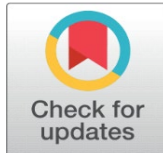
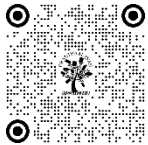


RESERVATION POLICY IN INDIA: PROFICIENT OR STERILE

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ABSTRACT

Reservation can be described as “an effort to advance equal opportunities in government and educational institutions. It is often instituted for ensuring that minor groups are involved in every program within a community”. Reservation in India has a legal backing. The legislature, State and Central civil services, and other government industry units were guaranteed reservations. Few experts have criticised the reservation policy. They argue that we have totally failed to bring the poor on a par with the remainder of society. On the contrary, reservation policy often appears to seek to compensate the mistake performed all these years to the unprivileged. In the present system only the persons who have already got the benefit of reservation are getting it time and again. But, poor persons who are in dire need of support from the Government may not get it as they do not belong to any reserved category. Hence there is a need to review the policy according to needs of the society.

Keywords: Reservation Provisions under the Constitution

1. INTRODUCTION

Reservation is a strategy intended to address previous perception against weaker as well as minor groups by means of educational and financial improvement measures. Reservation can be described as “an effort to advance equal opportunities in government and educational institutions. It is often instituted for ensuring that minor groups are involved in every program within a community”. The reservation justification is to offset a culture’s ruling class for earlier exploitation, persecution or discrimination for resolving present discrimination. The concept of “affirmative action” is to encourage social equity by treating socially poor individuals preferentially. Increased social equality is the fundamental goal of reservation. Social equality can be described as social situation where a certain respect, everyone in a certain company or isolated group has the same status. Social equality involves equal rights according to legislation, such as safety, freedoms of vote, liberty of expression and assembly as well as the property freedoms’ scope. Although, health cares, schooling as well as other social security’s access is also included. It also covers equal opportunities and responsibilities, which also affects society as a whole. Social equality signifies the social component of equality, instead of income or economic equalities. Reservations in India are processes in which participants of other backward castes (OBC’s), Scheduled Castes (SC’s) and Scheduled Tribes (ST’s) have a certain proportion of positions (vacancies) in public

organizations. Reservation is a quota-oriented affirmative action where a positions' proportion are reserved for academic and social backward groups¹.

Reservation in India has a legal backing. The legislature, State and Central civil services, and other government industry units were guaranteed reservations. It is also available in all governmental and private educational institutions. Since the last 70 years, not much has changed which raises a question about our achievements. Few experts have criticised the reservation policy. They argue that we have totally failed to bring the poor on a par with the remainder of society. On the contrary, reservation policy often appears to seek to compensate the mistake performed all these years to the unprivileged. We have forever prevented the movement of a segment of culture by murdering their zeal for hard work and being honoured. Who would like to work hard if you get a chance and other rewards without midnight oil burning? The policy should be developed, instead of encourages such lethargy, in such a manner that every part of society is used for the sake of the betterment of it, irrespective of its caste or community².

2. HYPOTHESIS

The reservation scheme is abused, and those who are truly in need do not profit from it. To prevent the abuse of the reservation regime, reservations should be made based on economic criteria and each caste-based reservation, such as the Backward Class quota, should have a creamy layer provision attached.

3. RESEARCH QUESTION

- What are the Constitutional provisions regarding reservation policy in India and the world?
- What is the economic criterion for effective reservation policy?

4. Reservation Provisions under the Constitution

India became republic on January 26, 1950, and made its new constitution a reality. The Indian Constitution restricts any division based on faith, ethnicity, grade, gender and place of birth with a whole section dedicated to assent rights (Article 15[1]). This law extends to each individual open organisation, such as public education bodies, the access to restaurants and inns, open business and open ponds, tanks (water supply and washing artificial lakes), as well as roads. The "anti-untouchability" provisions are provided under Article 17 of the Indian constitution.

In essence, Article 15 that limits segregation, also includes a clause that allows state authorities and the Association to create any exceptive arrangements for educationally and socially progress in the inverse groups of inhabitants or of the Scheduled Tribes and Scheduled Castes. Nehru himself believed in any event that the pace of change is proof of the sound political assistance for reservation.

