

A CRITICAL STUDY ON CASTE BASED RESERVATION

POLICY IN INDIA: SPECIAL EMPHASIS ON “EWS QUOTA”

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SECTION-1

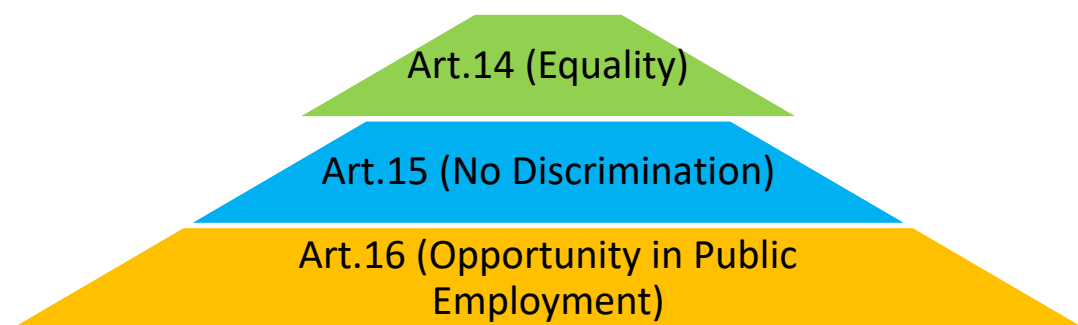
ABSTRACT:- India is a country with unity and integrity in diversity. People of different religion, caste lives in India as brothers and sisters and share common brotherhood. But this relationship is changing day by day because of lots of hurdles in our society. The reason behind these hurdles are- inequality, unequal living standards of citizens of India, different languages, different cultures, different class or caste. The present study involves the influence of these factors upon the society of India. Because of these factors unity and integrity of India faces lots of inequalities and differences in Indian society. In present scenario people of India are divided on the name of caste and religion which also effect their standard of living. A new reservation provision is introduced by government of India which provide reservation on the basis of economic standard of people. By this new provision lots of controversy arise because of the differences in old and new provisions of reservation system. This leaves a scope to resolve this controversy between old and new provisions.

Keywords: Constitution, Cast, Reservation, Discrimination, India.

INTRODUCTION:- Different type of people lives in India. They have different culture, different norms, beliefs and worship. These things one side unite the people of India and on the other side also divide them on the basis of dissimilarities. These all things are not only responsible for the differentiation beside this caste system in our country effect the unity of Indians.¹

Government in our country also responsible to increase this problem of inequality. They use caste as a weapon for attaining more and more votes during elections. They divide people on the name of caste and religion.² Caste system is not as same as in ancient times, it was created by Brahmins for gaining upper standard. After this Britishers also divide Indians on the name of caste. Hinduism policy is also responsible for this caste biasness and conflict between Hindus and Muslims.³

So many constitutional provisions in Indian Constitution are provided for the upliftment of weaker sections. These are-



Article-14 of Indian Constitution declares that, “*the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.*”

Article-15 of Indian Constitution declares that, “*no discrimination on the grounds of Religion, Race, caste, Sex and Place of Birth*”.

¹Retrieved from <www.gktoday.in/gk-salient-features-of-indian-society-diversity-of-india> visited on 26.08.2019 at 02:20 p:m.

² Nicholas . B. Dirks, ‘*Castes of Mind, Colonialism and the making of modern India*’, P- 4-5, (2002).

³ Supra at 2, P-7-12.

Article-16 of Indian Constitution states about, “*Equality of opportunity in Public Employment*”.⁴

Besides this so many other provisions like, Art.335, Art.29 and 30 of Indian Constitution are available for the protection of weaker sections i.e, Scheduled Caste and Scheduled Tribes. On one side these provisions are implemented for the sake and benefit of weaker sections of society but on the other side these divide the people on the name of class, religion and caste. If all have equal brain and equal rights why these provisions are made for creating inequality between people.⁵

Most of the actual beneficiaries are not identified because they are not fall under the category of SC/ST and other Backward Classes. But the latest amendment in Indian Constitution provide reservation to these beneficiaries under the name of “**Economic Weaker Sections**”, which create lots of confusion because by this quota of reserve categories goes to 60% but most of the constitutional provisions talks about limit of quota upto 50%. By this amendment EWS means that classes who does not come under SC/ST and OBC class and people of general category who are economically weak comes under this category. Government put limit of annual income of 8 lac for getting this reservation and who have not actual means of livelihood and not come under other categories.⁶

SECTION-2

REVIEW OF LITERATURE:- While working on the research work, following opinions are reviewed by researcher:

Dr. J.N Pandey, in his book, “*The Constitutional Law of India*”⁷, discusses about basic human rights as fundamental rights of citizen of India, which means citizens of India have right to enjoy their life freely, right to equal status and dignity and other different rights. The author mention that equality is a basic fundamental right and all

⁴ Dr. J.N. Pandey, ‘*The Constitutional Law Of India*’, (Central Law Agency Allahabad), P-77, 131, 146, (2012).

