation Officers with Diploma as Junior Engineers on their completion of 20 years service been re-designated as Junior Engineers thereby the quota for the direct recruit Assistant Engineers has absolutely become Nil. The advantage given to the in-house candidates in various forms have been unduly denied the employment for the members of the Confederation, who are waiting for their chance of getting employment under the Direct Recruitment Quota. The fundamental right of the Members of the petitioner-Confederation is seriously affected, since for the past 10 years there is no direct recruitment of B.E., graduates to the post of Assistant Engineers. That apart, while recruiting through transfer, 69% reservation policy is not followed. Lesser efficient persons are recruited, contrary to Article 335 of the Constitution of India. The change in the recruitment for the post of Assistant Engineers in the Agricultural Engineering department has totally deprived the employment opportunity of B.E. graduates. The filling up of the vacancies in the post of Assistant Engineers through recruitment by transfer and re-designation are contrary to the Recruitment Rules and ultra vires to Article 309 of the Constitution of India.

6. The Counter affidavit filed by the Chief Engineer, Agricultural

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Engineering Department, states that, the method of appointment to the post of Assistant Engineer (Agricultural Engineering) falls under the purview of Tamil Nadu Public Service Commission (in short "TNPSC"). The qualification and method of appointment to the said post are as below:-

Sl. No.	Name of Post	Qualification	Method of Appointment
1.	Assistant Engineer (Agri.Engg.)	**BY DIRECT RECRUITMENT** (i)B.E.(Agri) (or) B.Tech (Agril.Engg.) (or) B.Sc.(Agri.Engg.) (or) (ii) B.E.(Mech.) (or) B.E.(Civil) (or) B.Tech. (Automobile Engg.) (or) B.E. (Production Engg.) (or) B.E.(Industrial Engineering)	Direct Recruitment and by transfer and by promotion from the holders of degree in Engineering in the post of Agricultural Engineering Foreman, Assistant Soil Conservation Officer and Junior Draughting Officer in the ratio of 91:9
		By recruitment by transfer B.E.(Civil) B.E.(Mechanical)	

7. The Special Rules for Tamil Nadu Agricultural Engineering Service was amended in G.O.Ms.No.582 dated 09/11/1995 directing that for appointment to the substantive posts of Assistant Engineer (Agricultural Engineering) the proportion between the Direct Recruitment and recruitment by transfer from the holders of the post of Assistant Soil Conservation Officer, Junior Draughting Officer, Agricultural Engineering Foreman in Tamil Nadu

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Agricultural Service shall be 24:1 with effect from 27/12/1990 and 91:9 with effect from 09/11/1995. Thereafter, in G.O.Ms.No.431, dated 22/10/1996, proviso was added which read as below:-

> *"Provided that Junior Engineer(Agricultural Engineering) in the Tamil Nadu Agricultural Subordinate Service on acquiring a degree in Engineering or a Pass in Section "A" and "B" of the A.M.I.E. shall be re-designated as Assistant Engineer (Agricultural Engineering) in the Tamil Nadu Agricultural Engineering Service from the date following the last date of examination, notwithstanding the procedure to be followed for appointment by recruitment by transfer"*

8. The quota for B.E. graduates through direct recruitment at the entry level post of Assistant Engineer in the department was initiated after the ban on recruitment lifted in the year 2005. Steps to file 36 posts of Assistant Engineer was taken through TNPSC in the year 2006 and notification was also issued to fill up 36 vacancies through Direct Recruitment. However, the same was challenged in W.P.No:4816 of 2008 and in view of the interim stay, the process of direct recruitment did not proceed. In the light of the above circumstances and taking note of the fact that at the given point of time, there were more number of Assistant Soil Conservation Officers (herein after referred to as "ASCO") who have put in more than 20 years of service without any promotion and no scope for promotion till their retirement. Hence, based on the proposal

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given by the Chief Engineer (Agricultural Engineering), the ASCO with 20 years of service were re-designated as Junior Engineers. Further, the departmental hierarchy was re- structured by increasing the number of Section Officers (Assistant Engineers and Junior Engineers) from 5 to 8 in each sub divisions and reduce equal number of ASCO. The upgradation of ASCO post to Junior Assistant and filling it with ASCO, having more than 20 years service was an administrative decision, based on the proposal given by the Chief Engineer of the Department.

9. The Learned Special Government Pleader further submitted, the amendment to the Recruitment Rule arose to meet out the administrative exigencies. The Rules were amended time to time to protect the interest of the serving officers. Those, who have put in more than 20 years of service, without any promotion, were considered to be re-designated as Junior Engineers for them to have chance of promotion as Assistant Engineers. Neither the individual petitioner nor the Association can question the method of recruitment by transfer provided in the Special Rules for Tamil Nadu Agricultural Engineering Service. The petitioners, who are not in service, have no locus to question the vires of the Service Rules.