Furthermore, Article 16, which calls for balance of opportunities in the problems of open working, includes provision to reserve arrangements or messages for all regressive classes of Indians that are not adequately represented in State administrations, for SC and ST, as well as also to reserve reservations in matters of development. The Uncommon provisions for certain categories in a distinct field of the Constitution involve seats reservation in the Lok Sabha or Place of the People or for the SC and ST of States' legislative assemblies. With regard to population gauges from the recent decennial assessment, the number of positions retained is governed by the amount of the people from the Scheduled Caste and Scheduled Tribe to the allen compassing society. In interviews with the State Governments, the President of India and Parliament decide to run the meetings that are called Scheduled Castes, Reserved Tribes and in inverse groups³.

These reservation schemes include a few shields. Initially, the Constitution needed that the reservation policy of the Lok Sabha seats and state meetings be completed after ten years. The strategy is currently scheduled to end on 25 January 2010, 13 following five modifications. Furthermore, Constitution's Article 335 expresses with regard to reservation of occupations that the instances of people from the SC and ST should be reliably reflected with the preservation of

¹ The Encyclopedia Americana (International Edition), Connecticut: Grolier Incorporated, 1995

² Thesis on A Crtical study of Reservation for Backward classes under Constitution of India: An Appraisal written by Davinder preet Page no-13,14

³ jain M.P, Indian Constitution Law , Edition 2nd 1987,

organizational capacity. Finally, the Plans for the Financial Improvement of such meetings included an examination, screening, exhorting and assessing the development of Scheduled Castes and Program Tribes. Also, for investigating the inverse groups countries educative and socially, another Commission was also developed.

It was fascinating in remember that the reservation made by the Constitution unmistakably distinguish specific castes for exceptional special therapy, deny the prohibition on the standing, ethnicity and other such criteria-based segregation of the record. Moreover, India itself has a strong birth chain and the standing structure does not conform to the convictions of equity and social equity.

The constitution provides the individual countries incredible freedom to decide the quantity and points of reserve detention, and what, for example, is referred to as the control of organisation's productivity, despite the creation of midway commissions for screening reservations and other schemes. Neither is there a strong significance of in opposite. Moreover, however, there is no guarantee of this type in terms of the potential end of registration of occupations and advances when, from time to time, the adaptable time limit is set for reservations of representatives at Lok Sabha and state administrative meetings

The courses of action available in the Indian Constitution, in perspective on which requests related to reservations in organizations for other Backward Classes (OBCs), Scheduled Tribes (STs) and Scheduled Castes (SCs) have been distributed by "Department of Personnel and Training and Ministries of Social Justice of Government of India". The courses of action made in the Constitution's Articles 16, 335, 338, 340, 341 and 342 related to reservations, confirmation as well as shields, in open work w.r.t. the individuals having a spot with the SCs/STs as well as "Other backward classes (OBC's) and Economically Weaker Sections (EWS)"⁴.

Article 16 allows the State to make courses of action for game plans reservation or posts for OBCs, STs and SCs. Regardless, the point by guide courses of action with deference toward the quantum as well as the reservation importance in plan or posts are directed by the solicitations distributed now and then by the "Department of Personnel & Training, Ministry of Personnel, Public Grievances and Pension, Government of India". The reservation pertinence requests are liable to the methodology for enlistment. The degree of reservation just as the reservation use technique will depending as well as varying as shown by the methodology for enlistment

At any rate the action reservation approach has three fundamental imperfections. At first, it has an out of line tendency against Muslims who don't benefit by such systems. Second, it emphasizes position or family instead of pay or wealth: The reservation in India aims to understand welfare advancement that, unquestionably, has been financially as well as socially debilitated. In any other case, to attain such judgment regarding who must have reservation, the worldview having a person's situation instead of his compensation or wealth. Subsequently, packs having a spot with what Indian Constitution's Article 115 refers socially as well as enlighteningly in switch class have benefitted by reservation regardless of the way that, before long, various people of these get-togethers couldn't be seen as in turn around. This has inferred that an enormous number of the reservation upsides gotten by well-off social occasions from the disheartened classes (e.g., SC chamars) whereas less lucky get-togethers from the debilitated (e.g., SC bhangis) had failed to be benefitted. In central government upheld propelled instruction foundations, Scheduled Tribe (ST) and Scheduled Caste (SC) understudies supposed to have open seats' 22.5% (i.e. SCs having 15%, STs having 7.5%). There is an increase in the reservation rate when additional 27% reservation for OBCs were added resulting to 49.5% reservations. The particular matter was sought after Parliament discussion as well as everychoice where a few casting a ballot socioeconomics are saved for those from explicit systems (that "will next turn in 2026 for each the Delimitation Commission").⁵

