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RESERVATION IN PRIVATE SECTOR AND RIGHT TO EMPLOYMENT: CRITICAL ANALYSIS

Diksha Dubey*

Abstract

India is the biggest democracy and is a home to many communities. Among which few have always been subjugated and suppressed. The government thus in order to ensure the interest and benefit of the backward classes, initiated the affirmative action plans for them. The Constitutional provisions provide for reservation in public sector only. The paper will try to study the impact on the society and economy if the reservation policy in employment is extended to private sector in four parts. Part I of the paper will briefly discuss the milieu and history of introduction of reservation policy in India. Part II will study the impact of reservation policy on public sector and will further study the pros and cons of reservation policy. Part III of the paper will delve upon the introduction of the reservation policy in private sector and will discuss the probable causes of the same like LPG policy and further discuss the disadvantages of introducing the same in private sector like sluggish economic growth of private sector, low foreign investment etc. Part IV of the paper will discuss the suggestions that can be followed if the policy is extended to private sector like corporate social responsibility, apprenticeship act and skill India mission and will also discuss the right to employment. Finally concluding the paper with a few suggestions like investment must be done in training and skill development of the employees hired through reservation policy.

Keywords *– Constitution, Corporate Social Responsibility, LPG, Reservation, Sluggish Growth, Skill India Mission.*

INTRODUCTION

India is the biggest democracy and is a home to many communities. Among which few have

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always been subjugated and suppressed. The government thus in order to ensure the interest and benefit of the backward classes, initiated the affirmative action plans for them. It is the duty of the state to ensure that everyone is given equal opportunity, Article 16 of the Indian Constitution, states that there should be equal opportunity in matters of public employment, and the state can make special provisions for the employment for the backward classes who are not adequately represented. Further Article 46 of the Indian Constitution also states that it is the duty of the state, that it shall promote the educational and economic interest of Schedule Caste, Schedule Tribe and backward classes. So reservation in Public sector has been ensured by these provisions.

With the liberalization, privatization and globalization policy that was being adopted in 1991, most of the Indian economy turned to private sector, many of the public sector undertakings were sold out to private sector. As a result of this policy, the employment opportunities in the Public sector got reduced. Thus employment opportunities in the public sector are continuously shrinking, whereas it is increasing in private sector. This is one of the factors that the present private sector is also facing jobless growth.[1] Private sector does not follow any kind of reservation policy for recruitment. Therefore in the current scenario, there is no meaning of reservation in public sector, as there are no or very fewer job opportunities.

Reservation Policy in Indian Economy – Need and Implementation

India is an abode to various communities, and it is a diverse country. Being home to various communities, there have been cropped up issues like caste and class discrimination. Thus, with the prevalence of the rigid caste system, some communities from ages are being denied their inalienable and constitutional rights. Therefore, in order to secure the rights of depressed classes, provisions are being made from time to time in our country. Recognition of their rights has been started from the British period, for instance the Simon commission suggested for reservation of seats for depressed classes in constituencies. The famous Poona Pact between Dr. B.R. Ambedkar and Gandhiji, provided for reservation of seats for SC's and ST's in provincial legislature.

Thus, with these initial steps, people got conscious about the protection of their rights and as a consequence of the same Independent labour party was formed in 1936 and when Dr. Ambedkar became a member of Viceroy's executive council he used his position and

1 Vikram Singh, Social *Justice Incomplete without reservation in Private Sector,* Vol. XLI No. 32, August 06, 2017 People's democracy, available at http://peoplesdemocracy.in/2017/0806_pd/social-justice-incomplete-without-reservation-private-sector accessed on 6th April 2018.

demanded reservation in education and government.[2] On the same lines, India formulated its policy of reservation in public employment.

The objective resolution passed by Pandit Nehru and the ideals laid in the constitution and preamble, promoting the idea of equality and social justice gave way to the reservation policy framed for backward classes. The need for introducing the policy was firstly the social backwardness and lack of proper representation of such communities. Secondly, the economic conditions of such communities, most of the family among such communities are a part of BPL categories. Even today, they are not in an economically viable situation. For instance, Economic census of 2005 indicates that the share of SCs in the country's enterprises was 10%, which is lower than their share in the population. In 2011, the percentage of SC households without drinking water facilities at home was 68% as compared with 57% for others/ In addition, 77% of the SC households had no latrines in their homes. [3]

Thus in order to fulfill constitutional objectives of equality and social justice, and to promote the backward classes socially and economically, government made the provisions for reservation in public employment as provided in Indian Constitution.

