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**PROCEEDINGS OF THE IMPLEMENTATION OF
27% RESERVATION FOR OBCS, AND RESPONSE
IN TAMIL NADU, 1990-2008**



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Abstract: The paper attempts to highlight the announcement of the implementation of the Mandal Commission recommendations, the stand of the V.P. Singh, the then Prime Minister of India, the opposition from various quarters, modification done during the Prime Ministership of Narasimha Rao, the recent Supreme Court's ruling over the implementation of 27% reservation in the Central Educational Institutions and in this regard the stand of the prominent Dravidian Parties in Tamil Nadu

Keywords: Implementation, Central Educational Institutions, judiciary, domination,

INTRODUCTION:

The Dravidian Parties nurtured by Periyar E.V. Ramaswami always insisting reservation in proportion to the population strength and it relentlessly fighting against the domination of a particular community in all sectors of the administration, judiciary and even in the sphere of education. Call for Social Justice

After taking charge as Prime Minister, V.P. Singh observed: "Honourable members are aware that on April 14, 1990 at the official function organized to celebrate the birthday of B.R. Ambedkar at the Ambedkar Stadium, I announced the commencement of the Ambedkar Centenary Year and designated it as the 'Year of Social Justice', pertaining to the SCs and STs and other weaker sections for the removal of injustice done to Neo Buddhists, vesting of constitutional status and substantial powers on the National Commission for SCs and STs and according due but long delayed, honours to Dr. Ambedkar, and so on. The present decisions are in the same line of the tradition of this Government's dedication to the cause of SCs, STs, SEBCs and other weaker sections"

Subsequently the historic announcement of implementing Mandal Commission recommendation was made by V.P. Singh On August 7th, 1990. Prime Minister V.P. Singh announced this decision of his Government in the Lok Sabha. He observed: "I am happy today to announce in this august House a momentous decision of social justice that my Government has taken regarding the SEBCs on the basis of the report of the Mandal Commission. Honourable members are aware that the Constitution, which we gave to ourselves 40 years back envisaged that SEBCs be identified, their difficulties removed and their conditions improved in terms of Article 340 (1) read with article 15 (4) as well as Article 16 (4). It is a negation of the basic structure of our Constitution that till now this requirement was not fulfilled. After examining various aspects of it, I am glad to announce

that my government has taken the following decisions on the Commission's Report.²

- a. In order to avail ourselves of the benefit of the long experience of a number of states in preparing lists of SEBCs and in order to ensure harmonious and quick implementation, we have decided to adopt in the first phase the castes common to both the Mandal list as well as the state lists.
- b. The percentage of reservation for the SEBCs will be twenty-seven,
- c. This reservation will be applicable to services under the Government of India and Public Undertakings.

The Ministry of Personnel, Public Grievances and Pensions, New Delhi on August 13, 1990 issued an office Memorandum on Mandal Commission, signed by Krishna Singh, the then Joint Secretary to the Government of India. It observed: "In a multiple undulating society like ours, early achievement of the objective of the social justice as enshrined in the Constitution is a must. The Second Backward Classes Commission, called the Mandal Commission, was established by the then Government with this purpose in view, submitted its report to the Government of India on December 31st, 1980.³ The Government have carefully considered the report and the recommendations of the Commission in the present context regarding the benefits to be extended to the SEBCs as opined by the commission and are of the clear view that at the outset certain weightage has to be provided to such classes in the services of the Union and their Public Undertakings". Accordingly orders were issued as follows:

- a) Twenty Seven per cent of the vacancies in civil posts and services under the Government of India shall be reserved for SEBCs.
- b) The above said reservation shall apply to vacancies to be

filled by direct recruitment. Detailed instructions relating to the procedure to be followed for enforcing reservation have been issued separately.

c) Candidates belonging to SEBCs recruited on the basis of merit in an open competition on the same standards prescribed for the general candidates would not be considered under the reservation quota of twenty seven per cent.

d) The SEBCs would comprise in the first phase the castes and communities which are common to both the list in the report of the Mandal Commission and the State Governments' lists.

e) The aforesaid reservation shall take effect from August 7, 1990. However this will not apply to vacancies where the recruitment process has already been initiated prior to the issue of these orders.

Similar instructions in respect of Public Sector Undertakings and financial institutions including Public Sector Banks were been issued by the Department of Public Enterprises and Ministry of Finance respectively.⁴

PRO AND ANTI -MANDAL VIEWS

Though the report of the Mandal Commission was tabled and accepted in the Parliament, it took a decade for just a part of its recommendations to be implemented by the V.P. Singh Government. Several political parties and socio political leaders accepted the recommendations while some of them blamed the hasty manner of its implementation. Opposition parties criticized that in spite of the promises made in the election manifesto of the National Front during the 1989 elections, V.P. Singh implemented only some of the recommendations. Even leaders like Chandrasekhar and Biju Patnaik opposed the manner of the implementation of Mandal Commission by V.P. Singh. However, many leaders supported the recommendations and implementation while a few blamed the hasty manner and suggested modifications.

