

Problems in Implementation of Reservation for OBC and EWS in Higher Education

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Abstract:

This article focuses on the problems inherent in the policies regarding OBC and EWS reservation. It also dwells on how the initiatives carried out by the government in the interests of the people are often rendered futile by people in influential positions. An intensive research in this sector has been provided with adequate data to prove the point. The research outcome is to address and eliminate such problems as is represented in this article and give the eligible candidates their due.

Key words: reservation, OBC, EWS, faculty, implementation.

With the introduction of reservation of economically weaker sections (EWS), a lot of problems are coming to light. There is a similarity between Other Backward Classes (OBCs) and EWS in that both of them have exclusionary criterion in terms of income, as a result of which both of them are supposed to have income certificate that is to be renewed every year. This income criterion is very vague in the sense that except people from salaried class, most other occupations are prone to high underestimation of income. A lot of problems are being faced by EWS candidates i.e. some states haven't implemented it yet, confusion over the inclusion of applicant's income in the family income, no mechanism to keep record of plots or flat owned by a person in the urban areas, undivided inherited property etc.

Apart from these common difficulties, OBCs and EWS categories are facing another problem of wrong interpretation for reservation for these two categories in higher levels of teaching. Since the reservation for these two categories have been implemented/revised, let us first have a look at the constitutional provisions for them.

Central Educational Institutions (Reservation in Teachers' Cadre) Ordinance, 2019 (CIEO-2019) and 103 constitutional amendment act 2019 (103 CAA-2019)

One of the reasons behind meager representation of OBCs at the level of Associate Professor and Professor is the anomaly created by wrong interpretation of OBC reservation, which restricts OBC reservation to Assistant Professors only. This anomaly was corrected by an ordinance in 2019 which was meant to bring back 200 point roster.

This ordinance was meant to “provide for the reservation of posts in appointments by direct recruitment of persons belonging to the Scheduled Castes, the Scheduled Tribes and the socially and educationally backward classes, to teachers’ cadre in certain Central Educational Institutions established, maintained or aided by the Central Government, and for matters connected therewith or incidental thereto”.

The para 3 of the ordinance clearly says that ‘notwithstanding anything in any other law for the time being in force, there shall be reservation of the posts in direct recruitment out of the sanctioned strength in teachers’ cadre in a central educational institution to the extent in the manner as may be specified by the central government by notification in the official gazette’. However, the provisions in section-3 of this ordinance are not applicable on institutions of excellence, research institutions, institutions of national and strategic importance, and minority institutions.

The Ordinance clearly mentions that the reservation shall be provided in the posts on all ‘direct recruitment’. Since the direct appointment is also made for the posts of Associate Professors and Professors, along with Assistant Professor, therefore reservation to OBCs shall also be provided at all levels of teaching. Thus, there is no ambiguity this time.

Similarly 103 CAA-2019 also prescribes reservation for EWS at all direct recruitments, it also doesn’t have any space for ambiguity.

Contradiction in the positions reserved for OBCs and EWS post CEIO-2019 and 103 CAA-2019

There is a lot of contradiction in the implementation of reservation policy especially for the OBCs. For instance while most of the central government funded institutions were restricting OBC reservation only to the Assistant professor, NIRDPR, an institution funded by Ministry of Rural development, was providing reservation at all levels of teaching for many years.

However, the recent advertisements by most central government funded institutions show clear violation of CEIO-2019 and 103 Constitutional Amendment Act-2019, which provides reservation to OBCs and EWS respectively, at all levels of teaching. Most of these institutions are either violating CEIO-2019 or 103 CAA-2019, or both. For instance, DU and JNU have provided reservation to OBC and EWS both at all higher levels of teaching while AU and DHGV have provided reservation only to OBCs. Central University of Kashmir is providing reservation only to OBCs at all levels except professorship. On the other hand, IGNTU has reserved positions for EWS at Associate Professor and Professor, but it has not reserved any post for OBC. The most depressing case is that of TISS, which is known for its commitment to the issues related to social justice, and yet it has also not provided reservation at higher levels of teaching neither to OBC nor to EWS. In this way, more than 25 central institutions have advertised their vacancies during this period, but most of them have flawed the reservation policy for at least one of these categories.

