

REVISITING THE PROBLEM

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ABSTRACT

In India, inequality, exploitation and caste system has persisted for centuries. The caste system has produced many things and untouchability is one of them. In India, caste system is very oppressive as it divides members in two broad groups. The two groups are antagonistic to each other. The first group is of those castes, which are considered to be twice born, and are ranked very high in the social hierarchy. And the second group is of those castes, which are considered to be impure, and was suppose to serve the first three categories in the caste hierarchy. This hierarchy has engulfed the social economic cultural political civil spheres of life causing profound impact on the livelihood and employment pattern and practice of the latter category of the society. Further the human development index of them is very low. So reservation or affirmative action was needed. But reservation in the government sector has been the bone of contention in India. Now at one place there is growing demand that reservation has been there for more than 70 years and has not changed much so it should not be continue anymore and some other possibility should be considered. Research has shown that no other method of affirmative action can be fruitful to the Indian social structure where discrimination is on rampant. On the other hand there is a demand that reservation should be extended in the private sector too as the significance of the reservation is disappearing in the era of Liberalisation, Privatisation and Globalisation (LPG). So the problem is to see how best can the aspirations of the scheduled castes and scheduled tribes be fulfilled in the era of LPG? The main research problem is to see how much the policy of reservation has achieved so far and how well the private sector meet their social obligation towards to weaker section of society.

Keywords : Inequality, Employment, Private Sector, Reservation Policy

INTRODUCTION

“On the social plane, we have in India, a society based on the principles of graded inequality, which means elevation of some and degradation of others. On the economic plane, we have a society in which there are some who have immense wealth as against the many who are living in abject poverty. On the 26th January 1950, we are going to enter into a life of contradictions. In politics, we will have equality and in social and economic life, we will have inequality. In politics we will be recognizing the principles of ‘one man – one vote and one value’. If our social and economic structure continues to deny the principle of one man – one value, how long shall we continue to live this life of

contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow the structure of political democracy which this Assembly had so laboriously built up". [Dr. B.R. Ambedkar]

HISTORICAL BACKGROUND

The provision of reservation for the Scheduled Castes and Scheduled Tribes in education and in public employment has been in operation for more than fifty years by now. Dr. B.R. Ambedkar is given the credit for making reservation policy an internal part of the constitution's safeguard for the Scheduled Castes and Scheduled Tribes. He had laid the foundation for the same at least two decades back prior to independence of the country or adoption of the constitution for the Indian republic. But for last two decades the educational and employment opportunities have largely shifted to private sector. As the shift has been at a faster rate the significance of reservation in public sector has diminished accordingly. And the reservation in private sector has become more relevant especially when the private sector is not much private in its genesis and growth as well as in its operation.

According to Poona Pact Scheduled Castes were not provided any fixed representation in central services as well local services till early 1940s and their recruiting in the services was left on the mercy of the recruiting officer. While submitting the memorandum to the then government of India, Ambedkar pleaded for reservation especially for Scheduled Castes in the central and local services on the following grounds. Since the career in the trade and industry was blocked for the Scheduled Castes there was a urgent need of job opportunities in the central and local jobs to be given to the Scheduled Castes. More over since the reservation in some form was available in the educational sphere it was required that the achievement needed to be utilized by giving them jobs. The reservation for the Scheduled Castes and Scheduled Tribes in public services would enable them to implement timely and more effectively the provisions meant for the welfare and the development of the Scheduled Castes and Scheduled Tribes. Since there was every chance of recruiting officers/ authorities being hostile to the Scheduled Castes and Scheduled Tribes, reservation with fixed quota in proportion to their population was a must.

Ambedkar also maintained that reservation is must to achieve the equality and social justice in favour of the Scheduled Castes and Scheduled Tribes, (Ambedkar, 1991: 412-432). But then come the question, why Dr. Ambedkar did not demand for the reservation in the private sector run by individual at that time only, when he was pleading for the reservation for Scheduled Castes and Scheduled Tribes in the government sector. The reason being was that the private sector was not in the form it is today. It was very small in its size and magnitude. Another important reason was that the private sector was encouraged to play a significant role in economic industrial growth of the country at the

faster rate, which can later play a better role in addressing the issues of the Scheduled Castes and Scheduled Tribes.