10. The case of the respondent in short is that, the direct recruitment for Assistant Engineers through open competition could not be carried between

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2001-2005 due to ban on recruitment. Later, when Notification to fill 36 posts through open competition under the aegis of TNPSC , the same was stayed by the High Court. Meanwhile, in-house candidates, who got B.E., degree were considered for the post of Assistant Engineer under the category of recruitment by transfer. Later, those, who were stagnated for more than 20 years in the feeder category with Diploma, were re-designated as Junior Engineers for being considered for the promotional post of Assistant Engineer. For these category, it is a promotional post by transfer from one service to another. Therefore, Rule of reservation is not applicable. Only in the entry level, Rule of reservation is followed in the Agricultural Engineering Department. Providing reasonable quota for in-house candidate in promotion, when there are more than one source of feeder category is not in violation of Constitution.

11. Heard the Learned Counsels and perused the records.

12. Mr.N.Subramaniyan, the learned counsel for the petitioners made his detailed submissions to buttress his case, how the respondents by not appointing Assistant Engineer, through open competition following Rule of reservation has affected the future of young Engineering Graduates, who are anxiously waiting for an opportunity to get a Government job, whereas the respondents only promote the interest of the in-service candidates at the cost of the petitioners in violation of Constitution of India. Whereas, the Learned Special Government

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Pleader marshalled the facts and the circumstances under which and reason for which the recruitment Rules were amended time to time and why the writ petitions are not maintainable.

13. The relief sought for in these writ petitions is to declare Rule 2(a) and 3 of the Special Rules for Tamil Nadu Agricultural Engineering Service Rules as illegal and unconstitutional, since it is contrary to the mandate of the Constitution of India and Section 5 of the Tamil Nadu Reservation Act, 1993. Further, it is discriminatory and violation of Article 14 of the Constitution of India, since it enables the in-service candidates to be eligible for recruitment by transfer as a feeder category to the post of Assistant Engineer in the Agricultural Engineering Department. The writ petitioners also seek for a direction to the respondents to notify all the vacancies in the category of Assistant Engineer as on date for selection through Direct Recruitment. The petitioners want the vacancies filled through recruitment by transfer and by re-designation also to be notified as vacant and to be filed with Direct Recruits.

14. Rule 2(a) of the Special Rules to Tamil Nadu Agricultural Engineering Services, 1981 at the time it came into force, categorised Assistant Executive Engineer (Agricultural Engineering) under Class IV and Assistant Engineer (Agricultural Engineering) under Class V. Rule 2 (a) which deals with the method of appointment to the service of different classes, prescribed

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the feeder categories for Class IV and V as below:-

Class IV	Asssistant Executive Engineer (AE)	i) By Direct recruitment. ii) By promotion from among holders of the posts in class V and iii) By Recruitment by transfer among the holders of the post of Junior Engineer (AE) in the Tamilnadu Agricultural Subordinate Service.
Class V	Assistant Engineer (AE)	By Direct Recruitment.

15. B.E.(Agricultural) or B.Tech.(Agricultural Engineering) or B.Sc., (Agricultural Engineering), B.E. (Mechanical) or B.E (Civil) or B.E. (Auto mobile Engineering) was the minimum education qualification for the post of Assistant Engineer (A.E.) filled through Direct recruitment. The next promotional avenue for Assistant Engineer (Agri. Engineering) being Assistant Executive Engineer (A.E.E.), Rule 2(b) fixed ratio among the three different feeder categories to Class IV (i.e.) Assistant Executive Engineer (A.E.E) in the ratio of 1:3:2 and the roaster was also prescribed. We also find that by inserting a proviso to Rule 2(b) in the year 1984, the quota for direct recruits through open competition was stopped for a period of 8 years and the ratio among the rest of the two feeder categories, (i.e.) (i) Direct recruitment by transfer and (ii) by promotion was fixed as 3:3. The consequence of this amendment was, atleast from 1984 for long years, there was no recruitment through open competition

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for the post of Assistant Engineers (AE) in the respondent department. The quota meant for Direct Recruits been filled up either by promotion or by recruitment by transfer from the in-service candidates in Agricultural Subordinate Service holding BE Degree or Diploma.

16. In the year 1995, the Special Rules was amended further in G.O.Ms. No:582 dated 09/11/1995 with effect from that day, wherein Rule 2(a) got amended as below:-

Amendment

In the said Special Rules:-

(1)in rule 2,

(2)in sub-rule (a) in the Table, in column (3) against the entry "Assistant Engineer (AE)" in column (2) for the entry "By direct recruitment", the following entry shall be substituted, namely:-

(i)By direct recruitment; and

(ii)By recruitment by transfer from among the holders of the posts of Assistant Soil Conservation Officer, Junior Draughting Officer and Agricultural Engineering Foreman in the Tamil Nadu Agricultural Subordinate Service."

