

Controversies Around Sc/St Act: Its Impact Use And Misuse

Ridhima Chadda and Arshdeep Singh Chahal

(Third Year Law Students at Rajiv Gandhi National University of Law, Patiala,

Email Id: Chaddaridhima1@gmail.com
Arshdeepchahal4641@gmail.com)

Abstract

Caste system is one of the greatest evils in India which acts as major hinderance to the brotherhood and fraternity of the nation. Hence, to help and bring up the depressed classes and stop atrocities against them, various acts and legislations have been made amongst which The Scheduled Caste and Schedule Tribe (Prevention of Atrocities) Act is main. The Act was enacted in 1989 to safeguard the rights of these classes and bring them justice. The act has undergone various amendments since its enactment but is still controversial as there has been many stances where it has been misused to spread caste hatred and revenge against the upper classes. Hence in this paper the author tries to give a complete history of the Act, its need, its provisions, amendments, loopholes and the Supreme Court judgements which dealt with it. The author has tried to clearly explain both the positives and negatives of the act and how does it affect the depressed classes as well as the upper classes. The author also tried to reason the misuse of the act and the loopholes of related Supreme Court judgements, finally reaching to a conclusion to come up with something to grow the citizens of country together instead of building walls of caste between them.

Keywords: *India, caste system, SC/ST Atrocities Act , misuse, supreme court.*

INTRODUCTION

The 2020 judgement of Apex Court about the SC/ST Atrocities Act caught attention again as it is on one of the most controversial issues which has its roots in the history. The conflict between the different communities is nothing new but ages old and any step taken for one is criticised by other sect. It is not because of only rights or only caste but a combination of both triggered by other things including political propagandas, feeling of superiority and revenge, discrimination, etc. This 2020 judgement nullified the Court's own 2018 judgment which was against the SC/ST Act.

Research Methodology

The authors have chosen a purely doctrinal procedure of legal research while writing the article. The research methodology adopted basically is a partly analytical and partly critical approach to examine the various issues and controversies around SC/ST Act. The references of data are primary e.g., The Constitution of India, Supreme Court's judgments, as well as secondary e.g., articles, journals, books, etc. The researchers, again, have chosen an analytical approach for explaining and drawing the conclusion. A constant mode of citation i.e. Harvard reference style is used all over the course of this research paper.

Historical background

Caste System is the archetypical standard used since ancient times to categorize different classes in the society. Though there are no *vedic* sanctions to the system but the castes and the *jattis* has made its way since then into the society. There are broadly two perspectives of origin of the caste system: one is the varna system which focuses on the ideological concept and the other perspective is categorization on the basis of socio-economic factors. The present system of caste that exists in India is the result of evolution of the original *varnas* and *jattis* through the ancient and medieval era. Various developments in this concept took place during the Mughal era ad British period. The four major varnas or classes were Brahims (the priestly people), Kshtriyas (Rajanyas or warriors), Vaishways (the tradesmen and farmers) and Shudras (labouring class) which were used to set up hierarchy in the society. Brahmins was the highest caste and Shudras was the lowest and the lowest rung of the Shudras were called the untouchables. In today's society though people still refer to this varna and *jatti* system sometimes but now are broadly categorised as General or Open category (it includes the higher class who are believed to have good social status irrespective of their financial condition), Backward Class or Other Backward

Class (this is the class of people who were historically downtrodden and did not enjoy much privileges but were not the lowest of the castes), Scheduled Class and Scheduled Tribes (these people also sometimes referred to as Dalits are believed to be the lower caste people).

Who Are SC'S And ST'S

Scheduled Caste and Scheduled Tribe is the official name given to the people belonging to the lower class or the depressed class (as known in the British period) who are believed to suffer due to social economic and cultural backwardness and belong to the age-old untouchable category. These people suffer due to isolation and lack of facilities and resources and hence are given special provisions and reservation. These people are minority and hence have special mention in our Constitution. There are currently about 201.4 million SCs which belong to about 1241 groups and 104.3 million STs which belong to 705 individual groups in India. Article 366 of the constitution defines Scheduled Castes as castes or races within castes and races deemed under Article 341 as Scheduled Castes and Scheduled Tribes as tribal groups within groups that are deemed as Scheduled Tribes under Article 341. According to Clause 1 of Article 341, the president after consulting with the Governor of the specific state or Union territory can include any caste or tribe or group or race of people in the list of Schedule Tribes or Schedule Caste.

