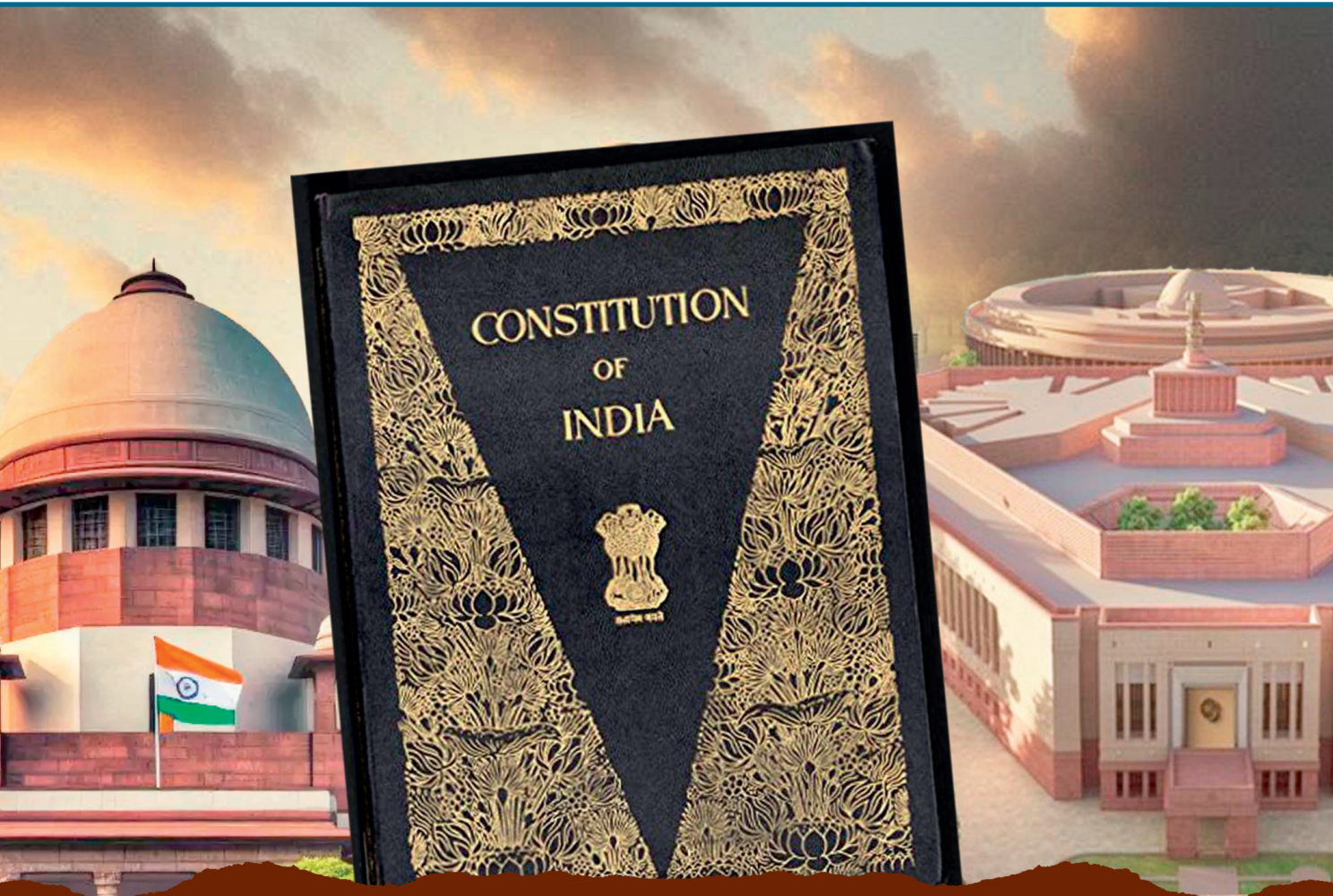


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POSSIBLE TO EXECUTE SC RULING ?



When Will We Mature?

The Supreme Court's recent judgement on sub-classification in Scheduled Castes and Scheduled Tribes reservation has generated a serious debate in the country. This debate involves various aspects of reservation including legal, constitutional, political, social, economic, education and administrative. On many platforms, a serious discussion is taking place on achievements of reservation. This discussion is a good sign with a restricted view as all of us are living in a democratic set up, which is the soul of this nation. Many organizations have opposed the Supreme Court decision while a few of them have welcomed it. BJP ruled NDA government also has expressed some resentments over the SC's observation about creamy layer. Situation arising out of the Supreme Court decision is socially sensitive and all the stakeholders, including government and political parties, are needed to show restraint, maturity and sensitivity. The final objective of all the process has to be social harmony and unity and nothing else.

Since the issue involves the Supreme Court, the government has very little options to handle the situation. Either the government can file a review petition or it should go for necessary legislation in Parliament, which is a constitutional way. Of course, all the stakeholders have to be taken into confidence before making any final decision.

However, we need to look at the issue from some different perspectives at this juncture. SC ruling has given us an opportunity for self-introspection. The moot question arises - how much maturity we have gained as a society. This maturity involves intellectual ability and social sensitivity. This applies to the entire society and not to particular sections. Many scholars, academicians and leaders have come

forward in support of their views on this issue. But the majority of these views are either constitutional/legal or from a sociological angle.

The real issue is how do we stand as a society? Constitutional or legal methods are external ways to handle a particular situation or an issue. They are utmost important as the need of the particular hour is to address a particular issue or situation. However, from a different perspective, it shows fault lines within society. Many legal reforms, which involve social issues, are results of the movement across the world. India is no exception to this phenomenon. Laws originate mainly from social movements, legislative methods or from judicial interpretations. In the modern democratic world, there is no other origin for any law. This situation has some inbuilt limitations, which can never be neglected.

Take the case of the judiciary. Judiciary takes any decision from a limited perspective. It looks only from a legal and constitutional angle and decides only from that perspective. On several occasions, judicial decisions have no human face because of these constraints. Take another case of the legislature, which comprises political parties. Legislature acts only on the basis of political interests, vote bank, election and power. Legislature's entire exercise is based on to gain or retain power. This necessarily results in limited and short-term solutions to any problem. As a result, problems continue to surface in different manifestations from time to time. Again, we engage ourselves in the same exercise and look for temporary ways to come out of the situation. This approach needs to be changed fundamentally.

Judiciary and legislature act within a particular framework. They have inbuilt

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limitations for decision making thanks to the principle of checks and balance and political considerations. Need of the hour is to have a mechanism within society, which will steer us in the direction of our desired goal. This mechanism needs a high level of intellectual and emotional maturity as we are addressing our own problem. As a society, we ought to be in position to solve our own problems. As

a society, we should depend minimally on state mechanisms. As a society, we need to evolve a mechanism, which will solve these kinds of problems. And this is not restricted for reservation alone but to all the social problems, which we have been facing. Real need of the hour is a strong, healthy and equitable society, where such issues would not arise. It may sound utopian but the answer lies there.

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Classification of SC/ST categories against Ambedkar's vision

Dr. Rajendra



Excluding them under the guise of the creamy layer would be akin to undermining the entire movement. Justice Mithal made a very general comment that reservation should be limited to one generation only. Is the court suggesting that Scheduled Castes and Tribes should not face discrimination if they achieve economic progress, and that they will receive the same respect as the upper castes? Have the reasons for which the Constitutional Committee accepted the reservation policy been resolved? Will those who are excluded in the name of equality not face injustice, particularly their children? Can anyone guarantee that they will not face discrimination?

The main objective of the Indian Constitution is to bring about social change and establish a society based on equality. To achieve this, various provisions have been included in the constitution as part of the necessary strategy. The provisions related to reservations are a part of this strategy. Since the constitution came into effect on January 26, 1950, the process of social transformation began. The implementation of the Mandal Commission is considered the next phase of this process. The implementation of the Mandal Commission is known as the revolution of the Shudras. Following this event, the social system of the country has experienced significant churn. The upward mobility of lower castes due to the reservation policy has posed a challenge to the traditional dominance of the so-called upper castes, and as a result, the upper castes have continually resisted this change.

Failing to effectively implement the reservation policy, denying reservation in promotions even though it is considered a fundamental right, and hindering the implementation of reservations by entangling them in legal battles are some of the tactics that are frequently used. It would not be



wrong to say that the classification of the SC/ST categories is part of the same strategy. There has been no instance where castes within the SC/ST categories have accused each other of injustice or engaged in conflict. No major movement of this kind has taken place in the country. On the contrary, some political parties and individuals from the open categories have attempted to pit certain castes within the SC/ST categories against each other. It is said that the Supreme Court's decision to divide these categories is a result of such efforts. In February 2024, the Supreme Court had reserved its decision in this case, which was announced on August 1, coinciding with the birth anniversary of Annabhai Sathé. This coincidence is also quite remarkable. The court has reversed the judgment of the bench in the E.V. Chinnaiya case and has made a theoretical argument to justify the classification within the SC/ST categories. Despite Dr Ambedkar's restriction in the Constituent Assembly against states intervening in the list of SC/ST castes created by the President, the court has granted states the authority to classify these categories. Even though the issue of the creamy layer was not included in the case, it has been commented upon. These are the notable features of the decision. The ruling was delivered by a majority of six to one, with Justice Bela Trivedi dissenting, stating that the classification within the SC category and granting states the authority to classify is unconstitutional. Although Justice Trivedi is in the minority, her observations are significant. In ancient Athens, Socrates stood alone against the majority and had to sacrifice his life for it. Time has proven Socrates to be right, and he is now regarded as the foundation of modern democracy.