V.P. Singh strongly believed that the implementation of the Mandal Commission recommendations would ensure the participation of the downtrodden in the decision making process and would help them share power at the national level.⁵ He also observed: "The Janata Dal Government's decision to implement the Mandal recommendations is a powerful and concrete step towards achieving social, political and economic equity". He also expressed that the reservation in central services would enable the backward classes to come to Delhi, the seat of power, and fill up crucial positions in the Government.

Laloo Prasad Yadav, the Chief Minister of Bihar observed: "It is a product of our commitment to uplift the downtrodden. It was there in our manifesto and in the manifesto of the erstwhile Janata party and Lok Dal. Even in its 1977 manifesto, the Janata Party had promised 30 per cent reservation for the backward castes.⁸ Ram Vilas Paswan, the Labour Welfare Minister, pointed out that though the strength of backward classes was 52 per cent, Mandal Commission had recommended only 27 percent reservations in central services.

The percentage of backward classes in central services was only 4.65 per cent.⁹ S.R. Bommai, the President

of Janata Dal, asserted that the implementation of Mandal Commission report was a must to ensure some sort of an opportunity for the backward classes in government employment.

The Communist Party (Marxists) welcomed the implementation of the Mandal Commission report and urged the people not to join ongoing anti- reservation movement. E.M.S. Nampoodiripad, General Secretary of C.P.M. (M), announced his party's conditional support to the reservation policy and declared that reservations are acceptable only when economic criterion is included and provision is made for some reservation for the poor of the other castes.¹⁰ Jyoti Basu, the Chief Minister of West Bengal and leader of CPI (M), urged the Government to give serious thought to economic and other aspects in implementing the Mandal Commission report and reiterated his party's general support to the recommendations.¹¹

M. Karunanidhi, President, D.M.K. and the present Chief Minister of Tamil Nadu, viewed that implementation of the Mandal Commission recommendations would help the backward classes gain access to central government jobs. He also blamed that the Mandal Report had been put in cold storage for over a decade.¹² He also moved a resolution in the Tamil Nadu Assembly thanking the National Front Government for having taken the revolutionary decision of giving effect to social justice in the history of India. According to him, the announcement of twenty seven per cent reservation was only the first step and much more had to be done at the national level for backward classes.¹³

The BJP leaders raised their voice against Mandal recommendations. L.K. Advani, leader of the B.J.P., reminded the Government that it was a minority government and hence it should not have ignored the advice of its allies to apply economic criteria while implementing the report. When expressing his views about the implementation, Madan Lal Khurana, BJP leader, asserted that the Prime Minister was sowing seeds of another partition by announcing such plans which were very dangerous for the country which even Sardar Vallabhai Patel has opposed in 1947. A.B. Vajapayee, another B.J.P. leader, suggested that the Government should try to evolve a broad national consensus. He asserted that B.J.P. stood for reservation for SEBCs but at the same time, poverty is also a kind of backwardness and hence something must be done for economically backward also.¹⁴

ANTI-RESERVATION STIR

Anti-Reservation Stir intensified in several states like Bihar and Rajasthan and spread to other northern states. On September 4th, 1990, an all party meet was convened to discuss Government- announced, caste-based reservation of twenty seven per cent in Central Government Services and no consensus was reached. In view of agitations, schools were closed in Rajasthan, Himachal Pradesh and Jammu region up to September 16th, 1990 and in Himachal Pradesh at Palampur, even army was called out to control anti-reservation stir. Anti-Mandal Rally held, on October 2nd, 1990, at Boat Club, Delhi, turned violent and three persons, including a policeman, were killed and several injured. Anti-Reservation agitations took a turn for the worse when a

fourteen-year-old schoolgirl was burnt to death.¹⁵

Several political leaders expressed their views about the violent protests undertaken by Anti-Mandal agitators. V.P.Singh, while commenting on the anti-reservation agitations, observed, "Whenever attempts were made to bring about change in society, there were reactions". V.P.Singh, referring to the recently announced reservation for the backward classes, obliquely cautioned agitating youths to be ready to face history. ¹⁶ "The poor and the backward could not be ignored forever", he warned and said that the voice of poverty had to be heard. In fact, he reiterated, "The job reservations are not enough. These poor and backward classes needed to be given a share in the country's power structures". It is in this context, that he had suggested reservation of forty per cent seats in Parliament and State Legislature for the Backward Classes. He was happy that all political parties had extended their support to this cause.¹⁷