(iii)after sub-rule (c) the following sub-rule shall be added, namely, "(d)The proportion for appointment to the vacancies arising in class V by direct recruitment and recruitment by transfer shall be 24:1.

(iv)In sub-rule (d) as so added, for the expression "24:1", the expression "91:9" shall be substituted;

(2)to rule 3, the following proviso shall be added, namely:

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"Provided that, for appointment to the post in Class V by recruitment by transfer, such list shall be prepared with reference to the seniority of the candidates, based on the date of acquiring B.E.(Civil) or B.E.(Mechanical) degree".

17. The reason for the amendment as explained in the G.O. seems to be, the 2% quota given to the holders of the posts of Assistant Soil Conservation Officer, Junior Draughting Officer and other categories of posts in the Subordinate Services, who have acquired a degree in Engineering, was not adequate. Therefore, to reward them with suitable fitment in their career for smooth and harmonious functioning of the Department, the Chief Engineer (CE) had suggested to increase the quota from 3 % to 5% .

18. The Government, after examining the proposal of Chief Engineer (CE), instead of increasing the percentage decided to prescribe proportional representation among direct recruit and recruitment by transfer from the holders of the post of Assistant Soil Conservation Officer, Junior Draughting Officer, Agricultural Engineering Foreman in the Subordinate Services at the ratio of 24:1 in the substantive post (465 being the working strength of Assistant Engineer (AE) on the date of GO). The GO was given retrospective effect from 27/12/1990 till the date of GO (i.e.) 09/11/1995 and thereafter in the ratio of 99:1.

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19. For better and clear understanding, the preamble to the Government Order No:582 dated 09/11/1995 is extracted below:-

> "In the G.O.second read above, it was ordered that 2% of the post of Assistant Engineer (Agrl.Engg.) in the combined strength of Assistant Engineer (Agrl.Engg.) in the combined strength of Assistant Engineer (Agrl.Engg.) and Junior Engineer (AE) be filed up by recruitment by transfer from among the holders of the posts of Assistant Soil Conservation Officer, Junior Draughting Officer and other categories of posts in the Subordinate Service who have acquired a degree in Engineering through part time course based on the date of acquiring such degree pending amendment to the special rules for Tamil Nadu Agricultural Engineering Service in view of the reason that those persons working in lower categories but acquired a degree in Engineering should be rewarded with suitable fitment in their career for smooth and harmonious functioning of the department. The Chief Engineer (AE) has accordingly sent draft amendment proposal.
>
> 2. In the meantime, the Chief Engineer (AE) by considering the large number of degree holders working in the subordinate posts such as Assistant Soil Conservation Officer etc. has requested the Government that the 2% of posts allocated for them may be enhanced to 5% in the combined cadre strength of the post of Assistant Engineer (AE) and Junior Engineer (Agrl.Engg.). When the question of taking into account the posts of Assistant Engineer (AE) alone for the purpose of arriving such percentage, a question has arisen due to the fact that the posts of Assistant Engineer (Agrl.Engg.) and Junior Engineer (Agricultural Engineering) are Governed by separate Special Rules. The above views were put to Chief Engineer

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(Agrl.Engg.) for remarks, the Chief Engineer (AE) in his letter fifth read above has stated that 465 Assistant Engineer (AE) selected by Tamil Nadu Public Service Commission for appointment to the post of Assistant Engineer (AE) (being the substantive posts) are now working in the Department and that those 465 posts may be taken as basis for arriving at such percentage and as and when direct recruitment is made by the Tamil Nadu Public Service Commission, those posts may be considered as total post for the purpose.

3. The Government have carefully examined the proposal they have decided to prescribe proportion for appointment to the substantive-post of Assistant Engineer (AE) between direct recruitment and by recruitment by transfer instead of percentage for purpose.

4. Accordingly, the Government, in partial modification of the orders issued in para 2 of the G.O. second read above, direct that for appointment to the substantive posts of Assistant Engineer (AE), the proportion between direct recruitment and recruitment by transfer from the holders of the posts of Assistant Soil Conservation Officer, Junior Draughting Officer, Agricultural Engineering Foreman in Tamil Nadu Agricultural Subordinate service shall be 24:1 with effect from 27.12.1990 till the date of issue of this order.

5. The Government also direct that the proportion of 24:1 ordered in para 4 above for appointment to the substantive post Assistant Engineer (AE) by direct recruitment and by recruitment by transfer be enhanced to 91:9 with immediate effect.