Background of the Case:

In 1975, the Punjab government issued a notification reserving 50% of the seats allocated for Scheduled Castes specifically for the Mazhabi Sikh and Valmiki communities. Similarly, in 1997, the Andhra Pradesh government categorized Scheduled Castes following demands from the Madiga community. When the High Court annulled this classification, the Naidu government passed a law to maintain it, which was later declared illegal by the Supreme Court in 2004.

In light of this decision, the Punjab and Haryana High Court nullified a 2006 notification by the Punjab government that prioritized the Mazhabi Sikh and Valmiki communities. In response, the Punjab government passed a law that same year to uphold the classification, but


this law was also cancelled by the Punjab and Haryana High Court in 2010. This case is known as the Davinder Singh case.

The decision in this case was challenged in the Supreme Court in 2011. In 2014, a three-judge bench heard the case and referred it to a five-judge constitution bench. In 2020, a bench led by Justice Arun Mishra referred the matter to a seven-judge bench. The reason is that the judgment in the E.V. Chinnaiya case was delivered by a five-judge bench. A decision on this case was given on August 1, 2024. The provisions of Articles 341 and 342 of the Constitution were central to this case. Article 341 provides that the President has the authority to declare the list of Scheduled Castes and Scheduled Tribes through a notification, after consultation with the Governor. According to Article 342, the authority to amend the list declared by the President does not lie with the President but solely with Parliament. Based on these provisions, the Supreme Court had annulled the Andhra Pradesh government's law classifying the SC category in the 2004 E.V. Chinnaiya case. This ruling has now been reversed in the current decision.

The Davinder Singh case involved three key questions: 1) Are Scheduled Castes homogeneous? 2) Do states have the authority to amend the list of SC/ST categories created by the President? And 3) What should be the criteria for sub-classification? Let's examine how the court addressed each of these issues.

1) Are the Castes within the SC Category Homogeneous?

In the E.V. Chinnaiya case, the constitutional bench had unequivocally accepted that the castes within the SC category are homogeneous. It was stated that these castes should be treated as one without considering their individual backwardness, and any sub-classification would violate the principle of equality under Article 14. However, in the decision delivered on August 1, the court overturned the Chinnaiya judgment. The court ruled that sub-classification within the SC category does not violate the principle of equality under Article 14 but is actually a part of the doctrine of substantial equality. Chief Justice Chandrachud stated, "The assertion in the Chinnaiya case that the SC castes are homogeneous is incorrect. Just because these castes were included in the list by the President does not make them homogeneous. In reality, they do not share the same level of backwardness". Chandrachud also referred to the 1976 M.N. Thomas case, where Justices Santosh Hegde, Krishna Iyer, and Fazal Ali had



rejected the notion that the SC castes are a single group. He argued that this view was expressed in a different context and for a different reason — to ensure that these castes benefited from affirmative action.

According to Justice Chandrachud, the Chinnaiiah judgment misinterpreted the Thomas case. The Thomas case did not assert that the castes within the SC category are homogeneous, as was concluded in the Chinnaiiah case. Not only that, but Justices Chandrachud and Gavai also rejected the view expressed by Justice Jeevan Reddy in the Indra Sawhney case, where he stated, “The issue of classification in the Sawhney case is limited only to OBCs and does not relate to the SC category”.

Justice Gavai seems to have addressed a question that was not part of the case. The issue of the creamy layer was not included in this case, and no debate was held on it. Nonetheless, he has commented on it. This decision may satisfy those who have been demanding the inclusion of the creamy layer criteria for years. In reality, no member of the Scheduled Castes has ever claimed that they are being unfairly treated due to the progress of some within their group. On the contrary, the progress made by such individuals serves as inspiration for others.

This view had been relied upon in the Chinnaiiah case. According to both Justices, this opinion was expressed in a specific context. In summary, the opinions of three judges from the Thomas case, one from the Sawhney case, and five from the Chinnaiiah case have been overruled, granting approval for the classification within the SC and ST categories. While opposing the classification, the respondents raised the issue of legal fiction concerning the castes within the SC and ST categories, arguing that classification could not be done within this framework. However, Justice Chandrachud rejected this claim by referring to the word deemed in Article 341(1). Justice Chandrachud asserted that these castes did not exist before the implementation of

the Constitution and were included in the list to provide them with benefits after the constitution came into effect.

However, this reasoning is not entirely convincing. The idea that something needed to be done for the untouchable castes, which were distinct from other Hindu castes, was being considered as early as 1916. In the Bombay Province, a state committee was appointed in 1928, which included Dr Ambedkar, and it categorized the backward castes into three groups: Backward Class, Depressed Class, and Aboriginal Tribes. This classification later evolved, after 1931, into Intermediate Castes, Scheduled Castes, and Scheduled Tribes. The first list of Scheduled Castes was prepared on April 30, 1936, and was published in the Gazette of India on June 2, 1936, before independence.

The list was created based on the common characteristic of untouchability. Justice Trivedi has unequivocally accepted that Scheduled Castes are a homogeneous group. According to him, the history of the concept of Scheduled Castes in Article 341 makes these castes a homogeneous group, and the state government cannot interfere in it. Even a mere reading of Article 341 shows that Scheduled Castes is a mixture of castes, races, groups, tribes, communities, etc. Although Scheduled Castes are related to various races and castes, they receive special status due to Article 341. Justice Trivedi has objected to the three-member bench’s decision to refer the matter to a five-member Constitutional Bench for reconsideration without any solid reasons, questioning the decision of the Constitutional Bench. Although Justice Trivedi’s observation is a minority opinion, it is grounded in reality. She did not try to prove their point by nitpicking the law and principles.

It is difficult to agree with the other judge’s statement that the Scheduled Castes are not homogeneous. While the social status of Scheduled Castes may vary, there is no animosity among them; instead, there is empathy. Scheduled Castes do not conspire against each other to deny each other’s rights. Even if they do not seem homogeneous on a material level, there is unity on a mental level, which any member of the Scheduled Castes would agree with. On the contrary, classification could create divisions among these castes, destroying the emotional unity they share on a mental level. The reason for some Scheduled Castes being left behind is not the more advanced Scheduled Castes but the failure of the government. The government has failed to bring about the improvements in the material



conditions of all disadvantaged social groups, specifically the Scheduled Castes, as expected by the Constitution.


These castes have been deprived of education because they are trapped in the cycle of material weakness and traditional social systems. On the other hand, the castes that have escaped the traditional social system and followed the path suggested by Dr Babasaheb Ambedkar have been able to make some educational and material progress. In doing so, they did not create any obstacles to the progress of others. Therefore, the failure of the government cannot be blamed on these castes.

2. Do states have the authority to make changes to the lists of Scheduled Castes and Scheduled Tribes created by the President?

This is the second significant and contentious issue in this case. While the Constituent Assembly had denied states the authority to intervene in the lists of Scheduled Castes and Scheduled Tribes, the court has granted this power to the states. During the discussion on Articles 341 and 342 on September 17, 1949, Dr Ambedkar had clarified that after the lists created by the President are notified, even the President does not have the authority to make changes; only Parliament would have that authority. Pandit Thakurdas Bhargava had proposed that this restriction should be in place for ten years, after which the President should be given the power to amend the list, a proposal that Dr Ambedkar rejected. Bhargava also suggested that state legislatures should have authority over the list, which the Constituent Assembly did not accept. Despite all this being clear, the Supreme Court has granted the states this authority. Dr Ambedkar had opposed both removing

and including castes from the lists. The court has engaged in a semantic argument by stating that Dr Ambedkar had not commented on classification. The court's stance is that classification will not lead to any caste being removed from or included in the list; instead, it will only determine the priority given to different castes. This cannot be considered purely unbiased because classification would give states the authority to prioritize castes, and there is a possibility that states might show partiality towards certain castes. There could be attempts to favour certain castes for political reasons while deliberately pushing others backward, which would be contrary to the principle of equality. By granting states the authority to classify Scheduled Castes and Scheduled Tribes, the Supreme Court has effectively given states the power to make changes to the lists of these castes.

The reasoning given by Justice Chandrachud when granting this authority does not seem solid. For example, he argues that since states have the power to make special provisions and reserve seats for backward classes under Articles 15(4) and 16(4), they also have the authority to classify these castes. This argument is flawed. Article 15(4) was added to the Constitution through the first amendment in 1951. This sub clause was introduced in the constitution to implement article 46 in the directive principles of state policy. According to Article 46, while making special provisions for the educational and economic advancement of backward classes, especially Scheduled Castes and Tribes, positive discrimination is permissible and cannot be challenged. This is what Pandit Nehru stated in the objective resolution of the first amendment. Thus, the



authority of states under Article 15(4) is limited and was intended to amplify Article 15(3). Regarding Article 16(4), it pertains to Other Backward Classes (OBCs). Scheduled Castes and Scheduled Tribes cannot be included under this provision. If Scheduled Castes and Tribes were to be treated the same as other backward classes, there would be no need for a separate provision under Article 335 for Scheduled Castes and Tribes.

In the Chinnaiyah case, it was highlighted that the authority of states under this Article is limited. Justice Bela Trivedi opposed including Scheduled Castes under Article 16(4). Justice Gavai, using the metaphor of inside and outside a railway compartment, concluded that some advanced Scheduled Castes are preventing other Scheduled Castes from progressing. If this were true, it would imply that the power to provide jobs and distribute other material benefits rests with certain advanced Scheduled Castes, which do not extend to other Scheduled Castes. The reality is that the social and economic conditions of all Scheduled Castes and Tribes are deteriorating day by day, and they are falling victim to severe economic disparities. It cannot be broadly concluded that a few economically stable individuals within a caste mean that the entire caste has achieved economic advancement. There is no need to create divisions within the entire Scheduled Castes by prioritizing candidates from extremely backward castes. Instead, discrimination can be reduced by providing grace marks or priority based on factors such as the economic and educational status of parents, place of birth (urban or rural), and other criteria.