The policy of reservation in India is considered to be more comprehensive and well conceived as it has a long history of its operation and was the outcome of the engaged debates among the three parties namely dalits, caste Hindu Leaders and the British regime in India. It helps in making clarity in the number of vacancies and the posts reserved for the Scheduled Castes and Scheduled Tribes in the educational sector and in the public employment. While Affirmative action which was implemented in 1960s in the United states of America in favour of the Blacks, Hispanics and other minorities to overcome to present effect of the past racial discrimination. It is like giving preferential treatment to the racial minorities keeping in view certain conditions being equal.

Even in the Constitution it is mentioned that “the state shall not discriminate against any citizen on grounds of religion, race, caste, place and birth or any form”. In the Directive Principles it is added that “The State shall promote with special care the educational and economic interest of the Scheduled Castes/Tribes and shall protect them from social injustice and all forms of exploitation”. In this regard a number of measures have been taken by the government for providing protection to untouchables (Scheduled Castes or SCs). The measures are both protective and developmental. In the 'protective' sphere untouchability was legally abolished and its practice in any form has been forbidden by the “Protection of Civil Rights (Anti-Untouchability) Act of 1955”. After two decades the protections for SCs were reviewed to make them more stringent and effective in the “Bonded Labour (Abolition) Act 1976”. In order to prevent atrocities against SCs and STs, the Government enacted yet another Act namely the “Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989”. In the economic, educational and political spheres provisions have been made through the reservation and representation to improve their access and participation.

Despite all those measures taken to safeguard the interest and safety of the Scheduled Castes and Scheduled Tribes, the practice of untouchability and atrocities against them have not come down. The annual report of the Commission for Scheduled Caste and Schedule Tribe (1998) gives the account of the registered cases of untouchability and atrocities against the Scheduled Castes. “It reveals that average number of cases registered under Anti Untouchability Act (or Human Right Act) were 480 during the 1950s, 1903 during the 1960s, 3240 during the 1970s, 3875 during the 1980s and 1672 during the first half of the 1990s. It shows that during the nine year period between 1981-86 and 1995-97 a total of two lakhs cases of atrocities on the SC were registered, which means on an average three thousand cases of atrocities were committed on them annually”.

THE PROBLEM

Any society in the world faces two challenges. “First, equality before the law irrespective of religion, caste, creed, race, and gender, and second, social justice at the cost of the same

commitment for equality before the law”. United States, the developed and democratic country is also no exception. Due to the caste system, a large section of Indian population has experienced social discrimination for centuries. India has very rigid caste-based social structure which is based on hierarchy and gradation. That was the time when large section of society was still socially, economically, educationally, and politically backward. Stratification and inequality is the common in almost every society. Indian society is also a stratified so it is characterized as society with a high degree of structural inequalities. Stratification signifies a multi-layered phenomenon and is generally considered to be similar to the earth’s crust, (Beteille 1997:129).

“Caste system, cultural diversity and economic inequality are the central questions of social stratification” (ibid). The principal question on which the caste system is based is the principle of natural superiority. According to Gupta natural superiority is not physical prowess or bodily intelligence rather the endowment of bodily purity (Gupta, 1996:2). Caste stratification in India is a prominent factor of the social organization. In India, inequality, exploitation and caste system has persisted for centuries. The caste system has produced many things and untouchability is one of them. In India, caste system is very oppressive as it divides members in two broad groups. The two groups are antagonistic to each other. The first group is of those castes, which are considered to be twice born, and are ranked very high in the social hierarchy. And the second group is of those castes, which are considered to be impure, and was suppose to serve the first three categories in the caste hierarchy.

Hierarchy implies the regular ordering of a phenomenon on a continuous scale ‘ such that the elements of the whole are ranked in relation to the whole’ (Dumont 1970 ; 1988: 66). Hierarchy is one kind of stratification where the strata are arranged vertically (Gupta 1996:8). So, “social stratification is the ordering of social differences with the help of a set of criteria or just a single criterion” (ibid). In any society culture and power are two main sources of society, which is a cultural construct and is maintained by power apparatus (Hooda, 2001:48). Indian society has changed a lot after the independence. The reason is that lots of constitutional safeguards have been given to the scheduled castes and scheduled tribes. Today also there is untouchability but at least degree in the urban areas. People who are educated irrespective of the castes do not quite often discriminate and do not practice untouchability.

“The objective of providing reservation to the dalits was to uplift them socially and economically. This has been partially achieved as far as jobs in the government and public sector are concerned” (ibid). But “with the beginning of the disinvestments process, jobs in the public sector for the scheduled castes and scheduled tribes are disappearing. This has given rise to the demand for reservation in the private sector”(ibid). Reservation is one of the safeguards given by the state to the people who have been exploited for centuries. The reservation has produced some very good results. But still a lot of backlog is not being fulfilled. Not found suitable is one of the common answers of the question when comes to filling of these vacant posts. “Reservations for the historically deprived communities have

been an important component of India's democratic politics. But it has never been without controversies and contestations.

