

RESERVATION POLICY – A BOON OR A CURSE

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ABSTRACT :

Our constitution makers laid down provisions for reservation for a limited period which was the need of hour at the time as India got freedom after a long period and was at a developing stage. Then society stood on altogether on a different footing. So, to bring all members of it on the same level from various discriminations, the architects of our constitution sought this policy of reservation based on cast; that has now become a burning issue in country's present social political and economic life. It now really needs 'Review'.

KEYWORDS :

Is reservation legal and logical today?

INTRODUCTION :

"Injustice arises when equals are treated unequally and also when unequals are treated equally."

-Aristotle

So true is the application and interpretation of this saying of great philosopher. This wise and profound statement has become so suited to the present predicament of Indian democracy with regards to reservation system. This statement is what lies at the heart of equality, a fundamental human right. Every human simply by virtue of being a human being is entitled to equal treatment as our constitution is based on ideals of equality and justice both in social and political fields.

CONSTITUTIONAL PROVISIONS REGARDING RESERVATIONS:

The constitution of India states in article 15(4) that, "all citizens shall have equal opportunities of receiving education. Nothing herein contained shall prevent the state from providing special facilities for educationally backward sections."

It also states, "The state shall promote with special care the educational and economic interests of the weaker sections of society, and shall protect them from social injustice and all forms of exploitation." The article further states that "nothing in article 15(4) will prevent the nation from helping the scheduled castes and scheduled tribes for their betterment."

In 1982, the constitution specified 15% and 7.5% of vacancies in public sector and government aided educational institutes as a quota reserved for the SC and ST candidates respectively for a period of five years, after which it was to be reviewed. This period has been routinely extended by the all succeeding governments. The Supreme Court of India ruled that reservations cannot exceed 50% and put a cap on reservations. But in spite of this ruling, there are state laws that exceed this 50% limit and are under litigation in the Supreme Court. For instance caste based reservation stands at 69% and the same is applicable to about 87% of the population in the state of Tamil Nadu. And the Indian parliament has taken no review and revisions for fear of losing its mass base. That limited period of positive discrimination has become an avoidable feature of our socio-political life.

ORIGIN OF RESERVATION SYSTEM:

The original pact on which the current reservation of Scheduled Caste and Scheduled Tribes is based, is the 1932 Poona Pact between Dr. B.R. Ambedkar and Mahatma Gandhi. There is however no definition of Scheduled Castes and Scheduled Tribes in our constitution itself. President is empowered to draw up a consultation with the governor of each state, subject to revision by parliament.

MANDAL COMMISSION:

As it is popularly known, it was a landmark judgment by the apex court in Indira Sawney's case. In it the Supreme Court laid down that reservations should not exceed 50%. In Indian political history, 1989's general election will remain a landmark as well, as then 'Janta Dal' party in their election manifesto first of all promised to implement all recommendations of 'Mandal Commission'. All the other political parties including Congress were also committed to implement Mandal Commission's recommendations. And this was all guided by selfish motives, keeping the communal harmony of the country on stake. No party dared to oppose it for the sake of 'Dalit Vote Bank'.

The then Prime Minister V.P. Singh on August 7, 1990 announced that 27% of the government positions would be set aside for OBC in addition to the 22.5% already set aside for SC's and ST's. And this was followed according to 'Mandal Commission' which was established in India in 1978 by the Janta Party government under Prime Minister Morarji Desai with a mandate to "identify the socially or educationally backwards".

Again UPA government under Prime Minister Dr. Manmohan Singh recommended 27% seats for OBC's in educational institutions. The Supreme Court bench consisted of 5 judges had upheld OBC quota in central educational institutions clearing the way for reservation of 27% seats for backward castes 'over a period of three years from the academic year 2008-09. In another judgment apex court allowed 27% quota for OBC's and in this way the overall reservation increased to 49.5%. But it kept the "creamy layer" out.

Almost all political parties opposed this exclusion of creamy layer but only to receive the denial of Supreme Court and the scheme is continued till date.