The categories decided for reservation were segregated in three heads i.e. Schedule Tribes, Schedule Castes [Article 341 and 342][4] and Other Backward Classes [Article 15 (4) and 16 (4)][5]. The key provision which provides for reservation in employment is Article 16[6] which states that there should be equality of opportunity in matters of Public employment and Article 46[7] which states responsibility of state (DPSP) for promotion of educational and economic interests of Scheduled Castes and Schedule Tribes and other weaker sections.

Kaka Sahib Kalelkar Commission gave the suggestion of the inclusion of economic backwardness as a criteria, Nehru refuted the same as he stated that it will cause confusion. It was further observed in Indra Sawhney[8] case that the fraternity assuring the dignity of individual is having special relevance in India, as many backward classes in India has been subjugated for years and thus to undo the atrocities committed on them they must be given

2 *'Reservation policy in India: Origin, Growth and Recent Trend'* available at: http://shodhganga.inflibnet.ac.in/bitstream/10603/27131/10/10_chapter%204.pdf accessed on 7th April 2018.

3 Sukhadeo Thorat, Nitin Tagade, Ajaya K Naik, '*Prejudice against Reservation Policies How and Why?' (2016) Economic and Political Weekly, Volume 8.*

4 Article 341, 342, Constitution of India

5 Article 15(4), 16(4), Constitution of India

6 Article 16, Constitution of India

7 Article 46, Constitution of India

8 *Indra Sawhney v. Union of India* AIR (1993) SC 477.

a share in administrative apparatus through the mechanism under Article 16 (4) of the Constitution.[9] Mandal Commission recommended 27% reservation in favour of backward classes not only applicable to technical and professional institutions but to all government services in centre as well in all the states.

Review of Reservation Policy- Pros and Cons

The affirmative action policy was initiated by the government for the upliftment and betterment of the backward classes. The policy covered only government sector and government aided institutions. It covered three spheres - government jobs, admission to public educational institutions and seats in central, state and local legislatures and bodies. The reservation policy's had both the positive and negative impact –

Pros of the Reservation Policy

The policy to a certain extent was able to fulfill the objectives and aim for which it was created. The reservation quota in the public employment provided the targeted group and backward classes with jobs which were better than the alternative employment opportunities, as the jobs provided them with more salary and job security. Employment quotas though do not increase wages or per capita household expenditure on average, but less educated scheduled caste members do experience significant increase in their household consumption expenditure, probably due to their greater probability to have a salaried job.[10]

Employment quotas or the reservation provided in the public sector for minorities have the effect on their children's well being and their education, as due to reservation policy the parents are entailed into salaried jobs and there is a sense of job security and financial back up for them. That is, an employment quota policy for minorities can raise parents' expectations about economic returns from their children's education, and thereby provide very strong incentives for parents for investment in children's schooling and not to send them to work.[11]

There was an increment in the number of jobs with the introduction of the policy, for instance –in 1960, there were 2,18,000 SC employees which increased to 6,41,000 in 1991 and 5,40,000 in 2003. The corresponding increase in the percentage of SC employees to

9 Durga Das Basu, *Shorter Constitution of India (2014)* 14th ed., Lexis Nexis,11.

10 Nishith Prakash, '*The Impact of Employment Quotas on the Economic Lives of Disadvantaged Minorities in India*' available at: https://pdfs.semanticscholar.org/0edf/38a5e05162611838535832a880613ebd7204.pdf accessed on 8th April 2018.