Criticisms of reservations have come from various quarters and have continued over time". It was debated in the start of the reservation policy and it is still continue without any break. Some still feel that "reservation is not enough for dealing with the problems of deprivations of those who had been discriminated against for ages in the traditional social structure". Preferential policy programs exist throughout the world. Since reservation was not given in the private sector and government sector is shrinking everyday, there is a need to reconsider the policy of reservation.

In the year 2002, the Madhya Pradesh government first took the initiative to provide reservation in the government contracts to the scheduled castes and scheduled tribes (Government of Madhya Pradesh 2002) and there after Maharashtra Government also enacted the legislation regarding reservation in the private sector. When the UPA government came in power in the year 2004, it took the issue of reservation in the private sector seriously and included the issue in its common minimum programme.

After that there is a debate about the pros and cons of the reservation in the private sector. Government has included it in its Common Minimum Programme as follows: "The government is sensitive to the issue of affirmative action including reservations in the private sector and it is committed to faster socio-economic and educational development of the scheduled castes and the scheduled tribe". And "Reservation quotas in government, including those relating to promotions, will be fulfilled in a time-bound manner. To codify all policies on reservations, appropriate legislation will be enacted" (Annual Report, 2004-05).

In private sector there is no objectivity and transparency in the recruitment system. "In the era of Liberalization, Globalisation and Privatization, employment opportunities in government and public sectors is shrinking, so there is a need to introduce reservation for SCs & STs in the private sector". The proposal to extend reservations to the private sector has generated mixed reactions and the private sector is divided on the idea. It seems that the issue may go to the Supreme Court. "The implications of the proposal according to the corporate world is that the labour productivity in the private sector will decline and the undeserving among the SCs and STs may get most of the benefits as they have managed to in the public sector in the past" (Bajaj, Rahul, 2004).

Under the new economic policy private enterprise is allowed to expand into the areas of economic activity and the process of disinvestments and privatisation has already started. As a consequence employment avenues in the state sector have been shrinking. Where will the dalits go if the disinvestments and the privatisation continue at the same space? "There are a number of myths and misconceptions about job reservations in the minds of people. First, people in the general category do not get jobs because of reservation and it is therefore responsible for their unemployment" (Jogdand 2004). Second, caste is

strengthened by reservation policy. Third and probably most important, merit and efficiency in educational institutions and administration have vanished as a result of reservations (ibid).

Discrimination exists in many nations under diverse social, economic and political systems. Just to correct the imbalance in the society, different countries started policies like reservation, affirmative action, positive action or equal opportunity policies for the discriminated groups. These policies are applied in countries like, USA, UK, Northern Ireland, Yugoslavia, Brazil, Bolivia, Peru, Nigeria, Sudan, South Africa, Malaysia, Pakistan, China, Japan and India. These affirmative action policy is practiced in various countries are for both private and public sectors, while the “Indian state never thought of bringing the private sector under the purview of reservation policy. It is the fact of discrimination in the private domain that led us to accept the reservation policy for the public sector” (Thorat, 2005).

“Indian private sector employs wide ranging discriminatory practices that are inherently inefficient such as inheritance determining managerial control and preferential employment based on social networks” (Ghosh 1997). Canada enacted the Canadian Bill of Rights in 1960 to prohibit discrimination in employment. In 1986 the Canadian government enacted the Employment Equity Act which was put in effect in 1988. That Act outlined the intention to: “achieve equality in the workplace so that no person shall be denied employment opportunities”. But in India the moment government placed its view about the reservation issue “the corporate world got a big shock. And they collectively stood up against any kind of reservation in private sector” (Singh, 2005).

SIGNIFICANT QUESTION

Reservation in the government sector has been the bone of contention in India. The then, at one place there is growing demand that reservation has been there for more than 50 years and has not changed much so it should not be continue any more and some other possible should be considered. Research has shown that 9 other method of affirmative action can be fruitful to the Indian social structure where discrimination is on rampant. On the other hand there is a demand that reservation should be extended in the private sector too as the significance of the reservation is disappearing in the era of Liberalisation, Privatisation and Globalisation (LPG). So the problem is to see how best can the aspirations of the scheduled castes and scheduled tribes be fulfilled in the era of LPG? The main research problem is to see how much the policy of reservation has achieved so far and how well the private sector meet their social obligation towards the weaker section of society. Private sectors have their own way of recruiting the employees and they do not ask for the caste of the candidate and therefore they argue that they do not discriminate. While dalits are discriminated as private sector do not generally recruit its employees through proper channel as the public sector.