OPPOSITION TO RESERVATION

Never in the history of the Judiciary of India had the Bar Councils, Bar Associations and the Advocates belonging to the High Castes shown their unity and solidarity as they did in their opposition to the reservation in favour of the other backward classes as recommended by the Mandal Commission. They were afraid that if communal reservation was allowed to other backward classes, it would be difficult to abolish the communal reservation of SC and ST. Further, the OBCs had always been pitted against the SC and ST and had committed atrocities in rural areas. Reservations could bring them closer which would go against the interests of the upper classes who have been enjoying the monopoly of education and public services and professions for centuries.¹⁸

RESIGNATION OF V.P.SINGH MINISTRY

On August 9th, 1990, Devi Lal showed his strength by conducting a Kisan Rally in the Boat Club grounds of New Delhi and demanded resignation of V.P.Singh.¹⁹ Utilising this situation, L.K.Advani, one of the leaders of BJP, commenced the Rath Yatra, on September 25th, 1990 from Somnath Nagar for gathering support from the Hindu vote bank in the midst of political chaos. Cautioned about the aftermath of this Rath Yatra, he was arrested at Samasthipur of Bihar State on October 23rd, 1990. This compelled the BJP to withdraw its support to National Front Government, leading to the loss of its majority support in Parliament. Advani's arrest evoked violence and strong protests in northern states claiming more than 100 lives. Since BJP withdrew its support, fall of National Front Government at Centre had become an established fact.²⁰

On October 1st, 1990, a Constitution Bench of Supreme Court directed the Central Government not to take further steps in implementing the reservation of twenty seven per cent of civil posts in Central Public Undertakings for SEBCs.²¹

The Supreme Court, while upholding 27% reservation for Backward Castes which is a social reform measure, made the following stipulations.

1.The better - off among the Backward Class (i.e.) 'the creamy layer'

Should be excluded from reservation.

2.Backward Class candidates recruited on the basis of merit shall not be Adjusted against reservation quota.

3.Total reservation should not exceed 50 per cent.

4. Reservation should not be applicable to promotion as well as higher Administrative, technical, scientific and defence services.

5.The ten per cent reservation for the economically backward sections of The upper class, proposed by the Government stands automatically rejected.

6.The 'Creamy layer' will be determined by the National Commission to Be appointed by the Government within four months.²²

This judicial pronouncement brought the Mandal implementation to a standstill. On October 25th, 1990, Congress made it clear that it would do everything in its power to oust Prime Minister V.P.Singh but at the same time, would like the National Front to form a new government with some one else.²³

On November 6th, 1990, Janata Dal witnessed an open split. The dissident M.P.s elected Chandrashekar as their leader and the very next day, Congress decided to support Chandrashekar from outside. On November 7, Rabi Ray, the Speaker, declared the twenty five expelled Janata Dal dissidents as unattached members and on November 8th, 1990, V.P.Singh resigned after losing the vote of confidence. He was in office for barely 11 months after he led the National Front to a famous electoral victory²⁴

The successive Congress Governments, which were dominated by Brahmins and the Upper Caste Hindus, failed to implement the reservation for SEBCs. Under these circumstances, V.P.Singh deserved all praise for his resolve to implement the Mandal recommendations.

MODIFICATION

On September 25th, 1991, P.V.Narasimha Rao, the Prime Minister, modified the order of V.P.Singh, which had reserved 27 per cent of Central Government jobs to SEBCs purely on the basis of caste. The Narasimha Rao Government introduced an economic criterion for their selection under the SEBC quota. Preference was to be given to candidates belonging to the SEBCs. In case sufficient number of candidates was not available, unfilled vacancies should be filled by other SEBCs. The Government also proposed 10 per cent reservation for the economically backward sections of the Upper Castes. The total reservation under the new formula was 59.5 per cent, that is, SC/ST reservation at 22.5 per cent, SEBCs at 27 per cent and the economically backward among the forward categories at 10 per cent. In other words, only 40.5 per cent was meant for open competition. But the Supreme Court had stipulated 50 per cent as the maximum limit for reservation. Hence the present stalemate could be overcome only by amending the Constitution.²⁵

SUPREME COURT'S RULINGS ON OBCS' RESERVATION

The Supreme Court's ruling on OBCs' reservation and the stand of the Tamil Nadu over the issue, marked a

significant trend in the reservation issue in Tamil Nadu.