Faculty recruitment

The UGC report 2016-17 shows that in general, the combined representation of all reserved categories (SC, ST and OBC only since reservation for EWS was implemented only in 2019) in all central universities has been meager compared to the percentage of reservation earmarked for them. However, despite being the largest social group, which accounts for about 50% of the country's population, the percentage of reservation provided for OBCs is the lowest

(27%) compared to their share in population among all social groups. More importantly, compared to the proportion of reservation provided to any social group, OBC is getting the least representation (9.8%) in all faculty positions in all central educational institutions.

The table below shows that the percentage of OBCs employed as Assistant Professor in all the central universities of the country in 2016-17 was only 13.87% as against 27% of reservation earmarked for them. If looked at it meticulously, it is observed that this representation of OBCs is almost negligible at higher levels of teaching positions i.e. Associate Professors and Professors, where their representation was just 1.22% and 1.14% respectively. It is worth mentioning here that the representation of OBCs at the level of Associate Professor and Professor have fallen significantly to 0.14% and 0.22% in 2017-18. This is more than 80% fall in the representation of OBCs at the level of Associate Professor and Professor within just one year.

The representation of OBC in all central institutions at all levels of teaching i.e. Assistant Professor, Associate Professors and Professors, is far less than that of Muslims which was 18.3%, 15% and 15.9% respectively. It is worth mentioning here that a lot of castes of Muslims also fall under the category of OBC, if we exclude that figure the representation of non-Muslim OBCs in Associate Professor and Professor would be negligible.

Table 1: Social Group wise %distribution of faculty in all Central Universities (Excluding Colleges)

| Designation | Gen. | OBC | SC | ST | Total* | PwD | Muslim | Other |
|---------------------|------|------|------|-----|--------|-----|--------|-------|
| Assistant Professor | 68.0 | 13.9 | 11.6 | 6.6 | 100 | 1.8 | 18.3 | 6.1 |
| Associate Professor | 92.2 | 1.2 | 4.9 | 1.7 | 100 | 0.7 | 15.0 | 3.7 |
| Professor | 94.5 | 1.1 | 3.2 | 1.1 | 100 | 0.9 | 15.9 | 3.5 |

Source: UGC Annual Report 2016-17

EWS and reservation at higher levels of teaching

Despite the fact that some institutions have earmarked positions for EWS at higher levels of teaching, it is going to remain vacant due to lack of eligible candidates. For instance, the minimum eligibility for the post of associate professor and Professor is the experience of at least 8 years and 10 years respectively in the post of Assistant Professor. If a person has an experience of more than 8/10 years, he cannot obtain EWS certificate which requires a maximum annual family income less than Rs. 8 lakh for the issuance of EWS certificate. The family income criterion is very ambiguous as already mentioned earlier. Even a lot of temporarily employed people working for many years will become ineligible while fresh applicant will become eligible. In this way giving reservation for higher level of teaching will be of no use. This may also increase the instances of willingly unemployed people, since, the moment a person will get any type of work for a year or more which fetches him Rs. 8 lakh per annum, it will exclude him from any reservation benefit.

Why is it important to have reservation at the level of Associate Professor and Professor?

Generally the decision-making power at Universities rest upon the Professors and Associate Professors be it the member of the selection committees for faculty recruitment, number of PhD scholars assigned, acquiring higher administrative positions or other significant decision making. Until and unless there is an adequate representation of EWS and OBCs in the decision making body, the issue of proper implementation of reservation will not be resolved. Since Professors play a significant role in the process of recruiting Assistant Professors and Associate Professors, they at times try to manipulate all the constitutional provisions in their own interests since violation of reservation policy is not a punishable offence. Given the expensive and time consuming legal system in the country, it is not possible for individuals to approach courts for each and every case. Moreover there is always a risk of losing one's job. In case a violation is found, the maximum a court does is to order the correction in the advertisement of an institution without any compensation to the petitioner or punishment to the violators. This

differential treatment to the reserved categories is the cause of their poor representation at higher levels of teaching.

Conclusion:

The problem that the people face in India is not the absence of beneficial schemes for the over-all progress of the various sections of the people, but the lack of implementation or improper implementation of the same. There is a gap in what the constitution lays down and what is being followed in letter and spirit. If we look at the representation of the SC, ST, OBC and EWS in any sector of relevance in the country, we will find the percentage grossly lacking even after seven decades of independence. This research work has been undertaken with the hope that the coming years will find a proper implementation of the regulations regarding absorption of the above mentioned categories and also that in future, the government might frame a proper guideline which cannot be distorted or manipulated by any person but will ensure proper recruitment across all stages of employment.

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