POSITIVE ASPECTS OF RESERVATION:

The basic idea behind reservation was good enough, it meant to improve the status of those weak and downtrodden sections of society which hitherto been left uncared for. Its aim was to make stand these people on equal footing with those already socially, educationally, politically grown up.

As we the people of India believe in 'Vasudhev Kutumbakam'. Where we all take each other on equal terms and follow path of fraternity. Reservation policy not only helped them in improving their lives and status in the society but also provided them an opportunity of representing themselves in various aspects of the decision making part of the society, something that had been inapproachable for them for such a long time.

Reservation has come up in jobs, in educational institutions, in state assembly, in parliament and in every feasible sphere. In fact it would be a wonderful system if it helps those to raise standards of their lives and covers the entire masses comprised of weaker section. It should not be a tool only in the hands of a few families of that section. If it is used and applied judicially and indiscriminately, this policy might prove a boon for that part of India society that may participate in the growth of Indian democracy in letter and spirit, in its purposed ambit, set down by our constitution architects.

Adverse effects of reservation policy:

Unfortunately, reservation is no more left with positive discrimination or a way to achieve a social justice and equality. It has become more like a curtain for hiding the failures of our political machinery and to create a conducive atmosphere for socio-

economic growth of all sections of society. It shows that the democratic process of development, with all the measures and means could not achieve the ultimate goal even after 65 years of independence. On the contrary the society has been further atomized on caste lines which was never the objective of our law makers. It is sad that reservations have strengthened more the already existing caste divisions within the society. Through the caste based reservations so many facilities and privileges are being offered to the people belonging to particular castes, that others feel cheated. There have been reports several times that people make fake certificates, cards on proof of their being from a backward class to avail the opportunities available to those who really belong to backward classes. Moreover there are some other people who are backward educationally and economically, still they are not classified into that particular section for which reservation is available. At the same time, in the backward classes there are number of people who are more forward than upper classes. The very assumption of backwardness being limited to certain castes is wholly deceitful and should be discouraged and discontinued. Caste based reservation has made the castes the only yard-stick or the only determining factor of social identity. Caste is being deemed as an indispensable identity of the individual citizen. It is not positive for the individual who seek socio-economic justice through the affirmative actions and merit. This policy of caste based reservation is dividing the society and creating an environment of distrust and victimization. The true essence of democracy is present in the society where division on the basic formula of caste cannot find any place, people should not be identified by their race, caste, creed, place of birth etc. it is really sad that in a democratic country like ours, government itself is doing the job of identifying and certifying who is from the lower caste, creed and who is not. This type of reservation does nothing positive to eliminate caste system from the society but in fact promotes it, on the contrary perpetuates it and makes caste division 'more rigid' than before. We can see very clearly how this policy is a major impediment or obstacle for national integration and unity as well as for social fraternity. It is much opposed to the true guidance exhibiting from the wording of the 'Preamble' of our constitution which declares India to be a:-

- Sovereign
- Socialist
- Secular
- Democratic and
- Republican polity

REVISITING TO RESERVATION POLICY NEEDED:

in view of prevailing and existing circumstances, we do need to get this preferential discriminating policy, otherwise we will be seeing more division, more resentment and more violence. A policy is needed which really helps people who are deprived of education and means of better life. Reserving certain percent of seats in the higher educational institutions and jobs in the high ranks of the government is not going to help in solving problems of 85% of total backward castes population.

The need of the hour is to review this policy rather than extending its time duration or extending its benefits to other sections. It is of no use to label a group as of backward classes, action must be individual centric benefits rather than group centric benefits. Benefits must satisfy an individual not a group. Justice in democracy lies in the fair treatment of all people, by adopting reservation policy of this kind we might end up as a fractured society and the basic ideals of a true democracy would meet its fatal end. Pt. J.L. Nehru truly observed, "It is the backward individual citizen that we should help, why should we brand groups and classes as backward and forward?"

So, if equality is the aim in true sense then benefits of reservations must only be extended to the deserving people.

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