11 Ibid.

total government employees increased from 12 per cent in 1956 to about 16 per cent in 2003.[12] The same increment was observed in ST community employees, In the case of ST, the number of employees increased from about 3,80,000 in 1960 to 2,03,000 in 1991 and further up to 2,11,000 in 2003.[13]

Indian economy is shifting from agriculture to service sector, and with the reservation policy, the unskilled group among the backward communities are given place in service sector. Today services account for more than 50 per cent of the output, with the rest being shared roughly equally by the primary sector (including agriculture) and industry. The share of agriculture over the past years has seen a decline of around 30 percentage points in terms of its GDP share but only around 10 percentage points in terms of its share in employment.[14]

Cons of Reservation Policy

Despite the positive effects of the reservation policy, the policy was not able to pull out the cause for which it was really created. It carries with it certain criticism as –

In India, the labour force participation ratio (i e, the proportion of the working age population [15-64 years] is either working or seeking work) is low even when compared with other developing countries such as China, Korea, Brazil or Mexico.[15] Still the benefits of the reservation policy have not been per located to actual beneficiaries.

Given the changed patterns of employment generation and educational attributes, SCs and STs are more likely than ever to be over-represented in casual labour employment, particularly in urban India. With the current education and employment attributes Upper class are most likely to be concentrated in high end service sector urban jobs and SCs, STs and OBCs are most likely to be in low-paying casual labour jobs.

With the LPG (liberalization, privatization and globalization) policy, there has been a shrunk in the jobs of public sector, and therefore the reservation policy does not have an effect in improving the conditions of backward classes, as they are mostly deprived of jobs in private sector, where there is plethora of opportunities as compared to public sector.

12 *A critical analysis of the impact of reservation as a policy of empowerment of Dalits* available at http://shodhganga.inflibnet.ac.in/bitstream/10603/37478/12/12_chapter%205.pdf accessed on 8th April 2018.

13 Ibid.

14 Mritiunjoy Mohanty, *'Social Inequality, Labour Market Dynamics and Reservation'*, (2006) Economic and Political Weekly Volume 41 (35).

15 Ibid.

Further if going by the concept of merit, many eligible and competent people are denied jobs because of reservation policy.

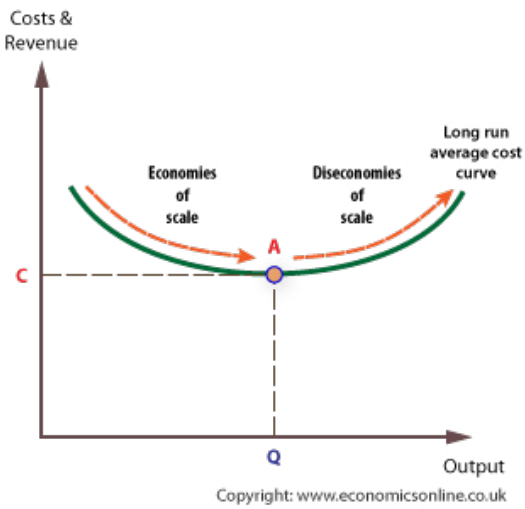
Reservation in Private Sector

To extend the reservation in private sector is being the constant demand coming from state officials. The major reasons for extension of jobs in private sector are firstly the shrinking of jobs in public sector and increasing job opportunities in private sector due to the implementation of LPG policy (Liberalization, Privatization and Globalization policy of 1991 was a result of economic crisis/ balance of payment dilemma faced by India. The said policy was adopted by India for stabilizing Indian economy and for structural reforms) and secondly the discrimination faced by the backward communities in private sector, as many a times they are denied jobs because of their caste and since there is no reservation for them in the private sector therefore they are deprived of such ludicrous opportunities. Several economic surveys indicate that discrimination in the hiring of SCs and STs for low-wage jobs are rampant in the Indian private sector. To compensate for falling public sector jobs and discrimination in the private sector, SC and ST's are calling for private sector reservations.[16]

Extending reservation to private sector will have some negative and detrimental effect. Firstly the companies will face problem in achieving economies of scale (economic situation where more goods can be produced at a larger scale with fewer inputs) and they will have to face the extra cost or burden of hiring unskilled workers instead of which they would have hired more competent people if the policy would not have been applicable for them.

16 Sumeet Jain, '*Tightening India's "golden straitjacket": how pulling the straps of India's job reservation scheme reflects prudent economic policy*' (2009) Washington University Global Studies Law Review 567.