REVIEW OF LITERATURE

There are preferential policies devised and designed for the benefit of socially disadvantaged groups in various countries of the world. These policies are known by various types and nomenclature, “such as affirmative action, positive discrimination, reverse discrimination or, simply, reservations”. Policies has been justified with the argument for equality and diversity in India and America respectively. “In both countries, the policies had strong supporters and equally strong opponents, and it is not easy to make a balanced assessment of their overall consequences even for a single country”. Reservation policy in India is a unique policy to bring equality in the society. For last seven decades the question of reservations has been written and contested widely and with enormous passion. There are countries where some kind of affirmative action is there but compulsory quota in India makes the policy distinct from the affirmative actions in other countries.

Literature available tells that the policy of reservation has been very controversial issue since its inception. It was heavily debated in the parliament while drafting the policy and is still on. Not much literature is available on the issue of reservation policy in private sector though there are innumerable articles available on the theme. As reservation in private sector is a new issue in India and still not much research has been done.

The book ‘Reservation and Private Sector: Quest for Equal Opportunity and Growth’ by Thorat et. al. (2005) is the main book containing lot of articles by different scholars on various themes related to reservation in private sector. Other books on the reservation are as follows. The important thing is that not much has been written from the social point of view. Galanter (1984) uses the term compensatory discrimination and not reservation. In his classic book competing equalities he has explained various reservation related issues. He has analysed the whole issue of merit and equality. He justifies compensatory discrimination by saying that it is the guarantee against the persistence of discrimination. He further says that the beneficiary of the reservation policy will be able to come to the mainstream. The book beautifully incorporate the constitutionally guarantee rights including right to equality. The judicial views on the issue are also one of the many features of the book. He in this book has discovered the social setting and the historical background of compensatory discrimination. This book gives all account of policies and the role of Indian judiciary etc. He says that compensatory discrimination may be advocated to reduce group disparities and afford representation.

Hooda (2001) in his book, “Contesting Reservation” which is based on his Ph.D work, deals with the reservation debate. He says how caste and inequality still exist in India. One of the findings of his work is that inequality is not natural and is social. He found that the Indian society has been highly inegalitarian and Sudras and untouchable were severely affected by the caste discrimination. He maintained that reservation help achieving the culture and power which are two main sources of society.

Singh, (1982) talks about constitutional status of the scheduled castes and scheduled tribe. He through his book “Equality Reservation and Discrimination in India: A Constitutional Study of Scheduled Castes, Schedules Tribes and Other Backward Classes” says that equality should be the prime objective of Indian society. For this he says certain leveling process is necessary and recommends protective discrimination to bring equality in society. He also traces the history of reservation in India. He tells how compensatory treatment provides the opportunity to the disadvantaged group to merge in the mainstream of the society. He says that it is the responsibility of the state to eliminate all forms of inequality prevailing in the Indian society. He further says the reservation policy should not be confused with poverty eradication programme.

Upadhyay, (1991) talks about every aspects of reservation for Scheduled Castes and Scheduled Tribes. He says that “the condition of Scheduled Castes and Schedules Tribes have not changed much since independence. Scheduled Castes has still been suffering with the stigma of untouchability followed by servitude, illiteracy and poverty”. He argues that though untouchability has legally been abolished but it is still prevailing in Indian society in some form or other. In the chapter right to equality he says that “rule of law should not only safeguarding and advancing the civil and political rights of the citizens of the country but also at establishing social, economic, educational and cultural conditions under which their legitimate aspirations and dignity may be searched”. He further says that “whenever social inequality as economic injustice is found, a democratic state enters the arena with the law establishes social equality and remove economic injustice”.

Nesiah, (1997) examines the concepts such as equal rights, equal opportunities, individual rights, group rights, discrimination and reverse discrimination. He also explains why he has chosen India, USA and Malaysia for his study. He tells why protective discrimination and positive discrimination is needed to bring equality. He gives various reasons for the positive discrimination. He says that the discrimination in India is very severe and is there for over two millennia. He finds that the protected groups face acute problem of poverty and illiteracy. He further says that the bulk of discriminated groups are living in the villages and are out of reach of preferential policies.

