

Reservation – An Age Old Concept for Justice and Equality

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“.....After all the whole purpose of the Constitution as proclaimed in the Directive principles is to move towards what I may say a casteless and classless society.....” (Lok Sabha Debates Vol XII-XIII (Part II) Page 9830-31)”

Abstract

Law is not a static concept rather it is dynamic and requires changes with the change in society. Reservation policies in India is showing the live example of ill effects of age old legal policies that leads to unfairness, inequality and injustice instead of serving justice and equality. The issue of changes in reservation policies remained for a long time in dark and still we can see no concern. This is just because of politicization of it.

The paper seeks to show the effect of various reservation policies on overall society and especially on institutions of Higher Education, politics, Government jobs, etc. This paper tried to answer the question that whether India needs reservation policies as it exists today or it demands some changes.

This paper shows the difference between laws in papers and its actual applicability. The laws and policies to avoid any discrimination seems very attractive and effective way to create equality but the question is that – whether these laws and policies really fulfill the objectives for which they were made. The condition of the present society of India clearly shows that these policies are not compatible with today's India.

Keywords

Reservation, Discrimination, Quotas, Dominance, Obsolete law, Politicization.

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Introduction

Law is an instrument which protects the interest of each and every individual of the society by treating them equal. Earlier the Indian society faced the evil of discrimination and due to which law makers added provisions of reservation so that the equal platform could be provided to every individual in respect of rights and duties. It may be possible that at that time such reservation was necessary but now the society is crying for some change in law. Now the reservation is itself became a social evil by providing unfair and inequitable opportunities to one who earlier were alleged to exercise their dominance. In the present society the every person is aware enough of his/her rights and also is competent enough to raise voice against any injustice against him/her. This obsolete law of reservation requires change so as to fit in the present society. The question is why to follow such laws which instead of providing justice creates a grave injustice and inequality?

Today skill, knowledge, abilities, etc, is no longer the criteria's for getting admissions, jobs and other such preference, the sole criteria is only reservation. One who is even if more qualified than the person of reserved category is given less preference just because he belongs to unreserved class. The result is that many undeserving people are benefited on the cost of those who deserve. This is not surely what the policy framer dreamed of.

The main reason why the issue is not getting much concern is the involvement of politics in it. The reservation and quotas agenda now become factor for existence of few political parties for example Bahujan Samajwadi Party (BSP). This agenda is the main source of vote bank. That's is why even if any political party try to raise the issue of renewal of reservation policy the one in opposition takes benefit of it . In this developing stage, India needs the people of high caliber, ability and talent not the scrap of quotas.

Giving a different status and treatment in the society is itself is a form of discrimination. Equality cannot be gained by unequal treatment. And the law framers by dividing the society into different classes made such discrimination.

Reservation policies necessarily require revision, and overlook of this will not only lead to injustice but will also stop nation's progress.

Politicization of Reservation Policy

Whether reservation should be there in India or not is a question of immediate concern. But the question is that who will make concern over such issue? This issue is a political issue and the problem is that the one who can look upon it are bound by their vote banks. The one who are in support of reservation, have their manifesto of quotas and reservation and the others who are against it keep their mouths shut just because of fear of losing elections.

Many parties in India has reservation as their political manifestos, there whole party exists because they support the issue of reservation and getting a huge support from the lakhs and crores of people. These manifestos are the main sources of vote bank. Such politicians have no concern for injustice caused to other classes. Until the issue remains attached to the politics the dream of equity and justice cannot be fulfilled. .

Reservations in Educational Institutes

Does reservation in educational institutes improve the quality of education system in India? As evident from the facts and present situation of the society it seems clear that instead of promoting excellence in higher education such policies created negative impact. Those who deserves have to bear the cost of not belonging to any reserved class. Through its latest judgment of Supreme Court on reservation policy ensures the reservation of 49.5% of seats in central education institutions including 15% for scheduled caste and 7.5% for Scheduled Tribes. But the important part of this Judgment is that it focused the attention on creamy layer in backward class and kept this class out of the reservation benefits. This shows that the judiciary is also showing its concern over the reservations. But the biggest dilemma is that judiciary is bound by the Indian Constitution which is regulated by the Indian parliament i.e. by the political parties. So the root cause of such reservations is politics and any change can be brought forth only through politics.

Quality education cannot be provided to all in countries like India because of less developed educational system in India. So why not to provide this limited opportunities to those who deserve it that is to those who are more able, talented and qualified? It not only leads to the low quality education but also stands as a great hindrance in the nation's progress by allowing the less meritorious students and ignoring the more talented one.

Why not there shall be reservation in primary education instead of higher education? The constitution provides for basic and primary to all then why there is such a huge percentage of reservation in higher education? By providing basic and primary education a person can become competent enough to raise his voice against any kind of discrimination against him.

A student should be judged on the basis of fair competition and not on the basis of any privilege.

Conclusion

Providing legal provisions against any type of discrimination seems legal and just but where the justice does lies in giving a special privilege and identity. It is for sure that policy makers had never dreamed of the misuse of such policies. In this 21st century not only our legal system or the government agencies but also many non-governmental organizations are working for avoiding any type of discrimination in the society. Moreover the people are educated enough to know about their rights and are active enough to raise their voice against any form of injustice. Providing justice to few at the cost of other is not what is demanded for justice.

Because of such reservation policies the abilities, talent and qualifications are no more the criteria for any job selection, admissions, and other services. The one who is less or not qualified is getting selected just because they belong to reserved quotas. The question that arises is- where does the justice exists?

Today able and talented students could not get admissions in an educational institutes and irony is that the one who are less skilled, qualified and talented are getting preferences over the others. The issue is not only limited to educational institutes same is the situation in

government jobs and services sectors. The question is how long India will face this injustice. The law and policy makers today are so much concerned with the concept of justice that many laws are amended; new laws are entering in the legal system, but what about such huge injustice caused to such deserving class of society. The question is whether these reservation policies and quotas should be the criteria to decide who will get better education, jobs and preferences. Surely this is not what an ideal society needed. The person should be judged by his/her work and not by his position and status in the society. The oppressed remain the discriminated one because such discriminating treatment is given to them. If equality is the want then why not equality in treatment should be there?

The age old concept of reservation requires amendment as instead of avoiding discrimination it leads to discrimination by creating injustice and inequality for the one who were once alleged to be the dominating class of India. This is surely not what the policy maker had dreamed of.

Recommendations

1. Reservation system should be continued only for primary education that is till 12th standard.
2. Reservation system should only be applied to economically backward class people and the criteria should not be on the basis of any caste, place of birth or religion.
3. Judiciary should closely interfere in the issue of reservation policies.
4. The laws and policies relating to reservations should be amended as per the present scinerio and need of the society.

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