[17]



Companies achieve the economies of scale at point A i.e. when LAC (long run average cost curve represents the total average cost at which the firm can produce any given level of output in the long run) is tangent to the minimum points of short run average cost curves. One of the reasons of economies of scale is division of labour and specialization which results in the long run cost per unit declines.[18] Hiring unskilled workers will reduce the efficiency of the company and will also increase their cost, as wages paid to the workers will form part of variable cost and which will eventually form part of TVC (Total variable cost – it is the cost paid for all the variable factors like – laborers, raw material etc.).

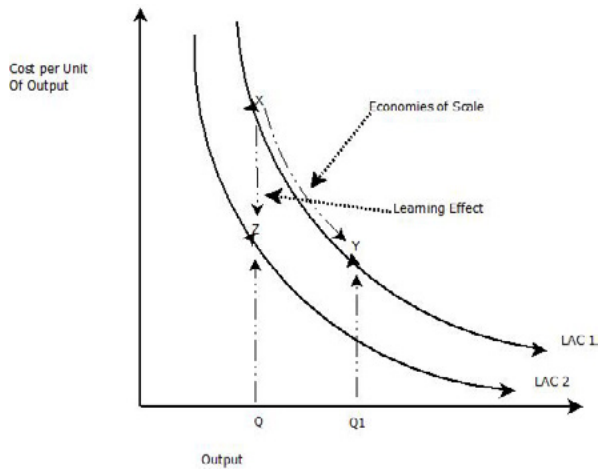
The learning curve by Kenneth Arro or learning by doing curve represents a downward sloping long run average cost curve, which implies low cost and high productivity of the firm. Kenneth Arro propounded through the learning curve that the firm can increase their productivity by improving their current techniques of production, technology and through innovations without introducing any new technology or labour. Technology is not the only prime mover for reducing the cost. As stated by Stonier and Hague 'even with given technology, a firm can learn to produce at a lower unit cost.[19] So, in order to raise efficiency, the companies have to invest in the training of the hired unskilled workers, otherwise, it will lead to loss of efficiency.

17 Diagram represents the economies of scale along the long run average cost curve.

18 H L Ahuja, *'Advanced Economic Theory'* (2017) 21st ed., Vikas Publishing House, 511.

19 Ibid.

20



There are certain disadvantages in providing for reservation in private sector –

Reservation to private sector will repel foreign investment. In today's economic environment, 'the free market is the only ideological alternative left.' After the implementation of LPG policy, India has paved way for the phenomenon of Golden Straitjacket, i.e. surrendering to free market economy and loosing the regulation over market economy. Thus, Golden Straitjacket i.e. a set of free market policies implemented by national governments, 'is the defining political-economic garment of this globalization era.' Tightening the Golden Straitjacket requires deregulation of domestic economies so as to facilitate higher profits. Thus, if India introduces reservation in the private sector labour market, then it will repel foreign investors, thereby putting India in a jeopardizing position.

Even if the private sector reservation program is framed and implemented perfectly, given the fact that it accounted for only 2.5% of the entire workforce in 2001[21], its scope will be extremely limited, far narrower than that of the current public sector reservation policy.

Incorporation of Reservation in Private Sector

Though many are suggesting that the reservation policy should be extended to private sector but there are certain issues attached with the implementation of reservation policy in private sector like decrease in foreign investment and lack of skilled workforce as discussed in the previous part of the paper. Thus, extending the policy to private sector is not the most viable option, but if it is extended then there has to be secured a proper balance between

20 *Diagram is of learning by doing curve; it shows the effect on LAC 1 and LAC 2 due to enhancement in knowledge and adaptation of technology.*

21 Supra 14.

the social welfare and companies profit.

Reservation is not the only solution for curbing the inequalities, but it is certainly is one of the way out. The Oxfam report states that In India, specifically among people who think they are poor, seeing where they actually sit in the national income distribution resulted in almost 15% more respondents agreeing it is difficult for a person to increase the amount of money they have despite working hard.[22] So curbing such inequality is tough.

So, if the reservation is introduced in the private sector, the first thing the company has to deal with is the unskilled labour. The unskilled labour raises the cost and burden of the company, in order to lessen such cost companies can concede to investing for the training and development of the unskilled labour. Government can also help the companies in the same, i.e. government can take the burden of the cost of investment, and can finance the training and skill development of the employees. Government can also provide the companies with subsidies, if they invest in the training and development of the employees.