20. Hardly a year later, the next G.O.Ms.No.431 dated 22/10/1996 issued

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which amended Rule 2 (a) of the Special Rules for the Tamil Nadu Agricultural Engineer Service wherein the Junior Engineer (JE) on acquiring a degree in Engineering or Passing 'A' and 'B' of A.M.I.E were re-designated as Assistant Engineer (A.E.) from the date following the last date of examination. Further, Rule 6-A was inserted for fixation of seniority among the directed appointed Assistant Engineer (A.E.) and those Junior Engineers re-designated Assistant Engineers on acquiring B.E. degree or on pass of A.M.I.E. The proposal for the amendment emanated from the Chief Engineer (C.E.) and the preamble of the G.O.Ms.No.431 reads as under:-

> *"3.The Government have examined the proposal of Chief Engineer (Agricultural Engineering) in consultation with the Tamil nadu Public Service Commission. The Tamil Nadu Public Service Commission is of the view that if the Junior Engineer (Agrl.Engg.) on acquiring at degree etc., is appointed as Assistant Engineer (Agrl.Engg) by recruitment by transfer, then the usual procedure of drawing up of Panel becomes necessary but in this case it is not practicable also. The Commission has therefore suggested that in order to enable the Junior Engineers(Agrl.Engg.) to be appointed as Assistant Engineer(Agrl.Engg.) automatically, instead of resorting to the method of appointment by recruitment by transfer, it would be enough a suitable provision may be incorporated under the Table in sub-rule (a) of rule 2 of Tamil Nadu Agricultural Engineering) for the purpose of determining the seniority in a calendar year prior to 1.2.81, the list of persons selected by the Commission for the post of Agricultural Engineering Supervisor (later designated as Junior Engineer (Agrl.Engg.) Assistant Engineer(Agrl.Engg.) may also be taken in account.*
>
> *4.The Government after careful examination have decided to accept the views of Tamil Nadu Public Service Commission and to amend the Special Rules for Tamil Nadu Agricultural Engineering Service accordingly and in pursuance of the order issued in the Government letter second read above and the Government order Forth read above.*

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5.The following Notification will be published in the Tamil Nadu Government Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Government of Tamil Nadu hereby makes the following amendments to the Special Rules for the Tamil Nadu Agricultural Engineering Service (Section 38 in volume II of the Tamil Nadu Services Manual, 1969).

2.The amendments hereby may shall be deemed to have come into force with effect on and from 1st February, 1981.

AMENDMENTS

In the said Special Rules:-

(1)In Rule 2, in sub-rule (a), in the Table, in column (3) against the entry "Assistant Engineer (Agricultural Engineering) in column (2) the following Proviso shall be added, namely:-

"Provided that Junior Engineer(Agricultural Engineering) in the Tamil nadu Agricultural Subordinate Service on acquiring a degree in Engineering or a Pass in Sections 'A' and 'B' of the A.M.I.E shall be re-designated as Assistant Engineer(Agricultural Engineering) in the Tamil Nadu Agricultural Engineering service from the date following the last date of examination, not withstanding the procedure to be followed for appointment by recruitment by transfer".

(2)after rule 6, the following rule shall be inserted, namely:-

"6-A Seniority between the Assistant Engineer (Agricultural Engineering) directly appointed and those re-designated as Assistant Engineer(Agricultural Engineering):

The Junior Engineer (Agricultural Engineering) on re-designation as Assistant Engineer(Agricultural Engineering) in a calendar year shall be assigned rank below the last Assistant Engineer (Agricultural Engineering) in the list of candidates selected by the Tamil Nadu Public Service Commission in that calendar year. If no selection is made by the Tamil Nadu Public Service Commission in the category of Assistant Engineer(Agricultural Engineering) in that calendar year, the Junior Engineer (Agricultural Engineering) so

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redesignated as Assistant Engineer(Agrl.Engg.) shall be assigned rank below the last Assistant Engineer(Agrl.Engg.) in the list lastly communicated for this purpose. For this purpose, the date of communication the list by the Commission shall be the criteria to decide the calendar year to which the list belongs".

Provided that for determining the last Assistant Engineer (Agricultural Engineering) in a calendar year prior to 1.2.81 the list of persons selected by Tamil Nadu Public Service Commission for the post of Agricultural Engineering Supervisor shall be taken into account.

//By order of the Governor//

21. The writ petitioners contend that, the Special Rules for Tamil Nadu Agricultural Subordinate Service was amended in the year 2004 vide G.O.Ms.No.533 dated 14.12.2004. The recruitment by transfer for the post of Assistant Engineer (AE) is considered from this category which falls under Class IV. The post of Assistant Engineer (AE) is Class V and it is governed by the Special Rules for Tamil Nadu Agricultural Engineering Services. The effect of the G.O.Ms.No.533 has further made worse the scope of a Young Engineering graduate getting appointment as A.E. directly in the Agricultural Engineer Department.

22. To appreciate this submission, we extract below the G.O.Ms.No.533 dated 14.12.2004:

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GOVERNMENT OF TAMIL NADU

ABSTRACT

Rules – Special Rules for Tamil Nadu Agricultural Subordinate Service – Method of appointment to the post of Junior Engineer (AE) – Amendments – issued.