3. What is the criterion for sub-classification?

To identify the backwardness of castes within the SC/ST categories, rational and reasonable empirical data should be collected. The court has stated that this data can be reviewed by the judiciary. This means that now there will be competition among these castes to prove how backward they are, which will lead to court cases. As a result, reservation might be sidelined and get stuck in judicial processes, similar to how political reservations for OBCs are stalled in court.

Furthermore, Justice Chandrachud has discussed Effective Representation and Numerical Representation. This means that if a caste already has sufficient numerical representation in public employment, there may be no need for reservation to ensure effective representation in promotions. This

argument could also cause confusion. For example, if a certain caste has a high proportion of employees in lower-level jobs like sanitation workers, this caste might be denied reservation in higher-level positions. In reality, reservation is about ensuring representation, and it should be provided at every level.

4. Creamy Layer:

Justice Gavai seems to have addressed a question that was not part of the case. The issue of the creamy layer was not included in this case, and no argument was held on it. Nonetheless, he has commented on it. This decision may satisfy those outside the SC and ST category who have been demanding the inclusion of the creamy layer criteria for years. In reality, no member of the Scheduled Castes has ever claimed that they are being unfairly treated due to the progress of some within their group. On the contrary, the progress made by such individuals serves as inspiration for others. The proportion of advanced individuals within the Scheduled Castes is very small—some belong to the first generation, while others to the second. These individuals have reached their current position through hard work and help to uplift those who are still lagging behind. They do not solely benefit themselves. Being intellectuals, they make efforts for the rights of Scheduled Castes and Tribes in their own way. In a sense, they are the vanguard of the movement. Excluding them under the guise of the creamy layer would be akin to undermining the entire movement. In the judgement Justice Mithal made a very general comment that reservation should be limited to one generation only. Is the court suggesting that Scheduled Castes and Tribes should not face discrimination if they achieve economic progress, and that they will receive the same respect as the upper castes? Have the reasons for which the Constituent Assembly accepted the reservation policy been resolved? Will those who are excluded in the name of equality not face injustice, particularly their children? Can anyone guarantee that they will not face discrimination? If the answer is yes, it would be regrettable to say that the court does not understand the social reality. In summary, it can be said that the Supreme Court's permission for classification within the SC/ST categories and for states to carry out this classification is a hindrance to the reservation policy.

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Reservation: A layman's point of view

Perhaps, time has come to abolish political reservation (Reserved constituencies) in the Lok Sabha and State Assemblies. It has out-lived its utility. These reservations have created only 'Dummies' or 'Chamchas' (in the terminology used by Babu Kanshi Ram) in the political leadership of SCs and STs. By abolishing these political reservations, we will know as to where do we (both the upper castes and Dalits) stand in an inclusive society. This litmus test would help us in determining how long the Reservations would be needed.

Ramesh Chander



The question of Reservations is once again on the agenda news with the latest judgment by the Supreme Court - The Supreme Court ruled that states can now have sub-classification among Scheduled Castes (SCs) and Scheduled Tribes (STs) to grant quotas within these groups for betterment and to support more disadvantaged sub-groups. In normal circumstances also, the issue of reservations has always been in focus. This was experienced in the recently held Lok Sabha election as well. Ruling BJP was cornered by opposition parties on this front. The issue of reservation has its impact not merely at political level but also it leaves deep impact on sociological point of view.

We have a longtime impression that reservation is offered to depressed classes by the caste Hindus. This is absolutely wrong. The

idea of reservation was firstly moved by William Hunter and Mahatma Jyotirao Phule in 1882. We have enough documents and evidence to support this argument. Later, Babasaheb Ambedkar, Periyar Ramasamy, Babu Mangoo Ram Mugowalia and several others fought for the rights of the oppressed and depressed classes against the British ruler. This fight was tooth and nail. It is also a reality that these leaders and their cause did not get support from upper caste leaders even though it was fundamentally for justice.

The issue of reservation came to the fore in the Round Table Conferences in London in the early thirties. Babasaheb Ambedkar represented the depressed people and raised the voice for their socio-political rights. The alarm-bells rang among the Hindu society. The Congress Party, led by Mahatma Gandhi and



other high caste leaders opposed Ambedkar and his fight for the rights of the oppressed people. It may sound ironic but the reality is that these leaders understood the concerns of Dr Ambedkar but were more interested in protecting the interests of people, who are not termed as Manuwadi. The oppressed class won the battle under the leadership of Babasaheb Ambedkar and others. Ramsey MacDonald's Communal Award of 1932 gave "Separate Electorate" to Depressed Classes along with Muslims, Sikhs and other minorities. This award gave a separate identity to depressed class people, which was outside Hindu fold. This was not acceptable to Mahatma Gandhi and other leaders. Mahatma Gandhi resorted to fast unto death in Yerwada jail in Pune.

In the recently held Lok Sabha Elections, 2024, it became clear. The opposition made it an issue that the BJP, RSS and their supporters intend to abolish Reservations and change the Constitution. It caught the imagination of the masses, particularly the SCs, it seemed. BJP, RSS and others concerned did their best to clear their stand and position on the issues and categorically denied these charges.

Babasaheb Ambedkar was under pressure to give up his demand. Several causes like Hindu unity and freedom movement were cited to pursue Babasaheb Ambedkar. He was asked to save the life of Mahatma Gandhi. Babasaheb Ambedkar was deadly against Manuwadi Varna Vyavastha while Mahatma Gandhi was a strong status quoist. Despite this, Babasaheb discussed the issue with Mahatma Gandhi and ensured special provisions for depressed class people in education employment. This, he believed, would empower depressed class people. The agreement between Dr Ambedkar and Mahatma Gandhi is known as the Poona Pact of 1932. This was the first step towards 'reservations' for the depressed people. Agreement and understanding between the two were incorporated in India Act 1935 passed by the British Parliament. Thus, depressed class

people became Scheduled Class people and were given reservations. This was affirmative action. This chronology is enough to prove that reservation was neither a 'goodies' nor at the mercy of anybody. It was never a charity but a successful struggle to end the subjugation and exploitation of the people, who are now generally known as 'Dalits'. Caste Hindus, therefore, should not have any 'heart burn' sentiments in this regard.

The Reservations for Scheduled Castes and Scheduled Tribes were incorporated in the Constitution of India in Articles 15, 16, 17 and 46, providing for the establishment of a society without social injustice, exploitation and filled with equality. As such reservations in the jobs and legislatures with a provision of 15% for SCs and 7.5% for STs were made.

After independence, initially reservations were provided only for SCs and STs. OBCs were included in the ambit of reservation in 1991 on the recommendations of the Mandal Commission. It is noteworthy that upper caste people were opposing reservation from the beginning. Unfortunately, these people were from all the fields of social life including politics, education, administration and judiciary. Even though they had leap sympathy, a deep-rooted resentment was reflected on several occasions.

Reservations remained in the statute book only because of the 'Parliamentary democracy', based on the principle of 'One Vote - One Value' and the fundamentals of the Constitution - Equality, Liberty, Justice and Fraternity. This happened because of the great vision of Dr Ambedkar. Many attempts were made to dilute constitutional provisions but all of them were never successful. Currently, it is absolutely clear that nobody can touch these constitutional provisions without bringing the marginalized people at the par with upper caste people. This was underlined in the recently held Lok Sabha election. We have seen Dalits have become more aware and vigilant in this connection.

The Supreme Court has once again brought several issues like caste census, creamy layer and quota within quota on the national agenda. All these issues are directly related with reservation. Fajjan Mustafa, educationalist and legal expert commented on SC ruling saying, "A closer look demonstrates that our judiciary has not been quite enthusiastic about reservation policies. While there are verdicts that go the other way, several judgments have tried to dilute reservation. The latest judgment is a milestone and consistent with the earlier verdicts."



He has made some valid points. Judicial judgments with regard to reservations have tried set the clock in reverse, creating confusion. Judiciary, all over the world, is not a supernatural power. Members of judiciary belong to the same society, which has some views. Unfortunately, the general mindset of the society is still 'Manuwadi' though we profess 'Equality, Justice and Fraternity' in our constitutional arrangements. These contradictions remain and need to be addressed.

I have some observations:

Quota within Quota – Reservation within reservation is a confusing concept with divisive tendencies. It would tend to further fragment society and take us towards perpetuation of temporary measures of reservation. It has a negative orientation and would tend to accept the dogma of 'graded inequality' which we intend to do away with.


Creamy layer among SCs – Again it is a misleading notion. SC remains an SC irrespective of his position in profession and vocation. Babasaheb Ambedkar, Babu Jagjivan Ram, K. R. Narayanan, Ram Nath Kovind among many more in public life, who could reach top positions remained Dalits in the social hierarchy. This reality applies to

all. This pain can be experienced by wearing pinching shoe. Nobody else can understand this pain. Moreover, the so-called creamy layer continues to be exposed to the harsh ground realities. Many of them are voluntarily opting out of the reservations as no one wants to remain a 'second grade' member of the society. Most of the highly placed officials are not claiming and availing reservations for their children. As such the notion of 'creamy layer' is a misnomer.

Caste Census – Reservations, as provided in the Constitution, are here to stay for a long time in the given socio-economic and political situation. With a view to make focused and functional policies to empower the Dalits and OBCs, Caste Census and relevant data is needed. There should be no problem in conducting Caste Census. Certain issues cannot be kept under the carpet for a long time. Dalits and OBCs are determined to have their share of the cake. But how do we fix that share without the relevant data? The dictum "Jis Ki Jitni Sankhya Bhari; Utni Uski Bhagedari" is gaining strength and rightly so.