Government has also made efforts to provide for training and skill development. The Apprentice Act of 1961, the primary aim of which is to provide experimental training to the people in their crafts. Almost all the industries fall under this Act. Further to check the effect of the training after successful completion of the apprenticeship training, every apprentice shall appear for an exam held by the National Council to evaluate his/her capabilities in related trade in which he/she has taken an apprenticeship training. With the amendment in the Act, now contractual and agency workers are also to be taken into consideration under the definition of workers.

Government of India has also come up with the *Skill India Mission*. The national skill development mission was launched in 2015 the mission has been developed to create convergence across sectors and States in terms of skill training activities.[23] Key institutional mechanisms for achieving the objectives of the Mission have been divided into three tiers, which will consist of a Governing Council for policy guidance at apex level, a Steering Committee and a Mission Directorate (along with an Executive Committee) as the executive arm of the Mission.[24] The flagship initiative of this mission i.e. *'Pradhan Mantri Kaushal*

22 Oxfam India, *15 Shocking facts about inequality in India*, (2018) available at https://www.oxfamindia.org/blog/15-shocking-facts-about-inequality-india also refer to : https://m.box.com/shared_item/https%3A%2F%2Foxfam.box.com%2Fs%2Feosi27xj7nxuyywysr06d734ct1xyuev/view/267209867301 accessed on 9th April 2018.

23 Ministry of Skill development and entrepreneurship and National skill development Mission available at http://www.skilldevelopment.gov.in/nationalskillmission.html accessed on 9th April 2018.

24 *Ibid*.

Vikas Yojana' is being allocated 3000 crore and sector skill councils are being set up by NSDC in order to achieve the aim of the mission.[25]This initiative of the government will help the youth to get blue collar jobs and this will lessen the burden of the companies to train the unskilled labour hired through the reservation policy.

Further the existence of the concept of *corporate social responsibility* requires the companies to balance their profit motive and welfare of the society. The idea of making corporate participate in the development scheme in India got a shot in the arm in 1978 after the inclusion of many provisions in the Income Tax Act to incentivise corporate for good behavior, provisions such as Section 35(cc): 100% tax deduction in expenses incurred on approved programs of rural development. Section 35 (b): deduction for conservation of natural resources. Section 35A (c): Deduction for those development projects approved by National Committee for Promotion of Social and Economic Welfare. Laws should be introduced and amended to penalise those corporate which do not comply with the CSR provisions or misuse it. Any law is as good as the people who work it, Section 135(3) of the Companies Act, 2013 provides for the role of CSR committee, it would have been more effective if it was an autonomous regulatory body.[26] Now the times have changed, corporate houses are involving themselves in much more activities which lie beyond improving the balance sheet.

Thus, if the companies invest in the training and skill development of the unskilled labour, then the private sector can remain intact even after the implementation of reservation policy.

Sluggish Growth Rate of Private Sector and Reservation Policy

Reservation policy seems to be a way out and an important way to increase employment and upliftment of the weaker sections. But with India's jobless growth implementation of such policy is a farfetched thing. India's GDP growth has starkly fallen from 9.7 % in 2016 to 5.7% in 2017.[27] Further investment in private and corporate sector has fallen after the Global financial crisis of 2007, from 16% in 2008 to 10% in 2016.[28] This weakened

25 *Skill councils told to ensure jobs by industry* (2018), Economic Times, India available at economictimes.indiatimes.com/articleshow/62343121.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst accessed on 9th April 2018.

26 Nolan Committee Report.

27 Sashi Sivramkrishna,' *Is India's Economic Growth Slowdown Temporary or Technical?(2017)*, The Wire, 4th October,2017 https://thewire.in/economy/indias-economic-growth-slowdown-temporary-technical accessed on 16th April 2018.