Atrocities against scheduled caste and tribes

The word atrocity is not exactly defined in The Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act (POA), 1989 but is referred to the crimes punishable under Section 3, which enlists various crimes against a person from scheduled cast or scheduled Tribes by someone who does not belong to the same class. Ministry of home affairs redefined the term atrocities as any offence punishable by Indian penal Code, 1860 committed by a non-Scheduled Caste or Tribe member against someone belonging to this class. In the case of State of Madhya Pradesh and another v. Ramakrishna Balothia and other¹, the Court said that, offences of atrocities are committed to subjugate the Scheduled Tribes and Castes to humiliate and subjugate them.

¹ State of Madhya Pradesh and another v. Ramakrishna Balothia and other 1995 (2) SCC 22.

Before independence

The Dalits were believed to be the lower classes and were treated differently since the time of Ramayana and Mahabharat. During the Bhakti period and Mughal period, the sufferings of Dalits at peak and hence small movements by local leaders for them started but with no great result. This system played important role in the revolt of 1857 and later these people denied to help the upper class to gain independence because of ill-treatment and no separate provisions. Legislations for banning Untouchability were started drafting in about 1909. During the British period, the term ‘depressed class’ was coined for the first time to refer to these people in the Act of 1919. Later in the round table conferences the grievances of these people were put forward and separate electorates were asked by Ambedkar and Gandhi. Dr. Ambedkar referred these untouchables as Protestant Hindus whereas Gandhi Ji wanted to call them Harijans and hence this could not be resolve. So, finally Prime Ramsay Macdonald (the chairman of the conf.) resolved the issue of separate communal electorates and used the term Scheduled Castes and Scheduled Tribes. Many more laws were passed by British but all these laws were provincial and thus later All India Scheduled Caste Federation was announced by B.R Ambedkar which demanded for representation in Legislative, Executive and Public Services and removal of untouchability in future constitution.

After independence

Even after the Independence of India, the condition of the Dalits did not improve much and hence, the head of drafting Committee, Dr. B.R Ambedkar made provisions for removal of untouchability and to protect other interests of the SC and ST Classes. Article 17 prohibits untouchability and article 14 and 15 and 16 emphasise on the equality of all beings without any discrimination on the basis of caste, creed, religion or race. Article 15 clause 4 further provides for reservation for these socially or educationally backward classes or the Scheduled Classes or Scheduled Tribes. Article 46 promotes education of the SCs and STs. Article 330 provides a provision of reservation for these people in the Lok Sabha, Article 332 in Legislative Assemblies and Article 335 in Union Services. Article 243 D states about the reservation for people belonging to these classes in the panchayats. Besides this schedule 5th and 6th deals with provisions for these people in their specific states. Moreover article 338 of the constitution lays for a National Commission of Scheduled Castes and Tribes.

Incidents Supporting The Need For The SC ST Act

Though the constitution provides for untouchability and safeguards the interests of these classes, provides them with right to vote, non-discrimination, equal employment opportunities, reservations, etc but they still were subjected to atrocities whenever asked for their rights. These atrocities included verbal abuse, sexual assault, rape, violence, attacks, social boycott and even murders. Some of the incidents are: assassination of young Emmanuel Sekaran, a dalit leader who tried to stand against untouchability; killing of 42 dalits in tamil Nadu; killing of 10 Scheduled Tribes in Andhra Pradesh by the police due to some land issue; killing of Bachdass in Madhya Pradesh; Police firings in Sahibganj, Bihar that killed 15 STs; Kilavenmani Massacre of 42 dalits in Tamil Nadu where they were killed by burning them in a confined building and still all the accused were acquitted, Massacres of SCs in Belchi and Pipra in Bihar where though Trail Court convicted the accused by high Court acquitted them, Massacre following a SC Bridegroom in Uttar Pradesh.

Hence due to continuing atrocities and untouchability the Parliament had to come up with some better legislations. So, Untouchability offences Act, 1955 was enacted which latter underwent an amendment and came to be known as Protection of Civil Rights Act (PCR) in 1976 but due to certain loopholes and less punitive punishments compared to the IPC and less social order and control and more violence and atrocities against the SCs and STs a more comprehensive act was needed. Hence, The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted which was more punitive and dealt with all the atrocities and crimes against these classes more strictly.