Concept of Reservation - Let us elaborate the concept of reservations a bit more for the benefit of a common man –

- Different people understand reservation



differently. One view of reservation as a generic concept is that reservation is an anti-poverty measure.

- Reservation implies a separate quota which is reserved for a special category of persons.
- Reservation was introduced with the aim of advancement and adequate representation of Scheduled Caste, Scheduled Tribes.
- The age-old caste system of India is responsible for the origination of the reservation system in the country.
- In simple terms, it is about facilitating access to seats in government jobs, educational institutions, and even legislatures to certain sections of the population.
- These sections have faced historical injustice due to their caste identity.
- As a quota based affirmative action, the reservation can also be seen as positive discrimination.

The Way Forward

Someone has rightly said about the reservation, "A strong political will is indispensable to find equilibrium between justice to the backwards, equity for the forwards and efficiency for the entire system." How can it be achieved within the constitutional framework? Here are some observations in this regard: -

- Reservations for SCs and STs shall continue on the basis of their share in the population with a view to bring about a 'just social order' and 'Samrasta'. It will only be possible by negating the caste system.
- There shall be an inclusive and comprehensive society led by the 'mainstream' of the society with secular credentials and an agenda of 'Sab Ka Sath – Sab Ka Vikas'. Reservations should be available only to the depressed people in the Hindu fold. Reservation is not a poverty eradication programme. It is a programme of social empowerment of the marginalized segments of the society.
- India is a rich country inhabited by poor people. There is no justification of reservations to EWS. The Social Security System should be streamlined and strengthened to take care of the EWS. SCs are not socially sidelined but also economically retarded over the centuries.
- There shall be reservations for SCs and STs in the top positions like Cabinet Secretary and Secretaries in the GOI, Chief Secretaries of the States, Fair representation in Judiciary and autonomous and statutory establishments. The argument or logic of 'Merit' and 'non-availability' have become outdated and are immoral.

- The newly introduced category – Lateral Entry – for recruitment of high-level posts of Joint Secretary, Director and Deputy Secretary in the GOI has tended to dilute the Reservation provisions. It should be abolished forthwith or there should be Reservation in recruitment under this Later Entry too.
- Perhaps, time has come to abolish political reservation (Reserved constituencies) in the Lok Sabha and State Assemblies. It has out-lived its utility. These reservations have created only 'Dummies' or 'Chamchas' (in the terminology used by Babu Kanshi Ram) in the political leadership of SCs and STs. By abolishing these political reservations, we will know as to where do we (both the upper castes and Dalits) stand in an inclusive society. This litmus test would help us in determining how long the Reservations would be needed.

A renowned Columnist, Tavleen Singh has commented on the issue, "Caste-based reservation is a process through which centuries of oppression and subjugation are being sought to be righted at the bare minimum level. Till the day that goal is achieved, it is needed"

I fully agree with Tavleen Singh. It is a matter of gratification to note that all the major political parties stand for reservations, prima facie. In the recently held Lok Sabha Elections, 2024, it became clear. The opposition made it an issue that the BJP, RSS and their supporters intend to abolish Reservations and change the Constitution. It caught the imagination of the masses, particularly the SCs, it seemed. BJP, RSS and others concerned did their best to clear their stand and position on the issues and categorically denied these charges. The top leadership, including PM Narendra Modi, Sarsanghchalak of RSS, Mohan Bhagwat and others came out with clear statements in support of Reservations. We should take their stand on its face value till it is proved otherwise. The ongoing developments in our neighbourhood in Bangladesh are a stark reminder to be on our guards. The anti-social, anti-national elements and our enemies around might be sitting in the wings to exploit the situation. We need to be careful and try our utmost with sincerity to undo and end the socio-economic injustice to the marginalized sections of the society with a view to bring about 'Samrasta' in an inclusive society of Bharat.

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Other political parties also have opposed idea of creamy layer posing a serious question mark before execution of the SCs ruling. With political parties almost unanimously opposing SC judgement. Parliament is expected to play a decisive role on this issue.

Political parties oppose Supreme Court ruling

Major political parties, including ruling BJP and opposition Congress have opposed the idea of creamy layer, indicating in which direction the wind is blowing.

The NDA government led by Narendra Modi also has expressed his differing opinion on SC judgement over creamy layer for SCs and STs.

Congress president Mallikarjun Kharge also has opposed creamy layer, describing it as a setback for SC and ST communities. Congress, he said, would oppose execution of creamy layer.

Union Minister Ashwini Vaishnaw expressed the government decision saying that the principle of creamy layer does not apply to reservations for Scheduled Castes (SCs) and Scheduled Tribes (STs). Vaishnaw said extensive discussion was held in the cabinet meeting on the recent Supreme Court judgement that allowed States to sub-categorise SCs and STs. "This government is committed to the Constitutional provisions given by Babasaheb Ambedkar. There is no provision of creamy layer in Babasaheb's Constitution. The Cabinet's well thought through decision is that it is only as per Babasaheb's Constitution that reservations for SC/ST should be provided," Vaishnaw said after a meeting of the Union Cabinet.


Prime Minister Narendra Modi also assured a

group of BJP MPs belonging to Scheduled Caste (SC) and Scheduled Tribe (ST) communities that no 'creamy layer' distinctions would be applied within the quota of jobs and seats in educational institutions reserved for SCs.

Law Minister Arjun Ram Meghwal also told the Lok Sabha that the 'creamy layer' principle was not part of the Supreme Court's recent judgement on sub-categorisation within the SC quota. In his meeting with the MPs, which included Mr. Meghwal and Minister for Parliamentary Affairs Kiren Rijiju among others, Mr. Modi was firm in his assurances. 'No creamy layer'.

After the meeting held at Parliament House, former Union Minister and BJP MP Fagga Singh Kulaste posted on X, saying that the delegation of MPs had requested the Prime Minister not to consider the opinion of four judges who had advocated the application of a 'creamy layer' principle within the SC quota. These four judges were part of the seven-judge Constitution Bench of the Supreme Court that recently allowed State governments to create sub-categories within the SC list.

"Prime Minister Modi agreed with the feelings expressed by the delegation of MPs and said that he was committed to not applying the creamy layer within the SC



category,” Mr. Kulaste. Sources confirmed that this was indeed the Prime Minister’s position on the issue.

‘Only observations’

In the Lok Sabha, the Law Minister asked the Opposition not to “mislead” the society on the “observations” of a Supreme Court judge on carving out a ‘creamy layer’ for exclusion from SC/ST reservations. In Lok Sabha, Law Minister Mr. Meghwal said, “The reference to creamy layer in the sub-categorisation of SC/STs is an observation by a Supreme Court judge and not a part of the decision. The members should not make an attempt to mislead the society.”

Other political parties also have opposed idea of creamy layer posing a serious question mark before execution of the SCs ruling.

Within hours after the ruling was passed, the President of political party called Vanchit Bahujan Aaghadi, former Member of Parliament, writer and lawyer Prakash Yashwant aka Balasaheb Ambedkar tweeted his reaction saying, “The Judgement has been silent on the parameters to measure the backwardness of different castes with the Scheduled Castes. “E V Chinnaiah holds ground even though the 7-Judge bench of the Supreme Court (by 6-1) held that sub-classification of Scheduled Castes is permissible for the simple reason that this judgement is against Article 14, and Beneficiaries of reservation are not just SCs, STs and OBCs but those belonging to the general category as well.

“If only the SC category (historically disadvantaged) is classified, it violates the principle of equality enshrined and does not just justice for every citizen under Article 14 of the Constitution.”

The President of Lok Janshakti Party, Member of Parliament and the Minister of Food Processing Industries Chirag Paswan too chipped in saying, “We disagree with the Supreme Court’s observation and have prominently recorded this dissent. We are clear that the basis for Scheduled Castes is untouchability, not educational or economic criteria. Therefore, there can be no provision for a creamy layer in this context, as even today, there are examples of Dalit youth being prevented from riding a horse. Many prominent individuals holding high positions also face discrimination; for instance, even after they visit temples, the temples are washed with Ganga water. This indicates that discrimination and untouchability still persist. LJP (Ramvilas) will be filing a review petition in the Supreme Court regarding this matter.”

The Communist Party of India (Marxist) Polit Bureau too came out with a press communiqué

urging the governments to work out appropriate steps to ensure that the backward sections within the SCs are brought into the fold of affirmative action. The press communiqué also demanded that the governments, as per the direction of the Supreme Court, must now take all necessary measures to ensure that the backward sections of the SCs are provided with facilities for improving their conditions.

Film director, screenwriter and film producer Pa Ranjith too tweeted, “The recent Supreme Court discussion on introducing a creamy layer for SC/ST reservations is deeply concerning and strongly condemned. Caste is a socio-cultural identity, not altered by economic status. Creamy layer in SC/ST categories undermines the essence of affirmative action aimed at social justice. Reservations are already insufficient relative to the SC/ST population, giving rise to significantly underrepresentation. The bench’s Brahminical perspective fails to address the systemic oppression faced by SC/ST population, instead perpetuating further exclusion. The focus should be on expanding quotas to reflect demographic realities, not creating new divisions.”

National President of the Bahujan Samaj Party (BSP) and former Chief Minister of Uttar Pradesh Mayawati, in a series of tweets, stated, “Political oppression is nothing compared to social oppression. Are the lives of millions of Dalits and tribals in the country free from hatred and discrimination to achieve self-respect and dignity? If not, how fair is the distribution of reservations among these classes that have been broken and defeated based on caste? “Governments of both parties Congress and BJP have been adopting liberal and not reformist attitude towards the SC, ST, and OBC Bahujan’s of the country. They are not in favour of social change and economic liberation for these groups. Otherwise, the reservation for these people would have been protected by including it in the 9th Schedule of the Constitution.”