28 Pravakar Sahoo, *Why private investments continue to be sluggish in India, (2017)* Hindustan Times, https://www.hindustantimes.com/opinion/why-private-investments-continue-to-be-sluggish-in-india/story-CPJLB6FGeb8el6gAQljrxK.html accessed on 16th April 2018.

the balance sheets of the companies and public sector banks and, in turn, limited private investment and banks capability to lend. Though government has introduced bankruptcy code and GST, to smoothen the working of private sector, there is thus a need for proper implementation of the same and revival of the stalled projects. There is a need for private investment in the economy for India to remain on a high growth trajectory. Sluggish growth is one of the reasons which prevent the implementation of the reservation policy, further the workforce is also mostly employed in informal sector, and therefore to increase the proportion of them in formal sector, there is need of investment in training, which is quite difficult from the private sector side. For instance, about 90% of the work force employed in the informal sector and the working poverty rate at 35% (less than $3.10 per day), expecting formal sector jobs for the masses seems nothing less than a farfetched dream. [29]

Demographic Dividend and Right to employment

Demographic dividend is the growth in the economy due to the resultant change in age structure. It occurs when the working population proportion is more in the total population. As the 12th Five Year Plan (2012-2017) document pointed out:

"One hundred and eighty-three million additional income seekers are expected to join the workforce over the next 15 years." [30]

This essentially means that a little over 12 million individuals will keep joining the workforce every year, in the years to come.[31] This is the demographic dividend of India. Prima facie, higher population growth pays off automatically in rapid economic growth, but in real sense it pays off only when there are good economic conditions and policies in the country which attract jobs and investment. India has educated youth and we are not able to create jobs for them. Highest unemployment is among the women graduates i.e. 60%.[32] Agriculture's share in GDP is declining, but the employees from the agriculture sector are moving towards odd jobs and not towards manufacturing sector. Thus leading to an increase in informal employment, about 92% among the 470 million workers are informal

29 *Ibid*.

30 Vivek Kaul, *India and the Fallacy of the Demographic Dividend*, 2016 available at https://www.equitymaster.com/diary/detail.asp?date=06/17/2016&story=2&title=India-and-the-Fallacy-of-the-Demographic-Dividend accessed on 16th April 2018.

31 *Ibid*.

32 Rema Nagarajan, Without *jobs, India's demographic dividend will be a disaster: Alakh N Sharma (2014)*, The Times of India, available at: https://timesofindia.indiatimes.com/interviews/Without-jobs-Indias-demographic-dividend-will-be-a-disaster-Alakh-N-Sharma/articleshow/30233665.cms accessed on 16th April 2018.

workers.[33]

The demographic dividend can be stopped from becoming a disaster for the country, if India absorbs the workforce that is leaving agriculture sector into manufacturing and service sector. If the jobs can be increased in the formal sector, then the standard of living of the workers and economic growth can be conceded to. Reservation Policy certainly creates a platform to raise the employment in the formal sector of the weaker sections. But the reservation policy cannot be simply implemented, there are other factors which need to be considered, i.e. the private sectors sluggish growth and the disadvantages as discussed above. Reservation policy should also be implemented when there is proper investment in the training of the workforce, otherwise the efforts to uplift the weaker section and to increase the economic growth will go in vain.

Right to Employment

Right to work has occupied as a central place in human rights discourse. It is increasingly being acknowledged as inextricably linked with human dignity, life, identity and privacy among a host of other fundamental rights.[34] The right itself finds direct mention in major international human rights treaties. The Universal Declaration of Human Rights ('UDHR') 1948 recognized it as one of the universally applicable human rights. Later, this right was transformed into an obligatory norm through Article 6(1) of the International Covenant on Economic, Social and Cultural Rights ('ICESCR'), which mandates every State Party to recognize everybody's/everyone's right to work.

Right to work or employment in India has not so far being declared as a fundamental right. So far India has many cases, the two important case laws with regard to the same - The first decision was handed down in *Delhi Transport Corporation. v. DTC Mazdoor Congress*[35] The second is the one reported in *Delhi Development Horticulture Employees' Union v. Delhi Administration.*[36] In the first case, the Apex Court has held that income is the foundation of many fundamental rights and when work is the source of income, the right to work becomes as much fundamental. In the case of Delhi Development Horticulture Employee's Union a two-Judge Bench has observed that this country has so far not found it feasible to incorporate the right to livelihood as a fundamental right in the Constitution.