Caste-based reservations in public employment and education have been India's primary vehicle for fulfilling its constitutional promise of an egalitarian society. For 60 years, Independent India has seen this policy of reservation for the purpose of social justice, triggering debates on equality which are basically debates on eligibility of various castes (and sometimes, religious and economic) groups to access the benefits of reservations. There have been voices of dissent, voices proposing alternatives, demanding reviews and impact assessments of the reservation policy, often through mass media.²⁶

Successive attempts by some States and by the Centre to revise the reservation policy for Other Backward Classes (OBC) have been struck down by Courts citing the lack of reliable and scientific data on the present social, economic, and educational status of OBCs to justify the policy of reservation.

The Supreme Court Bench comprising Justices Arijit Pasyat and Lokeshwar Singh Panta indirectly said as much when it stayed the law for providing 27 per cent reservation for OBCs in higher educational institutions like the Indian Institution of Technology (IITs) and Indian Institutes of Management (IIMs) for 2007-2008. It rejected outright the Government's argument that in the absence of caste data after 1931, the only alternative was to project the population to fix notionally the proportion of socially and educationally backward classes and OBCs, on the basis of the census of 1931. The implication of this judicial observation was that much has changed in the intervening period and caste data of 1931 should be updated by another survey.²⁷

Justice Ratnavel Pandian of Tamil Nadu, in the *Indra Sawhney Vs Union of India* case, had noted that no caste-wise statistics had been collected after the 1931 census. He, however, upheld the constitutional validity of the 27 per cent reservation for OBCs in the public services from 1992 on the grounds that identification of classes by the Mandal Commission was based on ground realities prevailing in 1980 and not 1931.²⁸

Politics, centered on the identity and assertion of Other Backward Classes (OBC), seems to have entered another intensive phase with the Supreme Court's Stay on OBC quotas in Central Higher Educational Institutions. Almost all the main stream national parties and regional political organizations have reacted against the stay order and several states have witnessed massive demonstrations and public strikes opposing the Stay by the Apex Court.

Assertive OBC politics was indeed prevalent in many States even before 1990. But this involved essentially regional political ventures built around local manifestations of caste discrimination. But the V.P. Singh's Government initiative and the debate it started on the Mandal Commission recommendations, united these diverse OBC political groups on a common platform, enhancing the social, political, and organizational influence of OBC politics.

In Tamil Nadu, which has seen principled struggles from the pre-Independence days, for equitable access to education and employment in government services, reservation remains embedded in the collective conscience

of the people, particularly the oppressed, as a successful tool for affirmative action against discrimination. It is, therefore, not surprising that there was instant protest from almost all political parties in the State when the Supreme Court stayed the implementation of the Central Act on reservation in IIMs and IITs on March 29th, 2007.²⁹

Tamil Nadu Chief Minister, M. Karunanidhi, called the order "shocking" and summoned a meeting of the leaders of the ruling alliance and announced a 12-hour bandh on March 31, 2007. The bandh was total, with the closure of all industrial and commercial establishments and the withdrawal of all road, rail and air transport services. M. Karunanidhi maintained that the bandh brought life to a standstill, "demonstrating people's support for the cause of social justice".³⁰ J. Jayalalitha, the General Secretary of All India Anna Dravida Munnetra Kazhagam and the Opposition Leader in the Assembly expressed "shock and agony" over the judgment and sought corrective steps from the Union Government.³¹

The Tamil Nadu Assembly, on March 30, 2007, unanimously passed a resolution stating that the Supreme Court order had "caused a setback to social and educational advancement of the oppressed classes" and it impinged on the privileges of the Parliament. The resolution, moved by the Chief Minister, requested the Union Government to convene a Joint Session of the Parliament to take appropriate decision to ensure that Backward Classes were not affected.³²

M. Karunanidhi, the Chief Minister of Tamil Nadu, brought the Assembly Resolution to the attention of Prime Minister and other national leaders through identical letters. He even reminded them that reservation was a product of years of struggle. In fact, the struggle in Tamil Nadu for reservation of jobs in government establishments and seats in educational establishments is one century old.³³

V. Anaimuthu, a veteran from the Dravidian Movement, who was closely associated with the reservation movement for 40 years and also the General Secretary of the Marxist-Periyarist Communist Party, said that his party wanted the 27 per cent reservation provided in the Act, to be implemented "at one go" and not as proposed—starting with 9 per cent in the first year and adding 9 per cent each in the subsequent two years.³⁴