Agriculture (AA3) Department

G.O Ms.No. 533 Dated: 14.12.2004
Read :

1. G.O Ms.No. 1760 Agri. dated 10.6.70
2. G.O Ms.No. 1769 Agri. dated 26.11.74
3. Govt. Letter No. 108814/AA3/76-6, Agri. Dt. 2.9.77
4. G.O Ms. No. 1040, Agri. dated 22.5.79
5. G.O Ms.No. 430 Agri. dated 22.10.96.
6. High Court Order dated 22.1.04 in W.P No. 7460/98.
7. Govt. Lr.No. 21551/Aa III/98 dated 4/10/04.
8. From the Chief Engineer (AE) Letter No. HRD.II(3)/23720/01–9 dated 7/10/04
9. Government letter No. 15943/AA3/2004-10 Agriculture dated 22.10.2004.
10. From the Secretary, TNPSC, Chennai.2 letter No. 5319/RND-C1/2004 dated 13.12.2004.

....

ORDER:

In G.O Ms.No. 1760 Agriculture dated 10.6.70, Special Rules for the Tamil Nadu Agricultural Subordinate Service were issued wherein, the following methods of appointment were prescribed in respect of the post of Agricultural Engineering Supervisor (now redesignated as Junior Engineer (Agricultural Engineering) as per G.O Ms.No. 430, Agriculture, dated 22.10.96):-

(i) Direct Recruitment
(Or)
(ii) Recruitment by transfer from the Tamil Nadu Industries Subordinate Service or the Tamil Nadu Engineering Subordinate Service.
(Or)
(iii) Promotion from Category 2. (Agricultural Engineering Foreman)

2) As the Government have prescribed enhanced qualification for the post of Assistant Soil Conservation Officers and in view of the enhanced qualification, the Assistant Soil Conservation Officers have no promotion opportunity. They have therefore represented to the Government from 1980 onwards to include their category as one of the feeder category to the post of Junior Engineer (Agricultural Engineering). Hence, the Chief

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Engineer (Agricultural Engineering) was requested to send amendment proposal. Accordingly, he has now sent proposal for amending the Special Rules for the Tamil Nadu Agricultural Subordinates Service in respect of rule relating to method of appointment to the post of Junior Engineer (Agricultural Engineering) and requested necessary orders on the amendments.

3) The Government accept the proposal of the Chief Engineer (Agricultural Engineering) and they have accordingly decided to issue amendments to the Special Rules for Tamil Nadu Agricultural Subordinate Service.

4) The following Notification will be published in the Tamil Nadu Government Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Tamil Nadu hereby makes the following amendment to the Special Rules for the Tamil Nadu Agricultural Subordinate Service (Section 1 in Volume III of the Tamil Nadu Services Manual, 1970).

2. The amendment hereby made shall come into force with effect on and from 14th December 2004.

AMENDMENT.

In the said Rules in rule 2, in sub rule (a) under the heading 'CLASS - II" for the entries in column (2) against the entry "Category – I Junior Engineer (Agricultural Engineering) " in column (1) the following entries shall be substituted namely:-

1) Direct Recruitment

or

2) Promotion from the following posts namely:

1. Agricultural Engineering Foreman

2.Assistant Soil Conservation Officer

3.Junior Draughting Officer

or

3) Recruitment by transfer from the following posts, namely:-

(i) Drill Supervisor (ii) Inspector of Hand Boring Set Grade-I

(iii)Compressor Driver.

Provided that 25% of the posts in the total cadre strength of Junior Engineer (Agricultural Engineering) and Assistant Engineer

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(Agricultural Engineering) taken together shall be reserved for appointment by the above said methods.

Provided further that the said 25% of the reserved posts shall be filled up by following the rotation as indicated below:

Rotation	1	Direct Recruitment
Rotation	2	Promotion from the post of Agricultural Engineering Foreman
Rotation	3	Promotion from the post of Assistant Soil Conservation Officer.
Rotation	4	Promotion from the post of Assistant Soil Conservation Officer.
Rotation	5	Promotion from the post of Assistant Soil Conservation Officer.
Rotation	6	Promotion from the post of Assistant Soil Conservation Officer.
Rotation	7	Promotion from the post of Junior Draughting Officer.
Rotation	8	Recruitment by transfer from the post of Drill Supervisor
Rotation	9	Recruitment by transfer from the post of Inspector of Hand Boring Set Grade. I
Rotation	10	Recruitment by transfer from the post of Compressor Driver.

Provided that if a rotation is not filled up due to paucity of hands, that vacancy may be allotted to the next rotation in the cyclical order except for direct recruitment which is covered under the rule of reservation of appointments.

