



CASTE RESERVATION IN INDIA : LAW AND THE CONSTITUTION. By G. P. Verma. 1980. Chug Publications, Allahabad. Pp. xvi+164. Price Rs. 50.

THE SPIRIT of equality pervades the Constitution of India as the main aim of its makers was to create an egalitarian society wherein social, economic and political justice prevail and equality of status and of opportunity are made available to all. Owing to historical and traditional reasons certain classes of Indian citizens have been under severe social and economic disabilities and cannot effectively enjoy either equality of status or of opportunity. Therefore, the Constitution accords to these weaker sections of society protective or compensatory discrimination under articles 15 (4) and 16 (4).

The book under review, as the author has pointed out in the preface, is limited to "the study of caste reservation, with reference to public employment only". The significance of this subject as a constitutionally sanctioned social policy is highlighted by the author. The study by the author augurs well for the development of the subject.

An important issue that crops up in this connection is the identification of socially and educationally backward classes. So far no satisfactory criteria have been evolved to determine this question. The Supreme Court has followed a case to case approach in this area, resulting in not too satisfactory solutions. One thing appears to be clear that caste, though a relevant factor cannot be the sole criterion in determining social backwardness unless a caste is wholly socially and educationally backward and its inclusion in the backward classes by its very caste name is indicative of its social and educational backwardness. Where eighty-five per cent of the population lives below the subsistence level, it is an extremely difficult task to evolve norms of backwardness for the purpose of conferring the benefit of preferential treatment.

In the past the central and state governments set up commissions to examine this issue. The author has in chapters 2 and 3 examined in brief the findings of those commissions. He says :

These State Commissions applied various tests to determine the backwardness e.g. *habitational test*, *Occupational test*, *Caste test*, *Community test*, *means/income level test*, *educational test*, *means-cum-caste test* etc. but it has not been possible to evolve an acceptable criterion, for the purpose of identifying them.<sup>1</sup>

While agreeing with the conclusion of the author, one is constrained to point out the two significant omissions by the author. The recommenda-

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1. G.P. Verma, *Caste Reservation in India* 50 (1980)



tions of the Karnataka Backward Classes Commission (Havanur Commission) and the U.P. Backward Classes Commission (Cheddi Lal Sathi Commission) do not find a place in the book though there is a reference to the latter in footnote 67 in chapter 4 while discussing the *Chottey Lal* decision<sup>2</sup> of the Allahabad High Court involving reservations for appointments in the state judicial service.

In chapter 4 the author has critically analysed the judicial decisions delineating the criteria for identifying social and educational backwardness. The various criteria such as caste, caste-cum-poverty, economic-cum-occupation/profession are discussed and commented upon. Majority of the decisions examined are under article 15 (4) which are undoubtedly relevant for understanding the scope of article 16 (4). However, the author's discussion of cases on the scope of article 16 (4) is incomplete. The reader fails to get an idea of the various issues that have actually arisen before the courts under article 16 (4). A critical analysis of *all* the judicial decisions (this task was not too difficult as the decisions are not too many) would have brought into focus the relevant issues on the subject and greatly enhanced the utility of the book, but nothing like this is to be found in it. For instance, there are only four Supreme Court decisions<sup>3</sup> where the validity of classification of backward classes was in issue and these are cases dealing with reservations made in the State of Jammu and Kashmir. No cogent analysis of the issues and the bases of decision in these cases is available. Similarly on the aspect of "who are backward classes" relevant High Court decisions,<sup>4</sup> with the notable exception of the Allahabad High Court judgment in *Chottey Lal v. State of U.P.*,<sup>5</sup> have not been analysed.

In the last chapter the author has given some suggestions for streamlining the reservation policy. The structure of Indian society is caste-oriented and though one may not like it, caste would have to be considered as one of the relevant factors in identifying backwardness. Realizing this, the author has suggested that "the basis of reservation might be caste coupled with some economic criteria."<sup>6</sup> This is in line with the recommendations of the Kerala Backward Classes Commission that economic criterion be introduced as an essential element in order to ensure that the benefits of reservation reach the genuinely needy among the backward. Another suggestion is that the quantum of reservation should not be

2. *Chottey Lal v. State of U.P.*, A.I.R. 1979 All. 135.

3. *Triloki Nath v. State of Jammu and Kashmir*, A.I.R. 1967 S.C. 1283; *Triloki Nath v. State of J. & K.*, A.I.R. 1969 S.C. 1; *Makhan Lal v. State of Jammu and Kashmir*, A.I.R. 1971 S.C. 2206; *Janki Prasad v. State of Jammu and Kashmir*, A.I.R. 1973 S.C. 930.

4. *G.N. Gudigar v. State of Mysore*, (1972) 2 Mys. L.J. 202; *Desu Rayudu v. A.P. Public Service Commission*, A.I.R. 1967 A.P. 353; *Hariharan Pillai v. State of Kerala*, A.I.R. 1968 Ker. 42; *Urmilla Ginda v. Union of India*, A.I.R. 1975 Del. 115.

5. *Supra* note 2.

6. *Supra* note 1 at 135.



excessive “as to overshadow the guarantee of equal protection of laws and thereby endangering and jeopardizing national interest by excluding brilliance and efficiency.”<sup>7</sup> The courts have held consistently that reservations should not be excessive as it would be counter-productive creating discontent and dissatisfaction among the general category of employees, affecting their morale and efficiency.

The book under review, despite the omissions pointed out above, is still welcome as it does focus attention on a significant problem of the contemporary Indian society.

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7. *Id.* at 137.

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