⁵ Retrieved from <books.google.co.in/books/about/caste.html,caste-its-20th-century-avatar> visited on 26-08-2019 at 02:00 p:m.

⁶ Retrieved from <livemint.com/news/india/why-the-10%-quota-may-not-make-sense> visited on 26-08-2019 at 02:25 p:m.

⁷Dr. J.N. Pandey, ‘*The Constitutional Law of India*’, (Central Law Agency Allahabad), (2012)

citizen have right to enjoy this without biasness but many classifications come under this right which divide citizens into different classes. Citizens of India are classified into different class based on their languages, their culture, their economic and social status. These all things are responsible for class or caste differentiation.

David Mosse, in his Article, “*Caste and Development: Contemporary perspective on a structure of discrimination and advantages*”⁸ discusses about equality and elimination of discrimination. The author mention that 260 million people on the world level suffer from caste based discrimination. Politicians also used this as a weapon in their hands to gain more and more votes during elections. If we reduce caste based reservation so that can also reduce barriers of discrimination.

Jayati Ghosh, in his Article, “*Case for Caste Based Quotas in Higher Education*”⁹, discusses about the history of cases of cased based reservation system. The roots of this system is very deep because this system runs from the times of Manu and Britishers. It also effect social and economic status of other unreserved categories. Government introduces new EWS Quota to general weaker sections in higher education and jobs after this amendment many SC/ST communities approach Supreme Court against this quota. Author further stated that still there is a need for maintaining equal status of people by adding some other relevant provisions.

Avidit Acharya, in his Article, “*Caste, Corruption and Political Competition in India*”¹⁰ stated about relation of caste with corruption and effect of political competition upon Indian Society. Author conducted research upon the people of U.P (India) territory to collect sample for knowing impact of caste during election time. People prefer to cast their vote to that party who represent their caste at India level. Study of the Author found that if there is less preference system in vote casting then there will be less corruption. Parties of different elections manipulate people on the name of caste and religion. They adopt divide and rule policy for their own benefit, but it should be abolished by ending this caste based class system.

⁸ Mosse,David.(2018), Journal- World Development, “*Caste and Development: Contemporary perspectives on a structure of discrimination and advantages*”, Vol.110, P- 422-436.

⁹ Ghosh, Jayati (2006), Journal- Economic and Political Weekly, “*Case for Caste Based Quotas in Higher Education*”, Vol.41, Issue no.24, P-2428-2432.

¹⁰ Acharya, Avidit. (2015), Journal- Research in Economics, “*Caste, Corruption and Political Competition in India*”, Vol.69, Issue no.3, P-336-352.

T. Thamarai Kannan, in his Article, “*Why Caste based reservation is a logical social-justice measure*”¹¹, stated that reservation comes from the period of Manu Shashtras, which divide the people between Brahmins and Non-Brahmins. Author also stated about proportional reservation provided in promotions in employment, in education including higher education, in political representation as representatives. All this create inequality when authorities demand caste certificates for reservation policy, this divide the people into reserve or unreserved quota.

Ankit Kukreja, in his Article, “*Reservation:- Blessing or Curse*”¹², stated that no doubt reservation is essential for imparting social justice but it will not be provided by infringing the rights of other people. For reservation caste should not be the sole criteria it must be based on economic or financial status of people. This idea of reservation comes from ancient time but on that time there is a need to uplift the living standard of Non-Brahmins and to provide equal status to them, but today according to changing time and need this should be changed, means the criteria of selecting under quota should be implemented. Government must see the living standard of people before providing reservation to them. Most of the people are not financial weak but instead of this they have category certificates and getting benefit of these categories. On the other side some from general category are economically weak but not getting benefit because of the general category. This should be changed because this injustice is also responsible for most of the crimes, differences and haterade.