(BY ORDER OF THE GOVERNOR)

P. BASKARADOSS,
Agricultural Production Commissioner
and Secretary to Government.

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23. Thus, from the amendments and reason stated in the respective Government Orders, it is clear that though initially the post of Assistant Engineer in the Agricultural Engineering Department was exclusively for direct recruits through TNPSC, over a period of time, by subsequent amendments the post had been opened for in-service candidates, who acquired B.E. degree and their seniority re-fixed with retrospective effect. As a consequence, the quota for direct appointment through TNPSC also amended and got reduced. Above all, the direct recruitment for A.E. from among the freshers through TNPSC never took place for years together. This has prompted one of the unemployed Engineering graduate in Agricultural Engineering and the Association of unemployed Agricultural Engineering to file these writ petitions.

24. The Government derives it power to frame Rules for recruitment in public services from Article 309 of the Indian Constitution. The power to issue Executive Orders touching upon the public services is not an absolute power. It has to withstand the scrutiny of constitutional validity. No Rule which governs public employment shall be in violation of Article 14 or 16 of the Constitution of India. The Rules must be free from Arbitrariness and any person aggrieved by a Rule which bristles with arbitrariness or discriminatory, then he is entitled to knock the doors of justice invoking Article 226 of the Constitution of India. In case ‘malice in law’ or ‘malice in fact’ is apparently found in the Service

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Rule so framed, Court cannot refuse to examine the case and turn down the person aggrieved at the threshold. Any person or collection of persons if aggrieved and able to demonstrate that the Service Rules so framed is *per se* arbitrary or discriminatory or in gross violation of Constitutional ethos, the Court is duty bound to scrutiny the constitutional validity of such Rules exercising the power of judicial review.

25. From the G.O's issued periodically, we find that the Service Rules particularly Rule 2(a) of the Special Rules for Tamil Nadu Agricultural Engineering Service, the quota fixed for B.E. graduates to be appointed as A.E. by Direct Recruitment not only substantially diminished, but even that quota had not been filled by conducting direct recruitment process through TNPSC. Hence, we hold that the writ petitioners have made out *prima facie case* to entertain their petitions. However, the Court has to examine whether the petitioners claim that all the AEs appointed by recruitment by transfer after 19/07/1994 is unconstitutional and to be declared as illegal and consequentially, the vacancies must be filled through TNPSC from among the eligible B.E. graduates by direct recruitment is sustainable.

26. To buttress his submission that undue advantage to the in-service candidates given by the Government by frequent amendments to the recruitment Rules at the cost of the young engineering graduates waiting for employment in

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public service, the Learned Counsel for the writ petitioners, rely on the judgment of the Hon'ble Supreme Court rendered in *K.Narayanan and others -vs- State of Karnataka and others (1994 Suppl (1) SCC 44) and B.Thirumal -vs- Ananda Sivakumar and others (2014 (16) SCC 593).*

27. Per contra, the Learned Special Government Pleader submit that, the aspirants for a public service cannot be equated with the persons who are already in service. They are not equals and the amendment to Rule 2 (a) of the Special Rules is in no way discriminate the aspirants to the service and the persons already in service. The prayer in the writ petitions suffers a fundamental infirmity. Writ petitions filed in the year 2007 to reverse all the recruitments made to the post of Assistant Engineer (A.E.) by transfer after 19/07/1994. Except alleging that the amendment to the Service Rules had favoured the in-service candidates, no malice of law or fact made out. The preamble to the amendments clearly explains the reason and object for those amendments. Both the judgments cited by the writ petitioners are between the direct recruits and promotees in respect of giving retrospective effect to the amendments relating to fixation of seniority. Same cannot be cited as precedent for a dispute between aspirants and in service candidates.

28. In *K.Narayanan case (cited supra),* which is a dispute between direct recruited Assistant Engineers and promotees from Junior Engineers as Assistant

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Engineers in PWD, Karnataka, the Hon'ble Supreme Court introduces the facts of the case as below and proceeds further:-

> *"2. Engineering services in the Public Works Department (PWD) of the country can justly feel proud for having contributed largest number of decisions from this Court touching upon nearly every aspect of service law the most common being seniority. This has resulted to a large extent due to different set of rules framed in different States to accommodate and benefit one set of employees over another either to mitigate injustice arising out of peculiar circumstances as in the State of Andhra Pradesh due to merger of the State of Hyderabad, or because of sympathetic consideration of supposed injustice as in the State of Karnataka or due to pressure and pull depending on the strength of the Association of Employees of one or the other group coupled with if the Chief Engineer in the State was a promotee or direct."*

29. The above said observation is equally applies to the Agricultural engineering department in Tamil Nadu also. However, a vital difference is in the case cited, the amendment to the Service Rules in the year 1985, was challenged by persons who were already in service and directly aggrieved by the amendment which has given retrospective effect from 01/01/1976. The challenge was made immediately before the Karnataka Administrative Tribunal and reached finality in 1994.

