Reservation policy in India

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Abstract

Reservation policy, also known as affirmative action, is a method of improving the socioeconomic and political lives of the underprivileged. This type of preferential policy has been implemented in many countries in order to achieve equality among all citizens. The same policy has been implemented for disadvantaged people in India. The Indian judiciary interpreted reservation policy in its own unique way. This paper attempts to examine the judicial interpretation of India's reservation policy.

INTRODUCTION

Reservation is one of the fundamental rights guaranteed to India's socially, economically, and historically disadvantaged people. There is almost no disagreement about the reservation of seats in the legislature, including the Union Parliament. Other Backward Classes (OBC) do not have any seats reserved in the legislature. OBCs have become a dominant force in the bureaucracy in some states, including Tamil Nadu, Kerala, Karnataka, and Bihar. Some Indian judicial decisions have been ignored by state and central governments. In this regard, this paper attempts to examine the major judgments on reservation, particularly in education, issued by Indian courts in the post mandal period.

Reservation is a type of affirmative action practised in India that attempts to allocate a fixed number of seats in educational and social institutions to various under-represented communities. It is stated to be in response to discrimination by upper caste people in India. Reservation for socially and economically backward classes is a constitutional provision intended to provide access to education and jobs for scheduled castes and scheduled tribes.

In State of Madras Vs. Champak am Dorairajan, the Court was unwilling to uphold the validity of the Communal Government Orders of Madras Government, for the impugned Order went against the principle of 'equality before law' enshrined in the Constitution. Admission to the Medical College and the Engineering College were both similar cases.

The issue in Kesava vs. State of Mysore (Devanesan Nesaiah) was whether the State's decision to identify backward classes was valid, as the State Government had declared every community except Brahmin to be a backward community. The High Court held that State was doubtlessly the sole authority to classify the communities as "backward classes".

In M.R.Balaji and Others vs. State of Mysore (K.L.Bhatia), the Court attempted to strike a balance between the competing interests of those who want as much reservation as possible and those who may lose their chance even if they deserve. In this case, the issue is admission to the Medical Course. According to the petitioners, if the

impugned order had not made the reservations, they would have been eligible for admission to the colleges to which they had applied. The contested order was issued on July 31, 1962, and it reserved seats for candidates from the backward classes whose student population averaged the same as or slightly less than the state average. As a result, 68 percent of seats available for admission to Engineering and Medical Colleges, as well as other Technical Institutions, are reserved for backward classes, including the majority of backward classes, scheduled castes, and scheduled tribes. The State's classification of the socially backward classes of citizens is based solely on their castes, with no regard for other factors that are unquestionably relevant. It was argued that this would result in a virtual reservation for nearly 90% of the population, which would fall into various categories of backwardness. After reviewing the facts and delving into the legal nuances, the Court concluded that caste alone could not be used to determine backwardness. The Court also stated that reservations should not exceed 50% of the total amount.

In Ritesh R. vs. Dr. Y.L.Yamul, the Court held that if a candidate from a backward class was admitted to a course on merit - in this case, admission to the Medical College - it could not be considered admission against the reserved category. The Supreme Court directed the Maharashtra government to keep the preceding instructions in mind and to make appropriate rules.

This line of enquiry is unnecessary in this case because the petitioners' case is not that there should be no reservation for candidates from the three special categories mentioned above at the postgraduate level. Their argument is that candidates from the three special categories must achieve the minimum qualifying marks in admission tests in order to be admitted to post-graduate medical courses. If they fail to obtain even the minimum qualifying marks, the seats reserved for them should not be wasted and should be made available to candidates from the general category.

The issue of law in Haridas Parsedia v. v. Urmila Shakya concerned the Constitution of India, Art. 16, Art.16 (4), Art.309, and M.P.Transport Department Subordinate (Class III Executive) Service Recruitment Rules (1971), R.11 (A), R.20-Recruitment exam. SC/ST candidates were given a pass mark or a relaxation under the rule. It was the result of a policy decision made by the State Government in 1964, and reiterated in 1985 and 1990, to grant SC/ST candidates a pass mark relaxation in direct recruitment and departmental exams.

The Government Order that provided a 50% quota for in-service candidates and a 50% quota for non-service candidates for admission to specialty courses in Medicine was challenged in K. Duraisamy and others v. State of T.N. and others. According to the Court, the terms "quota" and "reservation" are not synonymous.

The main challenge to reservation of seats in educational institutions and appointments or posts in public services under the State to Muslim community Ordinance 2005 in Archana Reddy vs State of Andra Pradesh, 2005 was that the entire Muslim population in the State could not be declared socially and educationally backward. The judgement of the court laid down that "there is no prohibition to declare Muslims, as a community, socially and educationally backward for the purposes of Article 15(4) and 16(4) of the constitution of India, provided they

satisfy the test of social backwardness, as stated in the judgement. On this finding, the Court cited the findings of the N.K.Muralidhara Rao Commission, the Anantaraman Commission, and the National Backward Classes Commission, as well as the ASI's "People of India" series and the editors of the "Encyclopedia of the World Muslims: Tribes, Castes, and Communities," N.K.Singh and A.M. Khan. It was also held that the fundamental condition of social backwardness had not been demonstrated in respect of the Muslim community as a whole, and the High Court struck down the ordinance/act because the identification done in this case did not indicate whether or not the Muslim community as a whole is backward. As a result, the Commission decided not to lump the entire Muslim population together and label them as Back Classes. In this report, we decided to identify distinct groups within Muslim communities and assess which of them are socially and educationally backward. The Commission has therefore investigated the elaborate and authentic data found in the Anthropological Survey of India's "the People of India, A.P." series, which was first published in 2003, the Sachar Committee Report, the valuable historical perspective and careful analysis provided in Sri.report, P.S.Krishnan's numerous data made available by different government departments on the number of employees belonging to Muslim communities, the house hold survey conducted by the state The commission's current findings are based on the extensive data presented above, as well as the observations of the High Court. Regarding the importance of transparency, which is also consistent with the Commission's principles, the Commission posted the entire report of Sri P.S.Krishnan on its website immediately after receiving it. The Supreme Court upholds a law passed by the Centre in 2006 that established a quota of 27% for candidates from Other Backward Classes in Central higher educational institutions.

The Court restrained the Centre from enforcing the law in 2007-2008 by issuing an interim order in March 2007. The 1931 census data could not be used to make reservations. "The 93rd Amendment Act does not violate the basic structure of the Constitution in so far as it relates to State maintained institutions and aided educational institutions," said the Chief Justice of India. The Constitution's Article 15(5) is constitutionally valid, and Articles 15(4) and 15(5) are not mutually contradictory." He supported the decision to exclude minority educational institutions from Article 15(5), stating that "it does not violate Article 14 because minority educational institutions are a separate class and their rights are projected by other constitutional provisions."

CONCLUSION

To summarize the evolution of judicial observations, the court has largely followed the lead of the legislature and the executive, and when they did intervene on occasion, it was primarily to regulate and modify policies, rather than to innovate or redirect them. Except for a brief period...the Supreme Court's role in advancing preferential policies had been modest prior to the 1990s. However, some recent decisions, most notably Indra Sawhney (1993), may herald increased judicial action in the coming years. It is impossible to predict what increased judicial action will look like in the future.

References

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