33 *Ibid.*

34 Saurabh Bhattacharjee, *Situating the Right to Work in International Human Rights Law: An Agenda for the Protection of Refugees and Asylum-Seekers*, (2013) Volume 6 NUJS Law Review available at: http://www.scconline.com/Members/SearchResult2014.aspx> accessed on 9th April 2018.

35 *Delhi Transport Corporation. v. DTC Mazdoor Congress* (1991) Supp (1) SCC 600.

36 *Delhi Development Horticulture Employees' Union v. Delhi Administration* (1992) 4 SCC 99

This is because the country has so far not attained the capacity to guarantee it, and not because it considers it any-the-less fundamental to life.

Right to Work and Reservation in Private sector

Since Right to work is no less than fundamental right of an individual, therefore government introduced reservation or affirmative action plans to insure protection and Right to equality to the backward classes. The reservation policies are equally criticized as the purpose for which they were framed is not achieved in the long run. Thus the policies are to be extended to private sector.

Reservation in private sector is needed to ensure right to work, as the jobs in public sector have shrunken. According to the 2011 Census of the country's rural ST population of 1.96 crore households, 8.60 lakh — or 4.37% — are in government jobs, as compared to 3.96 per cent (13 lakh of 3.3 crore) among the SCs,[37] the statistics clearly depicts that many from backward classes are not able to avail the benefits of the reservation policy in public sector. Further corporate firms are also given many benefits and government aid, therefore there rests responsibility on them to facilitate the government in achieving the economic justice and equality for the backward classes. For instance, in 2004, 218 leading corporate houses and their associations had given a letter to the then prime minister saying that they would implement in letter and spirit affirmative action to empower persons who are socially and educationally backward.[38]

India does include right to work under Article 41 of the Constitution but it is a directive principle of state policy and not a fundamental right. Many competent people and youth in India are unemployed and even after the creation of reservation quota for the backward classes; they are mostly unskilled and thus are not able to enhance the efficiency of the company. Government has to focus on proper implementation of schemes like MGNREGA, and missions like Skill India Mission. India requires an employment guarantee act which enshrines a system by which work could be channeled to the most productive avenues in a socially accountable manner.[39]

37 Mahim Pratap Singh, *Census Counts just 4% SC, ST's families with a member in government job (2015),* The Indian Express available at: https://indianexpress.com/article/india/india-others/census-counts-just-4-sc-st-families-with-a-member-in-a-govt-job/ accessed on 2nd July 2018.

38 *Why I support 27% reservation in private sector jobs (2016)* available at: http://www.rediff.com/money/interview/why-i-support-27-reservation-in-private-sector-jobs/20160211.htm accessed on 2nd July 2018.

39 Mihir Shah, *A workable right to employment*, The Hindu (24th August,2004) available at: http://www.thehindu.com/2004/08/24/stories/2004082402251000.htm accessed on 9th April 2018.

Social Justice Incomplete without Reservation Policy in Private Sector

Principle of social justice and social welfare are enshrined in Preamble to the Constitution and Directive Principle of State Policy. Reservation policy in public sector was introduced with the aim of uplifting the deprived sections of the society and giving them an equal opportunity. The Policy was not able to fulfill the cause for which it was made especially due to the implementation of LPG policy as discussed earlier parts of the paper. Though the jobs had shrunk in the Public sector but it led to the increase in job opportunities in Private Sector, thereby opening up prospectus employment opportunities. Therefore, there is a need for reservation in Private Sector as the circumstance of joblessness in the nation is grim to the point that even very qualified youth have neglected to get work. Millions who graduate each year, particularly the young having a place with the Scheduled Castes and the Scheduled Tribes are jobless inspite of getting reservation benefits

Implementation of the reservation policy will play great role in the development of society and will help India in achieving the millennium goals.[40] Further, it will lead to the wholesome development of the backward classes i.e. making them socially and economically viable. There is a need for the same because they face discrimination on both the grounds i.e. social and economical. For instance a study revealed that the discrimination in labour markets operates through exclusion in hiring, and lower wages. In about 36 percent of the villages, the SCs were denied casual employment in agriculture.[41] In about 25 percent villages, the SCs faced discrimination in terms of wage payments. The SC wage labour thus, received daily wage at a rate, which was less than the market wage rate, or wages paid to the non-SC workers.[42]

Though the policy will lead to wholesome development of the deprived sections but the policy will have a negative impact on the Indian Economy that is the reservation in private sector will dent investment climate. The same can be explained from the words of Assocham Secretary *General DS Rawat* –

> He said there is already a dearth of private sector investment with capacity utilization in several sectors not going beyond 72-75 per

40 *Millennium Goal* - In September 2000, the Assembly of United Nations proclaimed the goals like eradication of poverty and hunger; promote gender equality and empowerment of women etc. for establishing a dignified society by establishing a system of accountability.