Thorat et.al. (Ed.2004), this book is a classic book on caste race and discrimination. Various issues by many scholars have been incorporated in this book. How some time race is equated with caste is one of the themes of this book. Caste discrimination by Narula (2001) is a marvelous piece of work. This book includes “the issues related to race and discrimination ; Caste discrimination was one of the agenda of the World Conference Against Racism, Racial Discrimination, Xenophobia and related Intolerance held at Durban South Africa in the year 2001”. The whole book is full of instances of caste violence, discrimination and other caste related issues. The book contains thirty-seven articles. Questions like caste is race or what is similarity between caste and race have been answered in the book.

Mehta & Patel (1985) deals with the debate on reservation. This book was written in the backdrop of the turmoil on the reservation issue in Gujarat. They argue that caste system is disintegrating and survives only in the form of collective politico-social psyche and it is expressed only in the internal relations and interactions of different caste groups. Ghanshyam Shah in his article in this book says that traditional caste system, which was based on the ideology of purity and pollution, has very little relevance in the present day India. He is in the favour of economy-based reservation and not caste based and argues that caste based reservation legitimize the caste system which contradict secular principles.

Prasad (1991) says that casteism is the sui-generis problem of Indian society. He taking inputs from the Galanter's book says that "reservation after all is a means to an end i.e. assimilation and integration of all in the main stream of our national life and not an end in itself" (1991). Since the book is old and lots of changes have taken place since then but it is a good book to get the insights about the protective discrimination. He gives the clear picture of reservation at that time. The number of Scheduled Castes and Schedules Tribes in the government jobs and educational institution was not up to the mark.

Shah & Agrawal (Ed.1986). The book is the collection of seminar papers and does not cover things great detail. Things in this book are somewhat scattered and limited. They used the term protective discrimination, which he says refers to a variety of special provisions designed to mete out special or preferential treatment, or grant concessions to the weaker section including the Scheduled Castes and Schedules Tribes and other backward classes.

Ghanshyam Shah (1982) in the his article "protective discrimination, Equality and Political" published in this book says that despite protective discrimination, the overall condition of the Scheduled Castes and Schedules Tribes has not yet improved to any significant extent. Khan (1994) believes that the objective behind the policy of reservation pursued by the state was to bring about the social transformation for the Scheduled Castes and Schedules Tribes. He through his book "Reservation for Scheduled Castes Gaps Between Policy and Implementation" shows the perception and attitude of the different social groups on the issue of reservation. There is a wide gap between the policy and its implementation. This is why there as a lot of backlogs in each department.

Prasad (1986) says how much hue and cry has been there on the reservation issue specially violence over reservation issue in Bihar and Gujarat. The basis of reservation he says should be the caste if the spirit and the perspective of the constitution for restructuring India society are to be followed. Haslam (1999) claims how much discrimination is there in all sphere of social life Indian society. He gives the account of discrimination in the social, economic and political spheres and describes the pathetic condition of dalit women.

Dirks (2001) in his elegant essay, castes of mind talks about the idea of caste. Nicholas Dirks tracks the pathways of caste from pre-colonial India. He says that caste is a singular, hierarchical yet homogeneous category. He raises crucial questions for anthropology and

history about the study of the colony and the post-colony. Mahajan (Ed.1998) says that despite the great principles of liberty, fraternity and equality, the majority of the population, women constituting about half the population, and the propertyless were simply non-citizens. All four essays included in the volume are related to the issue of positive discrimination. In this book Kaka Kalelkar, D. L. Sheth, Andre Beteille and Dipankar Gupta are the 17 main contributors. In this book it questions social and economic discrimination and oppression have been dealt with at length.

CONCLUSION

In India, inequality, exploitation and caste system has persisted for centuries. This hierarchy based on caste system engulfed the social economic cultural political civil spheres of life causing profound impact on the livelihood and employment pattern and practice of the lower sections of the society. The literature review shows the need of reservation or affirmative action for them. But reservation in the government sector has been the bone of contention in India. Though at one place there is growing demand that reservation has been there for more than 70 years and has not changed much so it should not be continue anymore and some other possibility should be considered. Research has shown that no other method of affirmative action can be fruitful to the Indian social structure where discrimination is on rampant. So there is a demand that reservation should be extended in the private sector too as the significance of the reservation is disappearing in the era of Liberalisation, Privatisation and Globalisation (LPG). So the problem is to see how best can the aspirations of the scheduled castes and scheduled tribes be fulfilled in the era of LPG? Further, the main research problem is to see how much the policy of reservation has achieved so far and how well the private sector meet their social obligation towards to weaker section of society.

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