Later, on August 4, she addressed a press conference expressing detailed reaction of her party urging the Hon. Supreme Court to reconsider its decision of August 1, in the interest of SC and ST communities. She pointed out that earlier in 2004, a five-judge constitutional bench, in the case of E.V. Chinnaiah vs. the State of Andhra Pradesh, a five-judge constitution bench refused recognition to the classification made within the Scheduled Castes and Scheduled Tribes and stated that sub-classification cannot be done within the Scheduled Castes and Scheduled Tribes because they fall in the same homogeneous



Supreme Court

category. However, she added, the seven-judge bench of the Supreme Court has now overturned the 2004 judgment, a decision that could potentially create many differences. She stated that a situation of differences will arise between the Central and State Governments. Until now, only Parliament has had the power to include or exclude any caste or tribe in the Scheduled Castes and Scheduled Tribes, a process implemented by the Hon. President through his orders. No state government has had the authority to alter this. However, following this decision, whichever party is in power may change classifications according to their political agenda. State governments might also try to give unfair advantages of reservation to certain castes to secure their vote banks. As a result, many problems will arise, potentially leading to the erosion of reservations currently provided to Scheduled Castes and Scheduled Tribes. Ultimately, this could deprive these groups of their rightful reservations, and their share of benefits might be allocated to the General category in some form.

Pointing out that in its decision of August 1, 2024, the Supreme Court did not provide sufficient guidance on how to determine which individuals among the Scheduled Castes and Scheduled Tribes should be classified in the creamy layer category or on the criteria for deciding who no longer requires reservation, she stated, as a result, state governments will now have ample opportunity to engage in political maneuvering concerning these issues. She expressed apprehension that if sub-classification within the Scheduled Castes and Scheduled Tribes is implemented, many positions in government jobs and educational institutions may remain vacant because the limited sub-castes receiving reservations



Central Vista

might not have enough candidates to fill these vacancies. Consequently, these unfilled positions could end up being allocated to the General category.

Mayavati claimed that the state governments will now have the authority to sub-classify the groups of Scheduled Castes (SC) and Scheduled Tribes (ST) designated by the President under Articles 341 and 342 of the Constitution. They can allocate reservation benefits to specific sub-castes within these groups. As a result, other castes within the SC and ST groups might be excluded from these benefits if the state government deems that they no longer require a reservation. She came down on the Attorney General of the Central Government, the Solicitor General representing the BJP, the Advocate General of the Aam Aadmi Party government in Punjab, and the advocates for Haryana and Chandigarh saying they did not highlight that, within the castes being excluded from benefits under this classification, there will still be millions, who have not received reservation benefits and such individuals will remain deprived of reservation indefinitely, despite being classified under the SC and ST categories under Articles 341 and 342.

Pointing out that the classification of Scheduled Castes (SCs) and Scheduled Tribes (STs) has been based on social inequalities such as untouchability and casteism, she claimed that these reservations among sub-groups within these communities is both unfair and unconstitutional. She also called for a constitutional amendment ensuring that no future tampering or sub-classification of SC and ST groups, as designated by the President under Articles 341 and 342, will be allowed.

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It is a truth, though unpleasant, that all constituents of SC and ST have not progressed uniformly in the last 77 years of independence, it is also true that they all have not been the equal beneficiaries of reservation and the affirmative action of the government. No one can deny that some caste groups within ST- SC have become relatively more well off and advanced, whereas, others are aging far behind.

“It is a wakeup call on social-economical equalities”

Indal



In modern society, social changes take place because of three reasons: social movement, political and administrative decisions and judicial orders and observations. These three factors may be in operation either in isolation or in tandem. The history of modern India has been a witness to how constitutional provisions together with social initiative have been instrumental in improving the lot of sections of Indian society left on the margin for ages. Constitutional provisions for the eradication of untouchability, right to equality and the provisions for reservation are some of such instances. So far, reservation for representation in political bodies has been limited to SC and ST and for the purpose of government job, it has

been extended to cover OBCs and economically backward classes also. Certain states created sub- categories within the OBCs in order to ensure more effective and just distribution of opportunities to deserving classes. Bihar is a good example, where OBCs were divided into two groups by the then Karpoori Thakur government. It is considered to be his major steps for ensuring social justice for which he was conferred with the `Bharat Ratna'. But, create sub- categories within SC and ST have made with judicial disapproval.

On the other hand, students of Indian society and social change have underlined that, social and economic development within SC and ST have not been even and equal. As



a result, certain caste groups within SC and ST have become socially and economically and even politically more developed, more powerful and dominant, than the rest within the same category. But the Government was handicapped to address this inequality within ST- SC because of the Supreme Court ruling of 2004, in which SC and ST were declared to be homogeneous categories which require no sub-categorization. However., the recent judgement by the seven-judge bench of the Supreme Court on August 1, 2024 has taken into account the existing inequality within SC and ST and allowed the state to create some categories within SC and ST for the purpose of job reservation and other affirmative action.

This judgement of the Supreme Court has divided the social and political thinkers; some are hailing the judgement as the landmark, progressive, whereas, some others are opposing the judgement calling it regressive and insensitive to the real conditions of people belonging to SC and ST.

As regards the political parties of India, the judgement of the Supreme Court left them stunned. They did not know how to react to it. They could not calculate the consequence of the judgement and possible reaction of the social groups to be affected by it. Hence, to begin with they were cautious and circumspect and reluctant to take stand either in favour of or against the judgement. The behaviour of these political parties is not hard to understand for their political decision is guided by the possible electoral harvest and not the genuine welfare of the people. As per latest reports a delegation of 100 MPs belonging to ST and SC has met the Prime Minister Narendra Modi and discussed the fall out of the judgement. According to a news report they were assured that the suggestions of the supreme court to exclude

the creamy layers of the SC and ST from the benefit of reservation will not be implemented. If these reports are to be believed it gives a sense of relief to those, who were concerned about the consequences of the latest Supreme Court judgement. But the Supreme Court judgement has certainly given an opportunity to intellectuals, specially, social scientists to analyse the structure and effectiveness of reservation specially for SC and ST in India. But it can happen only when the supreme court judgement is read and analysed without any bias and prejudice.

It is a truth, though unpleasant, that all constituents of SC and ST have not progressed uniformly in the last 77 years of independence, it is also true that they all have not been the equal beneficiaries of reservation and the affirmative action of the government. No one can deny that some caste groups within ST- SC have become relatively more well off and advanced, whereas, others are aging far behind. So, it is very important, we take this prodding from the supreme court as a wakeup call to find out a way out to address the social and economic inequalities within SC -ST in a manner which satisfies all and leaves no one disgruntled.

We are living in an era in which politicians and political parties are sharply divided. Their support or opposition is rarely based on the merit of the issues. In such a situation, intellectuals have great responsibility on their shoulders. They must look at these sensitive issues with a calm and dispassionate mind and prepare public opinion which helps to address the matter in an opposite manner.

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Privileged Dalit : An oxymoron or a true social reality



The recent Supreme Court judgments on Quota within Quota, the concept of the creamy layer, and the caste census are particularly significant. Legal experts have noted that while some judgments have sought to dilute reservation policies, the latest ruling aligns with earlier verdicts and represents a milestone. However, the judiciary, like other societal institutions, reflects mainstream biases and contradictions.

Prof. Dr. Anu

Treating EWS as a separate class would be a reasonable classification. – *Justice Trivedi*.

The new concept of economic criteria introduced by the impugned amendment for affirmative action may go a long way in eradicating caste-based reservation. - *Justice Pardiwala*.

The article zeroes in on the complex and often contradictory nature of privilege among Dalits, analysing how socio- economic advancements coexist with enduring caste-based discrimination. It aims to dissect whether the rise of a privileged Dalit class genuinely reflects social progress or if it masks deeper, unresolved inequalities. The question of reservations and privileged Dalits is again in the news with the latest judgment of the Supreme Court and the dichotomy of privilege within Dalit communities needs to be explored in

the realities of caste mobility and persistent marginalization.

It aims to dissect whether the rise of a privileged Dalit class genuinely reflects social progress or if it masks deeper, unresolved inequalities. The phrase - privileged Dalit - might seem paradoxical at first, given the historical and systemic oppression faced by Dalit communities. Traditionally, Dalits have been marginalized, deprived of opportunities, and subjected to severe social, economic, and political discrimination. However, in contemporary India, the concept of a privileged Dalit is emerging as a true social reality, albeit within a limited context.

For many, the term privileged Dalit is viewed as an oxymoron because it juxtaposes two seemingly contradictory ideas: privilege, which implies a position of advantage, and



Dalit, which historically signifies a position of disadvantage and social exclusion. The caste system entrenched Dalits at the bottom of the social hierarchy, denying them basic human rights and dignity for centuries. This legacy of oppression makes the notion of privilege in the context of Dalits appear inherently contradictory.

On the other hand, the term reflects the evolving social landscape in India. With affirmative action policies like reservations in education and employment, some Dalits have gained access to opportunities that were previously out of reach. This has enabled a section of the Dalit community to ascend to middle-class or even elite status, enjoying social, economic and educational advantages that distinguish them from other Dalits who remain in poverty and marginalization. These privileged Dalits may occupy influential positions in academia, government, or the private sector, enjoying benefits that challenge the traditional narrative of universal Dalit marginalization.

However, this privilege is often contingent and relative; it does not erase the broader societal prejudices or the historical and structural disadvantages faced by Dalits as a group. Furthermore, even privileged Dalits may experience caste-based discrimination in various forms, reminding them of their social origins.