41 Sukhadeo Thorat, *Labour Market discrimination – Concept, forms and remedies in the Indian Situation*, IJLE, 51 (1), 2008 available at: http://www.isleijle.org/ijle/issuepdf/a894fabe-5e92-4ab9-8957-dc0ec430224d.pdf accessed on 27th July 2018.

42 Ibid.

> cent. "On top of it, if the political economy of the country is geared to populist sentiments, the environment for growth could be vitiated badly," [43]

Thus a balance needs to be struck between social and economic positions or stance of the country.

Conclusion

Reservation policy started with the aim of enhancing the status of the backward classes is an important initiative of the government. The policy is currently only applicable for public sector and there is a demand to extend the same to private sector. The implementation of the policy to private sector has its own pros and cons.

Reservation is not the only solution for upliftment of the backward classes; there need to be an inclusive development approach to be conceded to. Right to employment is not a fundamental right, but still it is an important right and it occupies a central place in human discourse. Currently Indian economy is gripped in inequality, therefore even after providing jobs to the people the economy is run by a few hands. As per Oxfam report on inequality, 73 percent of the wealth generated last year went to the richest one percent, while 67 crore Indians who comprise the poorest half of the population saw one percent increase in their wealth.[44]

Nisha Agarwal CEO of Oxfam India said –

> "It is alarming that the benefits of economic growth in India continue to concentrate in fewer hands. The billionaire boom is not a sign of a thriving economy but a symptom of a failing economic system. Those working hard, growing food for the country, building infrastructure, working in factories are struggling to fund their child's education, buy medicines for family members and manage two meals a day. The growing divide undermines democracy and promotes corruption and cronyism."[45]

43 Reservation in Private Sector to dent investment climate, The Hindu Business Line (India, 13th November 2017) available at: https://www.thehindubusinessline.com/economy/reservation-in-private-sector-to-dent-investment-climate-assocham/article9956138.ece accessed on 27th July 2018.

44 Oxfam report on inequality available at: https://m.box.com/shared_item/https%3A%2F%2Foxfam.box.com%2Fs%2Feosi27xj7nxuyywysr06d734ct1xyuev/view/267209867301 accessed on 9th April 2018.

45 Ibid.

The growing inequality is the result of the new liberal capitalism policy, because of the same there is a slack in the labour market, which keeps the wage rate low even if their productivity increases. Since the ratio of wage-rate to labour productivity is nothing else but the share of wages, this share decreases, and the share of those who live on the surplus (i.e. non-wage income), typically the rich and the professional classes, increases.[46]

The author thinks that extension of the reservation policy in the private sector is not a good option for the current Indian scenario. Investment in the training and in private sector cannot be forced to bear the cost of hiring unskilled people and there comes the need for investment in training and skill development of the employees so the output of the company can be enhanced and the profit motive be kept intact while promoting the social welfare. Still no consensus has been drawn and there is no clear policy as to who will take up the task of doing the same. It is difficult for private sector to invest in the same, as it is already facing a sluggish growth and there is low corporate investment as discussed in the project. Further, there are different options available with the government to enhance the status of the weaker section; government can invest in the higher education and health of the weaker sections. The weaker section population should enter the formal sector only if they are properly trained and are competent to work in the formal sector, otherwise it will be a burden on the corporate sector and there will not be any economic growth and development of the country.

46 Prabhat Patnaik, *Why is India's wealth inequality growing so rapidly?*, Aljazeera 2018, available at: https://www.aljazeera.com/indepth/opinion/india-wealth-inequality-growing-rapidly-180125084201143.html accessed on 9th April 2018.