



The flawed unit of academic quotas

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Much more needs to be done to improve faculty diversity on university campuses

- In the history of reservations in India, Parliament has sometimes had to resort to even constitutional amendments to overturn some court rulings that have the effect of protecting the interests of 'general candidates'.
- The 77th constitutional amendment of 1995, which was recently extended to Kashmir, restored reservation in promotions as a nine-judge bench of the Supreme Court in Indra Sawhney (1992) while upholding Other Backward Classes reservation based on Mandal Commission recommendations had prohibited Scheduled Caste/Scheduled Tribe (SC/ST) reservation in promotions.

Ordinance and after

- The 81st constitutional amendment was made to overturn the Supreme Court's decision against the 'carrying forward' rule, which permitted the filling of unfilled reserved seats in subsequent years.
- Similarly, the 85th constitutional amendment was passed in 2001 to restore consequential seniority to promotee SC/ST employees as a 'catch-up' rule introduced by the court in Ajit Singh (1999) was causing hardship to SC/ST employees.
- Last week, the Narendra Modi government promulgated an ordinance to undo the Allahabad High Court's judgment in Vivekanand Tiwari (2017) which had relied on a number of other High Courts and a few apex court judgments such as Suresh Chandra Verma (1990), Dina Nath Shukla (1997) and K. Govindappa (2009) that had made 'department' rather than 'university' as the unit of reservation in universities.

The importance of 'shall'

- We cannot ignore that Article 335 categorically says that "claims" of SC/STs to posts in Centre and the States 'shall' be taken into consideration.

- As opposed to 'may' or 'will', the use of the word 'shall', in law, means mandatory.
- Our courts have used the differences between 'cadre', 'service' and 'post' to arrive at the conclusion that 'department' should be unit of reservation.
- So though lecturers, readers and professors in a university have the same scale and allowances in their respective cadres, they cannot be clubbed together.
- Since there is no scope for interchangeability of posts in different disciplines, each single post in a particular discipline is counted as a separate post.
- On the face of it this seems to be perfectly logical.
- But the reality of the working of our universities is different.
- Every university spends lot of time in deciding reservation and tries to balance the complete interests and needs of various departments.

Beginning of an end

- Implementation of the department-wise reservation policy would have had a disastrous effect on other universities as well.
- The government deserves appreciation for the ordinance, though brought in belatedly on the eve of the elections to garner Dalit votes.
- But we need to do more to improve diversity on our campuses with more SCs, STs, OBCs, Muslims, persons with disabilities and sexual minorities being recruited as faculty as our campuses do not reflect social diversity despite the university being a unit for reservation.
- Let the score on the diversity index be a major criterion in giving grants to universities.