The Scheduled Caste And Scheduled Tribes (Prevention Of Atrocities) Act And Its Impact

The Scheduled Caste And Scheduled Tribes (Prevention Of Atrocities) Act, 1989

This act was passed not only to prevent the atrocities and crimes against the SCs and STs but also to eliminate them. The act tries to ensure that justice will be delivered to them and they too can live a dignified life like other communities without any fear from the upper class. The act has a wide scope and enlists many crimes and much stringent punishments for those who commit it.

Some of the important features of the Act are (Saxena, 2002):

- The act provides for criminal liability in the crimes that are not enlisted as such in Indian Penal Code, 1860 and Protection of Civil Rights, 1955. It even ensures a higher minimum punishment to a Public Servant who if is accused of the atrocities.

- It protects the SCs and STs from various atrocities including exploitation, assault, malicious prosecution, crimes relating to their political rights or social disabilities and also defines these atrocities as crimes by a person not belonging to these classes against the people of these classes.
- The act contains provisions for relief, compensation and rehabilitation to the victims.
- The act mentions the creation of special courts to deal with the cases of atrocities and special public prosecutors to conduct the trials.
- It provides for setting up of authorities at both state and national levels to check on the implementation of the act.

The positive impacts of the Act include:

- The Act ensured legal punishments to the accused and hence the rate of the atrocities decreased.
- The act spread the awareness to the people belonging to these classes about their rights and how they will be helped if something happens against them.
- POA Act ensured these people their right to equality and that justice will be delivered to them.
- SCs and STs Act empowered the belonging to these classes by ensuring their participation as individuals and protecting their tradition.
- The Act further promised compensation to the victims.
- Separate Act helped in changing the mindset of the Upper Castes and they tries to view these people with different perspective.
- Setting up of Special Courts in districts helped them assessing the justice a bit faster.
- Besides the official authorities that were set up to look after the implementation of the act, some NGOs themselves came up to raise voice against the wrongs and ensure justice via The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act), 1989.
- Different organization took up lead in different states to monitor the implementation of the Act and issued the state reports.

But despite this much efforts, no significant change could be seen. The atrocities continued, the trial was as slow as earlier, the authorities did not present any record and the SCs and STs continued to feel depressed and oppressed. Most of the cases of atrocities were not registered. The pendency rate of the cases remained high. The special authorities that were set up did not take proper care of the enforcement of the act and no proper compensation reached to the victims. Some of problems that the SCs and STs faced while assessing justice include:

Lodging complaint²-

- Victims were pressurised to not file the complaint and the Police and Officials too ignored the case considering it trivial.
- False allegations and counter cases were filed against the victims once they raised their voice.
- F.I.Rs were not registered properly and if did victims were threatened to take their complaint back.
- Accused used his reach to turn the matters away in police station itself or bribed the officials to dispose of the F.I.R.
- Money was given to the victim or his family to compromise and end the matter.
- Police did not register the complaint under the POA Act and if did, changed the applicable sections.

During investigation and trials-

- Proper charge-sheets were not made, important sections from POA Act were intentionally removed and there was no corroboration of evidences and statements recorded with the charge-sheet.
- Investigation did not start until its too late or they being pressurised and then when started the investigation was done by a junior officer and not the officer mandated by the POA Act.
- The victims and the witnesses were heard in front of Dominant class to threaten them.
- The documents and reports like post-mortem certificate etc. were delayed.
- Police tried to help the accused, intentionally delayed the matter and did not arrest him immediately.
- Being not able to hire advocates, they were allotted with public prosecutors who paid no special heed to the case.
- No information about the date and time given to the client and witnesses and the date tried to be delayed unreasonably.
- Witnesses were tried to be made hostile and in some cases biasness in the decision was prime facie.
- The Act directed the establishment of Special Courts but this did not happen.

² NHRC reports that one NGO in Gujarat, in a study covered 11 atrocities-prone districts for four years, showed that 36% of atrocities cases were not registered under Atrocities Act and 84.4% of the cases where the Act was applied, the cases were registered under wrong provisions with a view to conceal the actual and violent nature of the incidents. Victims are deterred from making complaints and as a result First Information Reports (FIR's) are rarely registered or registered late.

Hence, the act for the first-time paved way for betterment of these people and help them stand up. With time and education these atrocities changed its forms, they decreased, justice began to be delivered, but still there was lack of implementation of the act and these people did not feel safe. Their rights were still subjected to the will of the dominant class and the indifferent behaviour towards them continued. So, even after the enactment of The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act the life of these classes did not improve to a great extent and hence some more rules were drafted in 1995.