S. Ramadoss pointed out that the forward communities that accounted for 10 per cent of the population had cornered 70 per cent of the jobs whereas the OBCs and the Scheduled Castes and Scheduled Tribes, who constituted 90 per cent of the population, could get only 29.3 per cent of jobs. The statistics provided by K. Parasaram, former Attorney General and Senior Counsel, revealed that of the 30, 23, 874 Central Government jobs available, the lion's share of 22, 56, 580 in all four categories had gone to the forward communities. He went on to say that even fifteen years after the Mandal Commission had recommended 27 per cent reservation for the OBCs, the goal was yet to be achieved. According to S. Ramadoss, the founder of P.M.K., such imbalances could be set right only through a national movement.³⁵

PMK held a rally near Jantar Mantar in New Delhi on September 22nd, 2007. It was a Protest Rally against continued injustice meted out to OBCs. PMK's Founder,

S.Ramadoss, led the demonstration. MPs and leaders of various parties, including Sitaram Yechury of the CPI (M), D.Raja (CPI), S. Thangabalu (Congress), Sharad Yadav JD (U) and social activist, Swami Vignesh, participated and expressed solidarity with the PMK for its struggle to ensure social justice to oppressed classes.³⁶

In four separate judgments running 369 pages, five judges of the Supreme Court attempted to answer the 25 raging questions on India's pursuit of social justice action in higher educational institutions. They read out their opinion on April 10, 2008 in Court No.1 of the Supreme Court, which marked the achievement of a mile stone in the struggle of Backward Classes in the country for a greater share in educational opportunities than what they had been entitled to until then.³⁷

Chief Justice K.G. Balakrishnan delivered the main judgment, which was followed by concurrent opinions from Justice R.V. Raveendran, and Justice Arijit Pasayat (on behalf of himself and Justice C.K. Thakker). Justice Dalveer Bhandari delivered a partially dissenting opinion. The Chief Justice said: i) The Central Educational Institutions (Reservation in Admission) Act 2006, is constitutionally valid, subject to exclusion of creamy layer. ii) The quantum of 27 per cent reservation for OBCs is not illegal. iii) The 2006 Act is not illegal merely because a time limit is not prescribed for reservation.³⁸

Arjun Singh, the Central Minister for Human Resource Development, responded to the Judgment and said that, "Implementations will start straightway. The IITs (Indian Institutes of Technology), IIMs (Indian Institutes of Management) and the Central Universities will be covered immediately. The stipulated time is three years and the process of implementation will be dependent, to some extent, on the development of infrastructure. As infrastructure grows, the process would also expand and cover more and more numbers".³⁹

M.Karunanidhi, the Chief Minister of Tamil Nadu, did not accept the concept of the creamy layer to be reckoned when the ruling on reservation is being implemented. R. Nallakannu, the Leader of CPI, said that the creamy layer concept was only a ploy to deprive the Backward Communities and SC/STs of their chance to access Higher Education. S..Ramadoss, the Founder of P.M.K, demanded a caste-wise census in 2001 and proportionate reservation for all communities according to their strength. Supporting S. Ramadoss demand for the caste-wise census, Thol.Thirumavalavan, the President of Viduthalai Chiruthaikal Katchi, maintained that there was a need to enact a law to ensure that courts did not interfere with the reservation policy of the Government.⁴⁰

When asked whether he would accept the Judgment, with the qualifying clause of creamy layer, M.Karunanidhi, the Chief Minister of Tamil Nadu, replied on April 18th, 2008, that "We are offered only a shirt and not a towel, what do we do? We will take the shirt and keep demanding for the towel." The DMK, however, wanted immediate and full reservation for the Other Backward Classes.⁴¹

The Supreme Court Judgment does not mean the end of the debate on OBCs reservation. A long standing

challenge for those who support social justice is to end the phenomenon of quotas being an instrument of political mobilization rather than a mechanism to ensure social justice. The main issues that need addressing are identification of Other Backward Classes, the criteria for deciding the creamy layer and the fallout of sub-classification of intended beneficiaries. None of these can be seen as having been permanently decided by the Mandal Commission or by the courts.⁴²

Thus the proceedings of implementation of the reservation of 27% for OBCs, recommended by the Mandal Commission, initiated by the V.P.Singh Ministry in 1990, are drawn for more than eighteen years, without giving social justice to the OBCs. According to the strength of the population, the OBCs should be given 52% of reservation in central services. But the Mandal Commission recommended only 27% to the OBCs. However, the implementation involved in a number of untoward incidents throughout India in the form of anti-reservation riots and judicial interventions at many occasions which recommended certain modifications to identify Socially and Educationally Backward Castes and to find out the Creamy Layer. In this way, the Mandal Cases, to some extent, created hurdles for the Backward Classes to access towards the higher education mainly in medical and engineering fields which are still the domain of the higher castes.

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