The Supreme Court ruled that states can now sub-classify Scheduled Castes (SCs) and Scheduled Tribes (STs) to grant quotas within these groups, aiming to better support more disadvantaged sub-groups. Otherwise also, the issue of reservation has been in focus even in the recently held Lok Sabha elections as it was one of the important issues on which the opposition was cornering the ruling outfits led by BJP. No doubt, it is an important issue but is also equally complicated having direct bearing not only on our polity but also the society.

The issue raises complex questions about implementation and fairness that require careful consideration and ongoing dialogue. The Court delved into two pivotal issues concerning the degree of justification that States must provide when making sub-classifications within a caste for reservation purposes:

1. Should the State be required to demonstrate inter se backwardness within the Scheduled Castes, a concept that contrasts with the ruling in *Indra Sawhney v. Union of India*, where it was held that proving such backwardness is unnecessary for SC/ST communities?

2. Is it essential to establish the inadequacy of representation for the more backward groups within the Scheduled Castes to justify such sub-classifications?


In its ruling, the Court clarified that while the *Indra Sawhney* judgment permits the State to extend benefits to Scheduled Castes and Scheduled Tribes without necessitating proof of their backwardness, this ruling does not explicitly allow States to make sub-classifications within these communities without providing a sound and reasonable justification. The Court emphasized that any attempt to sub-categorize Dalits for reservation purposes must be backed by a clear and compelling rationale that addresses the specific needs and circumstances of the more disadvantaged sub-groups within the Scheduled Castes. Without such justification, sub-classifications could undermine the integrity and purpose of the reservation policy.

Justice Bela Trivedi, dissenting, argued that sub-classification alters the Presidential list of Scheduled Castes, which only Parliament can change, not states. This, she claimed, would lead to deprivation of benefits for other classes within the same category.

It is relevant to mention that in 2010, the Punjab and Haryana High Court invalidated this provision, referencing the *EV Chinniah* case, which ruled that castes under the Presidential Order (Article 341) form a single homogeneous group and cannot be further subdivided. The *EV Chinniah* decision reinforced that the President, in consultation with the Governor, designates SCs without sub-classification. The Supreme Court's ruling in *M. Nagraj v. Union of India* highlighted that creamy layer criteria do not apply to SCs/STs due to their inadequate representation.

The journey from the *Indra Sawhney* case to *Jarnail Singh* has underscored the need for adequate representation for SCs/STs, emphasizing that the trauma and social stigma they face surpass other inequalities, making any debate on the creamy layer for SCs/STs premature without substantial government data. It is argued that Reservations are often mistakenly viewed as benevolent gifts from high-caste leaders to oppressed communities.

Initially, reservations were provided only



for Scheduled Castes (SCs) and Scheduled Tribes (STs). The inclusion of Other Backward Classes (OBCs) in 1991, following the Mandal Commission's recommendations, sparked considerable opposition from the so-called upper-castes of the Hindu fold, or general category. Unfortunately, the higher echelons of the polity—including the executive, judiciary, and media — have often been non-cooperative, offering only lip service to the cause of social justice for Dalits. Reservations have endured primarily due to the principles of parliamentary democracy and constitutional fundamentals such as equality, liberty, justice, and fraternity, as envisioned by Babasaheb Ambedkar. Despite attempts to abolish or dilute these provisions, political and socio-cultural realities have ensured their persistence.

The recent Supreme Court judgments on Quota within Quota, the concept of the creamy layer, and the caste census are particularly significant. Legal experts have noted that while some judgments have sought to dilute reservation policies, the latest ruling aligns with earlier verdicts and represents a milestone. However, the judiciary, like other societal institutions, reflects mainstream biases and contradictions.

The Supreme Court examined two crucial issues regarding state justifications for sub-classifying within castes for reservations. First, it questioned whether states must prove inter se backwardness as *Indra Sawhney v. Union of India* did not require such proof for SC/STs. Second, it explored whether states must demonstrate inadequate representation of the more backward within Scheduled Castes. The Court held that while *Indra Sawhney* exempts states from proving SC/ST backwardness for reservation benefits, it does not allow states to sub-classify without reasonable justification. Sub-classification is based on the premise that some castes within SCs are more backward than others, necessitating data to prove such intra-class backwardness. Using only cadre strength to measure representation was deemed insufficient. This method overlooks the qualitative aspects of representation and fails to reflect true backwardness levels in state services. Articles 16(4) and 16(4-A) of the Constitution call for a broader assessment of representation beyond specific cadres. A seven-judge bench (6-1) ruled that sub-classification within Scheduled Castes is permissible for separate quotas for more backward groups within SC categories. The verdict allows states to identify and provide separate quotas for these groups, provided they justify sub-classification with empirical data on

inadequate representation.

Chief Justice DY Chandrachud stated that the majority overruled the 2004 *EV Chinniah* judgment, which prohibited sub-classification. Justice BR Gavai, in a concurring judgment, emphasized the state's duty to preferentially treat more backward communities and suggested identifying and excluding the creamy layer among SC/STs to achieve true equality. Justice Vikram Nath and Justice Pankaj Mithal agreed, proposing that reservations should be limited to the first generation benefiting from them. Justice Bela Trivedi, dissenting, argued that sub-classification alters the Presidential list of Scheduled Castes, which only Parliament can change, not states. This, she claimed, would lead to deprivation of benefits for other classes within the same category.

The Supreme Court's decision marks a significant step in reservation jurisprudence, affirming the need for data-backed justifications for sub-classifications while opening debates on the feasibility of applying the creamy layer principle to SC/STs. As social acceptance and caste remain intertwined, policy introspection and judicial scrutiny are crucial for ensuring equitable representation and addressing deep-rooted inequalities.

Addressing the complex issue of reservations requires a robust political will to balance justice for the backward classes, equity for the forward classes, and overall system efficiency. Here are some observations on how this can be achieved within the constitutional framework:

Continuing reservations for SCs and STs: Reservations based on population share should persist to establish a just social order and social harmony. The caste system must be dismantled to achieve true cohesiveness. The purpose of reservation is not merely related to education and employment but it involves self-esteem and equality. Political reservation has been reduced to tokenism. Time may have come to have a relook on it as it would begin social inclusion at least from one sector.

The reservation policy aims to provide equal protection, acknowledging that true equality cannot be achieved through mere comparison of disparate groups. SCs and STs, despite gaining employment opportunities, often face societal challenges related to caste-based recognition. The recent judicial discussions on the creamy layer highlight the need for comprehensive data on SC/ST representation, making the creamy layer criterion a contentious issue for future litigation.

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SC migration during the partition: A Reflection on Ambedkar's legacy



Pakistani Hindu refugees in Jodhpur in 2010 underscores the ongoing struggles faced by SCs and STs in the region. These refugees, many of whom were from Scheduled Tribes, had clung to the hope that their rights would be protected in Pakistan. Decades later, they found themselves displaced, living in refugee camps in India.

S. Tekchand



The partition of India in 1947 was a seismic event in the history of the subcontinent, an event that redrew the boundaries of nations but also shattered lives, families, and communities. The chaos and violence that ensued led to one of the largest mass migrations in human history. Among those caught in the tumult were the Scheduled Castes (SCs) and Scheduled Tribes (STs), groups that had historically faced discrimination and marginalization. The partition, which was primarily framed in terms of religious identity, left these communities in a precarious position, as they navigated the dangerous waters of a newly divided region.

In the days leading up to the partition, SCs and STs found themselves faced with a critical choice: should they remain in their ancestral homes in what would become Pakistan, or should they move to India? Many Dalits,

especially those in West Pakistan (now Pakistan) and East Pakistan (now Bangladesh), initially chose to stay. They believed that the newly formed Muslim-majority nations would uphold the promises of equality and protection that had been made to them. However, the reality they faced was far harsher than they had anticipated. In the years following partition, Dalits who remained in Pakistan and Bangladesh were subjected to severe discrimination. As minorities in these new nations, their rights were routinely trampled upon, and their status as second-class citizens became increasingly apparent. The promise of equality that had enticed them to stay quickly dissolved, replaced by a harsh reality of marginalization and persecution. The situation became so dire that many Dalits were forced to flee to India in search of safety and dignity.



My own encounter with Pakistani Hindu refugees in Jodhpur in 2010 underscores the ongoing struggles faced by SCs and STs in the region. These refugees, many of whom were from Scheduled Tribes, had clung to the hope that their rights would be protected in Pakistan. Decades later, they found themselves displaced, living in refugee camps in India. I recall vividly the birth of a child in one of these camps, a girl who was named `Bharti'. Her name was a symbol of their enduring connection to India, the land they had once left behind but had now returned to in search of refuge. The plight of these refugees is not an isolated incident; it echoes the current situation in Bangladesh, where Dalits and other marginalized communities continue to live in fear, struggling to maintain their identity in the face of overwhelming adversity.

The migration of Dalits from Pakistan to India was not merely a search for safety; it was a reflection of their profound sense of betrayal. A report on Dalit migration from West Pakistan highlights the challenges they faced: `Harijans are economically poor, educationally backward, and socially handicapped. As they migrated to India, they did not know where to go for the government's help and how to get it'. This statement encapsulates the sense of abandonment felt by many Dalits who, upon arriving in India, found themselves viewed with suspicion by the upper castes, even as they were lauded as the good Hindu.

One of the most significant figures in this narrative is Jogendranath Mandal, a contemporary of Dr Babasaheb Ambedkar and Pakistan's first Minister of Law and Labor. Mandal, a leader of the Namshudra community, initially chose to stay in Pakistan, believing in the promises of equality and justice. However, his experience in the newly formed nation quickly disillusioned him. By 1950, Mandal realized that the promises made to him and his community were hollow. The process of otherization had begun, and Mandal, disillusioned and marginalized, eventually returned to India.