The Scheduled Caste And Scheduled Tribes (Prevention Of Atrocities) Rules, 1995

As per Section 23 of the SC ST (POA) Act, the government can issue guidelines and rules or principles for the act and the government exercised the power by issuing rules of 1995. These rules contain precautionary and preventive measure for the state government to prevent the atrocities. Section 4 states the formation of special panels for supervision of prosecutions and submission of reports. Section 5, 6 and 7 further elaborates the guidelines for the police-stations and inspecting officers to conduct proper investigation and look into the matter with seriousness. The rules further provided for creation of a Scheduled Caste and Scheduled Tribe Protection Cell under the charge of Director of Police. This cell will be responsible to conduct surveys, to maintain order and restore security in minds of people of these classes, to make enquiries from the police and give them some recommendations and submit a monthly report to the head of all the actions taken. Post of Nodal-Officer was created (who would be preferably given to someone belonging to the SC or ST Community) and a Special officer was appointed to co-ordinate with the superintendent of the Police and Magistrates and will review the functioning and reports of departments and will further ensure a better life for this community. As earlier the victim and witnesses were vulnerable and not protected, with the new rules they were provided with allowances as well as protection. Besides listing measures to be taken by district administration, it increases the state responsibility. The state government has to ensure the appointment of specific mandated officers, make provisions in budget for allowances to the victims, make contingency plans for implementation of the act, constitute a monitoring and vigilance committee at both district and state level and the state government will submit an yearly report to central government about the implementation of act, steps taken and other recommendations.

These rules concreted the already existing act and tried to fix some of its loopholes. These rules positively brought changes as the act alone in itself lacked the implementation and hence could not do much good but now with these standard rules set which distributed the duties and liabilities and instituted different measures to check and monitor the implementation helped the victims of atrocities

asses justice. With so many provisions and high officers included, chances of dominant class interfering in the system decreased and investigation and functioning were conducted smoothly and efficiently and hence the victims came forward and raised voice against the atrocities and demanded justice.

Rules Of 2011 And Ordinance Of 2014

The rules of 1995 were called the principal rules and some more rules were drafted in 2011 which were published on official gazette on 23 December 2011. This brought a great relief to the victims as the relief amount for most of the offences was almost doubled. For sexual exploitation it was raised from 50000 to 1 lakh 20 thousand; for murder of earning member of family the compensation raised from 2 lakh to 5 lakh and in case of non-earning member from 1 lakh to 2.5 lakhs. For all the crimes from Section 3 (1)(i) to Section (1) (x), the compensation was increased from 25000 to 60000. These rules were greatly welcomed by the communities and the NGOs asked the centre to implement the provisions as early as possible.

An amendment was made in 2013 to establish vigilance and monitoring commission and committee at sub-divisional level looked over by the centre.

An ordinance was passed by the President in 2014 but it lapsed after 6 months as parliament did not ratify it but then the parliament passed the new amendment bill unanimously in December 2015.

The Scheduled Tribe And Scheduled Caste Amendment Act, 2015

6768 cases of crimes against Scheduled Tribes were registered in 2014 and the conviction rate was just 30.9 percent whereas 40300 cases were registered for atrocities against the scheduled class and the conviction rate was only 28.4 percent. Hence an amendment bill was passed in 2015 which expanded the 1989 Act and tried to restore the faith of SCs and STs in law and justice. It included other IPC Crimes like hurt, intimidation, etc which have punishment of less than 10 years in the POA Act as earlier the crimes included were only the ones which have a punishment extended to 10 years. Moreover, under Section 4, other atrocities like garlanding the SC/ST with footwear, degrading them by saying witch or abusing because of caste, dedicating a woman as devadasi, depriving them of irrigation facilities, forcing them to leave their residence, confiscating their property or land, not allowing them to contest or vote in elections, and many more such offences were now included in the atrocities and anyone committing them would be punished. The 1989 act provided with punishment for a public servant who did not perform his duties but this amendment act elaborated the section and specified the duties, under Section 5, so that proper care could be taken and the people who intentionally

delayed the matters or become an obstruction in the way of implementation of the act be punished. The bill under Section 8 introduces the special courts and special public prosecutors to settle the case speedily within 2 months from the date of filing of charge-sheet and an appeal in High Court must be disposed of in 3 months. A separate chapter, Chapter IV A of Rights of victims and witnesses was also added in the amendment act.

The act further ensured the better implementation of act and speedy justice. Moreover, the number of registered cases increased in 2016 as according to the new act identity of the victims and witnesses need to be concealed and hence more victims came forward, raised their voice and demanded justice.