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30. Further, the amendment to the Rules is slightly different. The Apex Court in *K.Narayanan case (cited supra)* had particularly disapproved giving retrospective effect to the amended Rule causing apparent inequality among Direct Recruits and Promotees. Hence, we extract the relevant Rule for easy comparison with the Rule impugned in their writ petitions.

> "*For Direct recruitment*:
>
> Should be a holder of a degree in Civil Engineering or Mechanical Engineering depending upon the requirements, as the case may be or of a Diploma certificate from a recognised Institute of Engineers that he has passed parts A and B of the Associate Membership Examination of the Institute of Engineers or equivalent qualification.
>
> Age: Must not have attained the age of thirty-five years.
>
> *For transfer*:
>
> Must possess B.E., or AMIE (India) qualification in Civil Engineering, or Mechanical Engineering.
>
> *Note* (1).— The option of the Junior Engineer shall be obtained before such transfer within the time stipulated by the Government.
>
> ***Note* (2).— The transfer shall be effective from the date of graduation subject to the availability of vacancies without ignoring the inter se seniority among those eligible for such transfer.**
>
> ***Note* (3).— A Junior Engineer who is appointed by transfer as Assistant Engineer on or after January 1, 1976 shall be entitled to count one-third of the service rendered by him as Junior Engineer prior to appointment as Assistant Engineer, subject to a maximum of 4 years, as if he had been in the post of Assistant Engineer for the purpose of consideration for promotion to the one post of Assistant Executive Engineer Division-I and subject to**

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the following conditions, namely:

(*i*) The seniority of a Junior Engineer who is appointed as Assistant Engineer shall be fixed in the category of Assistant Engineers with reference to the notional date arrived at after giving weightage of service as aforesaid;

(*ii*) A Junior Engineer who is appointed as Assistant Engineer shall put in a minimum service of two years, on duty as Assistant Engineer, after such appointment and a total service of five years as Assistant Engineer, inclusive of the service given as weightage to become eligible for promotion as Assistant Executive Engineer Division-I."

31. The Apex Court in *K.Narayanan case (cited supra)* on due consideration of the facts observed:-

> *"4. Are the rules violative of Articles 14 and 16 of the Constitution? Do the rules framed in 1985 with effect from 1976 suffer from inherent vice of discrimination? What is the import of Notes (2) and (3) of the Rules? Does it mean that seniority should be taken back to the date of acquiring degree and then four years more for having rendered service as diploma engineer or four years in all from before the date of appointment by transfer? What is apparent from the historical background is that the diploma-holder Junior Engineers formed a different class than degree-holder Junior Engineers. They were treated differently by the rule-making authority and when the High Court equated them the Legislature intervened and they were classified as different class statutorily. It is further clear that the cadre of Assistant Engineer was different from Junior Engineer. The method of recruitment, selection, pay scale and promotional avenues were all different. A Junior Engineer could move up to Assistant Executive Engineer Division II whereas an Assistant Engineer was entitled to be promoted as Assistant Executive Engineer Division I. This distinction founded on valid*

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classification both on the nature of job and the qualification, existing in service since long could not be obliterated and the two, that is, the Junior Engineer and Assistant Engineer belonging to two different cadres could not be treated as one only because the diploma holder in course of service acquired the degree.

5. Demarcation of cadres or gradation in the same cadre on higher and lower qualification is a common phenomenon for fixing hierarchy in services. It is a valid basis of classification as held by this Court in State of Mysorev. P. Narasing Rao [(1968) 1 SCR 407 : AIR 1968 SC 349 : (1968) 2 LLJ 120] , Union of India v. Dr S.B. Kohli (Mrs) [(1973) 3 SCC 592 : 1973 SCC (L&S) 136] , State of J&K v. Triloki Nath Khosa [(1974) 1 SCC 19 : 1974 SCC (L&S) 49] , P. Murugesan v. State of T.N. [(1993) 2 SCC 340 : 1993 SCC (L&S) 445 : (1993) 24 ATC 149 : JT (1993) 2 SC 115] Engineering services throughout the country, normally, maintain distinction between Junior and Assistant Engineer on diploma and degree. It existed in the State of Karnataka right from the day the rules were framed. It has been done away with on assumption by the Cabinet that some of the duties performed by the two were common. The Tribunal did not agree with it, and in our opinion rightly. But that alone is not sufficient to strike down the rule. A policy decision taken by the Government is not liable to interference, unless the Court is satisfied that the rule-making authority has acted arbitrarily or in violation of the fundamental rights guaranteed under Articles 14 and 16. Appointment by transfer in the same service or from the different cadre or service but equal in rank and status is well known. But transfer from lower to higher cadre not by promotion but direct appointment only because the incumbent became eligible without any selection, test or criteria may not be in consonance with service discipline.