His story is emblematic of the broader Dalit exodus from Pakistan, as communities like the Namshudras found their homeland increasingly hostile and unwelcoming.

In contrast to Mandal's experience, Dr Babasaheb Ambedkar had a different vision for the Dalits. While Ambedkar had his disagreements with Mahatma Gandhi—particularly over Gandhi's use of the term - Harijan, which Ambedkar viewed as symbolic rather than substantive—his commitment to the welfare of Dalits was unwavering. Ambedkar was a fierce advocate for the rights

of Dalits, and he worked tirelessly to ensure that they were not reduced to mere symbols. Despite his differences with Gandhi, Ambedkar ultimately appealed to all Hindus, including Dalits, to remain with India. His vision was one of inclusion, where Dalits could contribute to nation-building on equal footing with others.

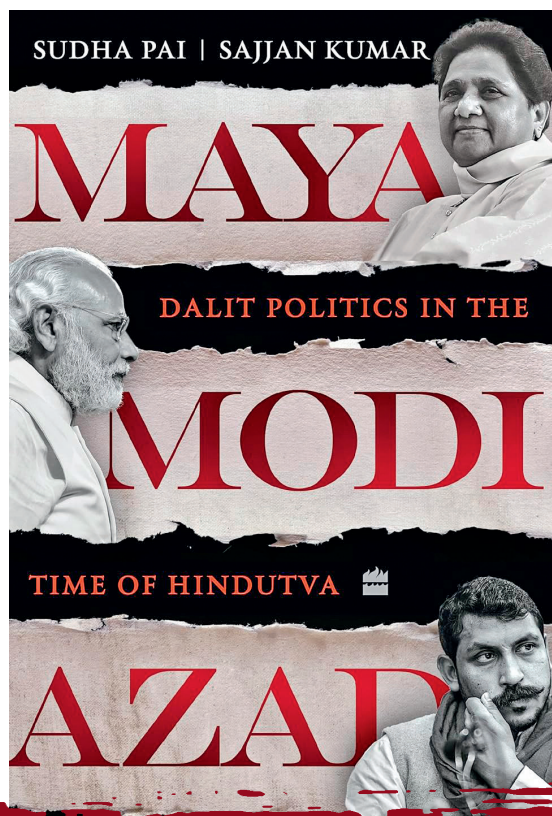
Today, the legacy of Dr Ambedkar is more relevant than ever. The Indian Constitution, which he played a pivotal role in drafting, stands as a testament to the values of equality and justice that he championed. Unlike Pakistan and Bangladesh, where religion often takes precedence over constitutional rights, India has embraced a framework that seeks to protect Dalits and other marginalized communities. While subtle discrimination still exists in India, the progress made in empowering Dalits across various sectors of public life is undeniable. They continue to contribute significantly to the nation, never placing their identity above their country.

The story of SC and ST migration during the partition is one of immense struggle, resilience, and ultimately, hope. It is a reflection of the strength of Dr Ambedkar's vision, which has inspired generations of Dalits to fight for their rights and contribute to the nation. Despite the challenges they have faced, Dalits in India are more protected and empowered than they would be in any Islamic country. As India continues to honour Dr. Ambedkar's legacy, his vision of an inclusive, just, and equal society becomes ever more deeply entrenched in the fabric of the nation.

In conclusion, the partition of India was a moment of great upheaval for SCs and STs, who were left to navigate a world torn apart by religious and political strife. While many initially chose to remain in Pakistan and Bangladesh, believing in the promises of equality and protection, their experiences ultimately drove them to seek refuge in India. The challenges they faced highlight the broader struggle for Dalit rights, a struggle that Dr. Babasaheb Ambedkar dedicated his life to. Today, as India continues to build on the foundation laid by Ambedkar, it is clear that his vision of a just and equal society is more relevant than ever. Despite the enduring challenges, Dalits in India have found a place where they can contribute to nation-building, a place where their rights are protected, and their voices heard. Ambedkar's legacy lives on, not just in the words of the Constitution, but in the lives of the millions of Dalits who continue to shape the future of India.

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Maya, Modi, Azad: Dalit Politics in the Time of Hindutva, authored by Sajjan Kumar and Sudha Pai and published by Hedwig Media House, is a timely and incisive exploration of the complex dynamics of Dalit politics in the contemporary Indian political landscape dominated by Hindutva ideology. The book provides a nuanced analysis of the roles played by three prominent figures: Mayawati, Narendra Modi, and Chandrashekhar Azad, offering readers a comprehensive understanding of how Dalit politics has evolved and interacted with the rise of Hindutva.



Maya, Modi, Azad: “Dalit politics in the Time of Hindutva”

Avinash

Chapter 1: Introduction - The Landscape of Dalit Politics

The opening chapter sets the stage for understanding the intricacies of Dalit politics in contemporary India. It provides a historical overview of the Dalit movement, highlighting the legacy of Dr B.R. Ambedkar and the emergence of Dalit leaders. The chapter delves into the socio-political context that shaped the rise of Dalit politics, with a critical eye on how systemic oppression has evolved. The introduction is a poignant reminder of the enduring struggles faced by Dalits, underscoring the necessity of their political mobilization.

Chapter 2: Mayawati and the Bahujan Samaj Party

This chapter delves into the rise of Mayawati and the Bahujan Samaj Party (BSP). The author meticulously examines Mayawati's

political journey, her strategies, and the BSP's role in representing Dalit interests. The analysis is critical of Mayawati's alliances with mainstream political parties, suggesting that these compromises often diluted the party's original mission. The chapter underscores the challenges faced by Dalit leaders in balancing political pragmatism with the radical demands of their constituents.

Chapter 3: Narendra Modi and the BJP's Hindutva Agenda

The focus shifts to Narendra Modi and the Bharatiya Janata Party (BJP), scrutinizing their Hindutva agenda and its implications for Dalit politics. The chapter critiques the BJP's attempts to co-opt Dalit leaders and movements, arguing that these efforts are primarily aimed at electoral gains rather than genuine social transformation. The narrative exposes the

contradictions in the BJP's outreach to Dalits, juxtaposing Modi's rhetoric of inclusivity with the ground reality of increasing caste-based violence under his regime.

Chapter 4: Azad's Emergence: The New Dalit Leadership

This chapter introduces Chandrashekhar Azad and the Bhim Army, representing a new wave of Dalit leadership. The narrative captures Azad's grassroots activism and his confrontations with the state apparatus. The author highlights the significance of Azad's radical approach, contrasting it with the more traditional strategies of leaders like Mayawati. The chapter emphasizes the Bhim Army's role in mobilizing young Dalits and challenging the status quo, presenting Azad as a symbol of hope and resistance in the face of Hindutva hegemony.

Chapter 5: Dalit Politics in the Age of Hindutva

This chapter provides a comprehensive analysis of the current state of Dalit politics in the context of rising Hindutva. The author discusses the fragmentation within Dalit movements and the challenges posed by the BJP's dominance. The narrative is critical of the co-optation and tokenism that often undermine genuine Dalit representation. The chapter calls for a reinvigoration of Dalit politics through solidarity, intersectionality, and a return to Ambedkarite principles.

Chapter 6: Conclusion: The Future of Dalit Politics

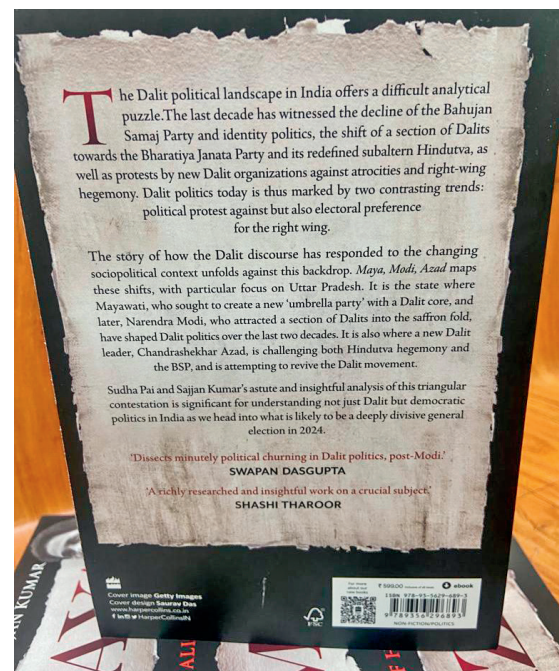
The concluding chapter reflects on the future trajectory of Dalit politics in the era of Hindutva. It contemplates the potential paths forward, weighing the prospects of different political strategies. The author advocates for a reinvigorated Dalit movement that embraces solidarity, intersectionality, and grassroots activism. The conclusion is a call to action, urging Dalit leaders and communities to persist in their struggle for justice and equality, despite the formidable challenges posed by the current political climate.

Chapter 7: The Media's Role: Narratives and Silences

This chapter delves into the pivotal role of media in shaping the narratives around Dalit politics. The chapter provides a scathing critique of mainstream media's portrayal—or lack thereof—of Dalit issues. The author also highlights the emergence of alternative media and Dalit-led platforms that challenge these dominant narratives. It emphasizes the urgent need for more inclusive and representative journalism.

Chapter 8: Grassroots Movements: The Pulse of Dalit Resistance

In this chapter the author provides a vivid portrayal of various grassroots organizations and their efforts to combat caste oppression and advocate for Dalit rights. A significant portion of the chapter is dedicated to the Bhim Army, led by Chandrashekhar Azad and its success in galvanizing young Dalits. The narrative highlights the importance of local leadership and community-based activism, showcasing how these movements address the immediate needs and aspirations of Dalit populations. The chapter also draws attention to the challenges faced by these movements, including state repression and internal divisions.



