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'Reserved candidate can't claim place in open category'

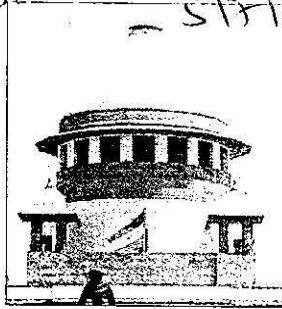
NEW DELHI, BHNS: The Supreme Court on Thursday declared that a reserved category candidate, who has availed age relaxation cannot claim to be included in general category on the basis of higher marks in the merit list.

A bench of Justices S Abdul Nazeer and Indira Banerjee said it was purely a matter of discretion of the state government to formulate a policy for concession, exemption, preference or relaxation either conditionally or unconditionally in favour of the backward classes of citizens.

The reservation being the enabling provision, the manner and the extent to which reservation is provided has to be spelled out from the orders issued by the government from time to time, the court added.

Merit list

It rejected a plea by Niravkumar Dilipbhai Makwana for reconsideration of the merit list in the Gujarat Public Service Commission that the relaxation and concession in age was granted to the candidates at the initial stage only to enable a candidate belonging to



Supreme Court

the reserved category without granting him or her any preferential advantage in the matter of selection.

It cannot be treated as an incident of reservation under Article 16(4) of the Constitution, he contended.

The court said the distinction sought to be drawn between the preliminary and final examination was "totally misconceived".

Empowering state

"Article 16(4) of the Constitution is an enabling provision empowering the state to make any provision or reservation of appointments or posts in favour of any backward class of citizens which in the opinion of

the state is not adequately represented in the service under the state," the court said.

In the instant case, the court noted the Gujarat government has clarified that when a relaxed standard was applied in selecting a candidate for SC/ST, Socially and Economically Backward Class category in the age limit, experience, qualification, permitting number of chances in the written examination etc, then candidate of such category selected in the said manner, would have to be considered only against the reserved post.