SECTION-3

OBJECTIVES OF THE STUDY:- Objectives of this research work are-

1. To understand the concept of reservation and its cause and effect on general public living in India.
2. Examine legislative measures relating to the prevention of crime rate against this discrimination.

¹¹ Thamarai Kannan, T.(2019), “*Why Caste based reservation is a logical social justice measure*”, retrieved from < www.press.in.cdn.ampproject.org> visited on 27-08-2019 at 12:16 p:m.

¹² Kukreja, Ankit, (2008), “*Reservation- Blessing or Curse*”, retrieved from < www.ankitkukreja.blogspot.com> visited on 27-08-2019 at 12:20 p:m.

3. To compare the laws relating to reservation in different states of India and to suggest measures for increasing efficiency of laws.
4. Understand the concept of Equal Human Rights and how reservation system violate this concept of Equality.
5. Suggest measures to overcome flaws in implementation of laws relating to reservation policies in India.
6. To find out the challenges faced by Indian Higher Education while implementing these reservation provisions.
7. To understand the perception of young generation upon this caste based reservation system.

HYPOTHESIS

1. How to promote prevention of crime rate based on discrimination?
2. What are the approaches which are still needed for proper application of equality in India?
3. How we can tackle the problem of caste based reservation in India?
4. How the rights of unreserved categories can be protected against reservation?
5. Whether reservation should be provided, if yes then on whom measures it should be given?

SECTION-4

RESEARCH METHODOLOGY:- This research work will be a doctrinal research. Researcher will use both primary and secondary methods for the collection of data. This doctrinal research involves analysis of case laws, ordering, legal propositions, role of judiciary, role of government, reaction of people, and other legal institutions. Data from books, articles, journals, reports, notifications of government available in library and on internet. Decisions of Supreme Court, High Court and other Local Authorities in relevant cases.

SECTION- 5

RESULTS AND DISCUSSIONS:- Today, the Nation fight with many problems but this problem of inequality and discrimination develop day by day. People face many problems while getting admissions in schools, colleges, universities, in jobs, promotions, seniority etc. They face discrimination on the basis of cast, gender, religion etc. Authorities differentiate them because of their category, class which play major part in present Indian Society.



Problems faced while getting Jobs- People not get admissions in jobs because of quota system. Sometimes one person have more qualification and efficiency but beside this job given to less efficient person because he/she belongs to different quota category. Many promotions and seniorities also provided on the basis of this category system.

Problems faced while taking admissions- Students face unequal treatment while taking admissions in different schools and colleges. They divided on the name of cast and admissions given category wise i.e Scheduled Cast, Scheduled Tribes, Other Backward Classes, Economic Weaker Sections, General Cast. Different percentage is prescribed to get admissions in schools and colleges.

Problems faced while applying for different government schemes- People also face problems for applying different government schemes. The only criteria to apply for these is category, class and lastly comes their social and economic status. If

a person not have well means of living and their financial status is low but not belong to SC/ST community then that person not eligible for these schemes and policies.

All these are the different criteria to divide the people of India on the name of class and cast. Because of these differentiation inequality, discrimination type of problems arise which are responsible for many other problems like- increase in crime rate, development of inequality, development of different thinking, discrimination etc.

SUGGESTIONS AND CONCLUSION:- No doubt, the India is a democratic country, all have equal rights and liabilities but the ground report is different. People at present scenario not are equal because of these categorization. If India wants to attain their actual democracy then following measures are needed-

- Crime rate based on discrimination can be prevented by giving equal status to all instead of their cast and class, by conducting seminars which helps to change the thinking of people, by giving reservation on the basis of lower financial status of people.
- For proper application of equality, government ensure equality at all platforms instead of cast and class reservation.
- Problem of reservation can be tackle by providing equal status and not discriminating while granting schemes and policies. These all benefits should be given to all needy persons instead of their class and category. Government just divide people as their lower economic status.
- Rights of unreserved categories can be protected by providing new rules which ensure safety of their rights, which eliminate the uplifted classes from reserve quota.
- No doubt, reservation was a need of past society but by change in time and need this should be decrease and reservation should be given just to economic weaker sections of society.

LIMITATIONS OF THE STUDY:- Limitations of this research work were-

1. That the researcher was able to do doctrinal research and not efficient to do field study.

2. Study of the researcher was limited to analysis of reservation policies in India and a comparison with the reservation policies of other countries, if the researcher do this that only be limited upto documentary material.
3. The interviews and questioner methods only be used as convenience of researcher.

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