Conclusion:

Maya, Modi, Azad: Dalit Politics in the Time of Hindutva; by Sajjan Kumar and Sudha Pai is a significant contribution to the study of contemporary Indian politics. The book's thorough research and insightful analysis offer a comprehensive understanding of the complex interplay between Dalit politics and Hindutva. It is an essential read for scholars, students, and anyone interested in the evolving dynamics of caste and politics in India. This book is a clarion call for a more radical and inclusive approach to Dalit politics, urging readers to rethink and reimagine the struggle for caste equality in contemporary India. This compelling work deserves a strong 4.5 out of 5 stars.

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Unfinished journey: Caste discrimination in modern India

In the June 2022 issue of “Unheard Voices,” the story of Dr Devendra, a public health professional, was featured. Dr Devendra, a first-generation graduate and a medical professional working in the West African region, experienced an incident that highlights the persisting caste discrimination in India. Despite being financially well-off and working abroad for over a decade, Dr Devendra was denied the opportunity to purchase a piece of land in his own village in Maharashtra. The reason? He belongs to the Dalit (Scheduled Caste) community. The landowner, who is from a so-called upper caste, refused to sell his land to Dr Devendra solely and openly because of his caste, despite the doctor offering a fair price.

This incident, which took place in 2023, is a stark reminder of the deep-rooted caste discrimination that still exists in Maharashtra, a land known for producing great social



reformers like Dr B. R. Ambedkar, Mahatma Phule, and Rajashri Shahu Maharaj. These three figures are considered the strongest pillars of Dalit upliftment in India, yet the reality on the ground remains harsh for many Dalits like Dr Devendra. Despite making significant strides in education, employment, and social status, Dalits continue to face discrimination, both directly and indirectly.

Dr Ambedkar’s message of “Educate, Unite, and Agitate” has inspired thousands of Dalits to improve their lives, but the journey towards equality is far from complete. Discrimination is still a part of daily life for many Dalits, even those who have achieved considerable success in their careers. The recent judgment on the sub-categorization of Scheduled Castes and Scheduled Tribes (SC/ST) has sparked a debate about the inclusion of the creamy layer in SC reservation. This judgment included commentary from a judge who is himself from a Scheduled Caste and hails from Maharashtra. His remarks on the inclusion of the creamy layer


in SC reservation disappointed many, including myself.

While sub-categorization can be discussed, the idea of a creamy layer within the SC community is fundamentally flawed. The concept of a creamy layer is based on income, but reservation is not a welfare scheme—it is an affirmative action to address social discrimination. How can we even consider a creamy layer for those who have been deprived of basic human rights and dignity for over 2000 years? Can we truly uplift them in just seven decades? The answer is a resounding NO. As long as caste discrimination exists, reservation must continue, free from any obstacles like the creamy layer.

Has anyone in this country ever claimed that Dalits have never faced discrimination? The answer is obvious. Millions of followers of Dr Ambedkar travel to Nagpur’s Deekshabhoomi and Mumbai’s Chaityabhoomi on the occasions of Dhammachakra Pravartan Din and Mahaparinirvana Din to pay their respects. However, some people, particularly from upper castes, criticize these gatherings, complaining about the inconvenience caused by the large crowds and the disruption to traffic. But has anyone ever criticized any other religious procession? Has anyone discussed the selling of books at Deekshabhoomi and Chaityabhoomi? Does anyone talk about Dr Ambedkar’s qualifications and role as modern India’s chief architect? Does anyone remember the IBN poll, “Greatest Indian After Mahatma Gandhi,” where people voted for Dr Ambedkar?

The upper caste narrative is often dismissive, labelling Dr Ambedkar merely as a leader of Dalits. This is a gross understatement. Dr Ambedkar was a champion of human rights and an idol for anyone, who aspires to live with dignity. He is a figure who transcends caste, a beacon of hope for anyone fighting against oppression.

I often point out the example of Milind Kamble, whose name is frequently mentioned in the media as a “Dalit entrepreneur.” But does anyone have the courage to mention the caste of the top 10 richest people in India? The answer is simple: because the “Mooknayak” (the voice of the voiceless) has found its voice after decades of silence. Not only do Dalits have a



voice now, but they are also roaring like lions, demanding opportunities to grow and thrive. This is why I strongly support not implementing the creamy layer in SC/ST reservation. Doing so would undermine the very purpose of reservation. The creamy layer concept is based on income, which is entirely irrelevant in the context of caste-based reservations. SC ST reservation is not a poverty alleviation program but a mechanism to correct historical wrongs and ensure social justice.

It should remain free from any interference until social equality is achieved and all forms of discrimination are eradicated. I appeal to all members of the SC and ST communities to unite and raise their voices against the inclusion of the creamy layer in reservation. This is a crucial moment in our struggle for equality,

and we cannot afford to be complacent. We must continue to fight for our rights, just as Dr Ambedkar, Mahatma Phule, and Rajashri Shahu Maharaj did. The journey may be long, but the destination — a society free from discrimination and inequality—is worth every step. As we reflect on the story of Dr. Devendra and the countless others who continue to face discrimination, let us remember the teachings of Dr Ambedkar. Educate yourself, unite with others, and agitate against injustice. Only then can we hope to build a society where every individual, regardless of caste, can live with dignity and respect. The struggle for equality is far from over, but with determination and unity, we can continue to move forward.

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Dalit organizations resist SC status for converts to Christianity and Islam

Dalit organizations have voiced strong opposition to granting Scheduled Caste (SC) status to Dalits, who have converted to Christianity and Islam. At a public hearing conducted by the K.G. Balakrishnan Commission, representatives from various Dalit groups argued that converted Dalits, who are often better off socially and financially, should not be included in the 10% reservation quota designated for SC and ST communities. They proposed that a separate reservation category could be created for these converts, akin to the reservation for economically weaker sections in forward communities.

The hearing, held at the collectorate, featured passionate discussions, with groups like the Kerala Pulayar Maha Sabha (KPMS) and SC/ST Federation contending that it would be unjust to grant SC status to converts who have avoided the hardships and discrimination faced by those who remained within the

Dalit fold. Some critics also suggested that the demand for SC status for converts was driven by a hidden political agenda aimed at leveraging the benefits of Dalit political mobilization.

Dalit Christians Protest in Khammam, Demand SC Status

Dalit Christians in Khammam staged a protest on Saturday, led by Khammam Catholic Diocese Bishop Sagili Prakash, demanding Scheduled Caste (SC) status. The protest began with prayers at the Collectorate, followed by a tribute to BR Ambedkar's statue at the ZP Centre, before culminating in a dharna. Bishop Prakash emphasized that while Dalits, who embraced Sikhism, Jainism, and Buddhism were granted SC status through the 1950 President's Order, Christians were excluded, which he argued was a violation of the Constitution and religious freedom.

Bishop Prakash called for the introduction of the Dalit Christian Bill in the current Parliament session and urged the implementation of the Justice Ranganath Misra Commission's recommendations. He demanded the deletion of Paragraph 3 of the 1950 Presidential Order, which he claimed infringes on fundamental rights. The protest was attended by priests, nuns, and community leaders, all united in their call for educational and social equality for Dalit Christians, who continue to face discrimination and oppression despite their religious conversion.

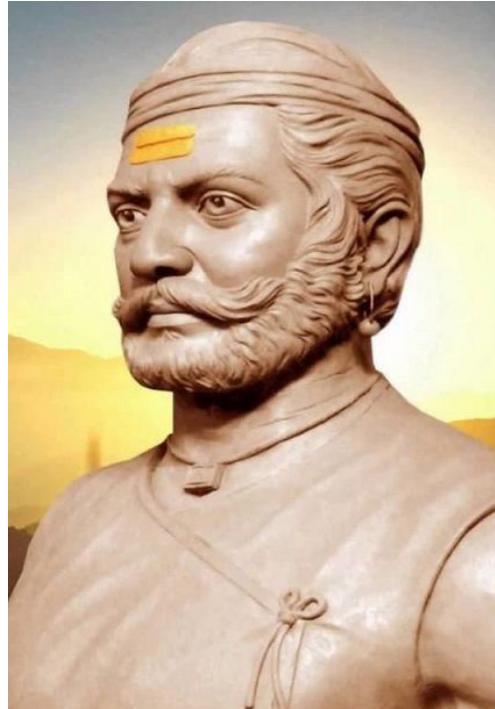
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DINVISHESH

Remembering Raje Umaji Naik

7th September

Raje Umaji Naik Birth Anniversary

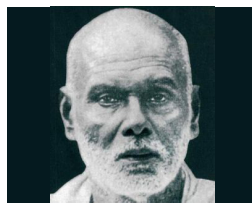


Umaji Raje released a manifesto against the British. It was addressed to the entire country. He urged every Indian to pose a united resistance against and asked not to co-operate with East India Company. The conditions prevalent back then were not suitable for them to bring that manifesto into reality. But it indeed gave some direction to the Indian freedom struggle. Umaji Raje's struggle inspired many freedom fighters. His children Tuka and Mahakal fought against the Britishers after his demise. He was no less than a hero for those who resorted to

armed resistance against the Britishers. Umaji Raje had started armed resistance before the great rebellion of 1857. His struggle instilled self-confidence and pride in the hearts of Indians. Umaji Raje's struggle against the mighty British empire continues to inspire us.



15th August
Independence Day



22nd August
Sant Narayan Guru
Birth Anniversary



26th August
Sant Dyaneshwar
Birth Anniversary

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