5. RESERVATION FOR EWS

EWS Reservation was recently implemented by the Indian Central Government. Economically Weaker Sections (EWS) applicants in the general population are given a 10% quota for government positions and educational institutions. This

⁴ ibid

⁵ Affirmative Action and Peer Effects: Evidence from Caste Based Reservation in General Education Colleges in India(PDF). Virginia University, Virginia. Retrieved 2011-11-05

is accomplished by amending the Indian Constitution (103rd Constitution Amendment Act, 2019) to include provisions for the same. The reservation of SC and ST in the federal and state legislatures is covered in Part XVI⁶.

103rd Constitution Amendment Act, 2019

Mr. Thaawar Chand Gehlot, Minister of Social Justice and Empowerment, tabled the Constitution (One Hundred and Twenty-Fourth Amendment) Bill, 2019 in the Lok Sabha on January 8, 2019. Only three members of the Lok Sabha voted against the measure, while 323 lawmakers supported it after the lengthy and contentious four and a half hours of debate.¹⁵ The development of "economically weaker sections" of the population is the sole goal of this. This measure was described as a "landmark moment in our nation's history" by Prime Minister Narendra Modi. The Amendment does not require this EWS criteria reservation in jobs or educational institutions operated by the State Government. In any case, a few governments have decided to enact a 10% reserve policy for economically disadvantaged groups. The first state to adopt this scheme was Gujarat, which was succeeded by Telangana. According to the bill, reservations under this criterion are not available to members of communities that currently have them, such as Schedule Castes, Schedule Tribes, and the Creamy Layer of Other Backward Classes.

6. CONCLUSION & SUGGESTION

Equality of Status and Opportunity is the goal as per Preamble of Constitution. Equal opportunities should be available to all in jobs and other fields of Life. Due to present reservation system, some sections of the society are not benefitted as they are unable to get equal opportunities. The benefit is availed by those who are placed in a better position. It should be ensured that equality of status and opportunity is available to all. The policy of the reservation on the basis of castes is in existence for more than 70 years. It has improved the conditions of only limited sections of the people. The poorer and the weaker sections among different castes included in reserved categories have not yet got any benefit of reservation. Hence, castes should not be sole criteria for the policy of reservations. The Framers of the constitution were in favour of creating a casteless society. But the caste based reservation is causing resultment rather than promoting harmony among different sections of the Society. In the present system only the persons who have already got the benefit of reservation are getting it time and again. But, poor persons who are in dire need of support from the Government may not get it as they do not belong to any reserved category. Hence there is a need to review the policy according to needs of the society. Following are the suggestions, researcher would like to propose:

- The reservation should be limited to one or two generations in a family. If a family has already got the benefit of reservation, the future generations should not be allowed to get the benefit of reservation. The preference should be given to those families who have not availed the benefit of reservation. In the present system only those who are educated and have availed the benefit of reservation are able to get the benefit of reservation in future also. It will not be in the interest of the poorer and weaker who have not been able to avail benefit even for a single time.
- The benefit of reservation should be given once or to one person in family. If it is given to one person in the family then he can avail it one level academically or in employment or in promotion. It should be an option with the person to take in either in academics or in employment. An Aadhar linked smart database management system should be created to check, verify and ensure if any person has taken benefit of reservation at what level. If one member of family becomes 'Gazetted officer' then benefit of reservation should not be given to any other member of that family.
- The role of Indian Judiciary in the aspect of protective discrimination rule should be praiseworthy in order to protect the societal justice for SCs/ STs, women, children, minority and other weaker sections of the society.

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⁶ <https://casi.sas.upenn.edu/events/ksatyanarayana>

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