Rules were thus bent and made retrospective as a sympathetic consideration as many Junior Engineers who were working since

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long would not have derived any benefit otherwise. May be true but if the extension of such benefit impinges upon the constitutional guarantee of equality then it cannot be upheld. And that does stand disturbed. Nothing further need be said. Nor it is necessary to pronounce on the validity of a rule which in the class of appointment by direct recruitment includes appointment by transfer resulting in entry of one class by competition or selection and other by acquisition of minimum qualification as the appellants did not challenge the rule of appointment by transfer but confined their claim to its operation retrospectively.

The Apex Court finally concluded as below:-

9. *For the reasons stated above these appeals and writ petition succeed and are allowed. The following directions are issued:*

(i) The order of the tribunal dated October 21, 1988 is set aside. The second paragraph of the 1985 Amendment Rules making it operative from January 1, 1976 is struck down as ultra vires.

(ii) Note (2) shall be read as providing eligibility only.

(iii) The respondents are directed to prepare fresh gradation list in light of observations made above."

32. In so far the judgment in *B.Thirumal -vs- Ananda Sivakumar and others (cited supra)*, it is in respect of re-designation of Diploma Holder Junior Engineers (JEs) as Assistant Engineers (AEs) on acquiring degree qualification. The challenge to the said re-designation was on the ground that, it provides dual promotional channel to the post of Assistant Executive Engineer in the Tamil Nadu Engineering Service. The appellant B.Thirumal who was a Junior Engineer (Electrical) in Public Works Department, Tamil Nadu governed by Special Rules for Engineering Sub-ordinate Service aggrieved by the practise of

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empanelling Assistant Engineers (Electrical) for promotion to the post of Assistant Executive Engineer (Class IV) in the 25% quota reserved for members of Subordinate Engineering Services. The appeal was dismissed with the following observation:-

> "**31.** The upshot of the above discussion is that the degree-holder Junior Engineers continue to be members of the Subordinate Engineering Service even after they are redesignated as Assistant Engineers upon them getting a degree qualification. They can, therefore, be considered only against the 25% quota reserved for the Subordinate Service and not against 75% reserved for the State Service members directly recruited to that service or appointed by transfer in terms of the Rules. To the extent the redesignated Assistant Engineers have been considered in the past for promotion in the quota reserved for Assistant Engineers in the State Service, the consideration was legally bad. Having said that, we do not propose to interfere with what has been done in the past especially when there is no challenge before us to the appointment of the redesignated Assistant Engineers as Assistant Executive Engineers against vacancies falling in 75% quota. The settled position need not, therefore, be unsettled at this stage in these proceedings."

33. To sum up, the challenge to the Service Rules by persons not in service or outside the service is generally not sustainable. Providing promotional avenues to the in-service candidates cannot be questioned by any outsider or aspirants for the post of Assistant Engineer. The re-designation of the post for administrative reasons also falls beyond the purview of the judicial review. However, the grievance exposed by the writ petitioners does not stop

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with challenging the Rules. On examination of the facts in detail, it reveals continuous deprivation of the opportunity for members of the confederation who are unemployed engineering graduates in Agricultural Engineering to participate in the selection process.

34. Multiple amendments to the rules and failure on the part of the respondents to conduct periodical recruitment process for direct recruitment to fill the quota reserved for them is taken judicial notice. Though the prayer in these writ petitions cannot be granted at this point of time, since it will unsettle the settled position, we direct the respondents to determine the number of substantive posts for Assistant Engineer (Agricultural Engineering) and the number of posts reserved for Engineering graduates to be appointed through TNPSC. If these posts are not filled up by directly recruited Engineering graduates through the TNPSC, but occupied by other feeder category, such number of posts to be filled up by direct recruitment. For those occupying the posts of Assistant Engineer in the slots meant for Direct recruitment, supernumerary posts are to be created till they join the mainstream by applying Catch-up Theory as and when the slots for promotees recruitment transfer fall vacant. This process of appointing Engineering graduates as Assistant Engineers in the Agricultural Department through Direct Recruitment should commence within two months from the date of receipt of this order and the same should get completed within nine months thereafter.

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35. With the above directions, **these Writ Petitions are disposed of.** There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

(G.J.,J.) (E.M.,J.)
17-11-2026

Index: Yes
Speaking/Non-speaking order
Neutral Citation: Yes/No
ari
To

1. The Secretary
   Government Of Tamil Nadu
   Agriculture Department,
   Fort St. George, Chennai 600 009

2. The Chief Engineer
   Agricultural Engineering Department,
   Chennai 600 005

3. The Tamil Nadu Public Service Commission,
   Government Estate, Chennai 600 002

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DR.G.JAYACHANDRAN J.
AND
E.MANOHARAN J.

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delivery Common order made in
W.P.No.34990 of 2007
AND
W.P.No.37033 of 2007
and
M.P.Nos.1& 2/2007 and 1 & 2/2007

17.11.2026

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