Misuse of the act or lack of implementation (supreme court judgements)

The anti-atrocities Act that was enacted to safeguard the rights of the SCs and STs and prevent atrocities against them so they too can live a dignified life is now used as an instrument to blackmail the Upper Castes. False complaints are registered for sake of revenge or monetary benefits or to spread caste hatred and the innocents suffer as they are arrested before being given a chance to prove their innocence. *According to the reports of 2016, a total of 11060 cases were investigated amongst which police found 2150 cases to be true (though some did not have sufficient evidence) but 5347 cases were false.* Some of important case include Jones v. State of Madras³, Dr. T.N Desai v. State of Gujarat⁴, Pankaj D Suthar v. State of Gujarat⁵ where the Supreme court acquitted the accused and pointed out the increased misuse of the POA Act to file false complaints against innocents.

Loopholes That Make The Act Prone to Misuse

- 1. No anticipatory bail:** The provision of no anticipatory bail provided in the 1989 act is being misused the most. It was enacted to ensure quick justice but now has been used to oppress the innocent upper castes. According to Section 18 of the Act nothing in Section 438 of the Criminal Procedure Code applied to the person accused of the atrocities which means any offence (like verbal abuse which may be a false charge filed) which is bailable is non-bailable if filed by an SCs and ST against a upper caste person. The person is arrested and is presumed guilty until and unless proved innocent in the court whereas in actual law a person is innocent

³ Jones v. State of Madras 2004 CriLJ2755.

⁴ Dr. T.N Desai v. State of Gujarat (1997) 2 GLR 942.

⁵ Pankaj D Suthar v. State of Gujarat 2015(4) BomCR(CrI) 545.

until proved guilty. A wrongful arrest is directly violative of fundamental right of the accused. In cases of *Rini Johar v. State of Madhya Pradesh & ors.*⁶, *Joginder Kumar*⁷ and *Arnesh Kumar*⁸ the Supreme Court held a wrongful arrest or an arrest against the guidelines violative of Article 21 (right to life and liberty which ensures a dignified life) and hence promised compensation to the one but in the false cases filed under SC STs act the accused has to bear with the wrongful arrest till court decides and acquits him but still no damages are given.

2. **No preliminary inquiry:** The act provides no safeguard to the upper Castes but all privileges to the SCs and STs. It cannot be denied that it is unfair that any allegation by a person (which have chances of being false) can deprive another person of his liberty without any independent scrutiny, just based on the oral allegations arbitrarily just because the victim belongs to a lower community. Section 41 Cr.P.C provides that any accused cannot be arrested without credible information which gives reason to believe the person guilty which can be read along with Article 21 that no person can be deprived of his liberty without reasonable cause and hence this provision of 1989 Act of not demanding a preliminary inquiry is against both the laws and is against the innocents.
3. **Large Amounts of Compensation:** Though the amendment to increase the compensation paid to victims was made to help them and ensure they report the wrong done to them but that money has also been a motivating factor for the false complaints. The victims file false allegations in the greed of huge amount of compensation money.

Supreme Court Judgement, 2018

Though the enactment of the Atrocities Act was the need of time but it can also not be denied that some of the provisions of the Act had been misused against innocents. The issue of misuse was raised from years but it took a proper form in the case of **Subhash Kashinath Mahajan v. The State of Maharashtra (Review of SC/ST Prevention of Atrocities Act Case)**⁹ in which Supreme looked over the reports of the cases and agreed to the fact that the provisions of Section 3 (1) (x) and Section 18 have been misused to file false cases and the act is becoming an instrument of blackmail.

The Supreme Court relied on the facts that there were more registered cases and very less conviction rate because many amongst the cases were false and even some of them were disposed of without trials. Even in some cases the accused was acquitted because the charges were not proved true. *According to*

⁶ *Rini Johar v. State of Madhya Pradesh & ors.* WP (Criminal) No. 30 of 2015, Supreme Court of India.

⁷ *Joginder Kumar v. Union of India* 1994 AIR 1349.

⁸ *Arnesh Kumar v. Union of India* (2014) 8 SCC 273.

⁹ *Subhash Kashinath Mahajan v. The State of Maharashtra* AIR 2018 SC 1498.

one more survey, it was figured that 1 in 5 police personals believed that some of the cases filed under POA Act were false and politically motivated¹⁰ or were filed to take revenge and create rift between the two classes. Hence the Supreme Court said, “The Act cannot be converted into a charter for exploitation or oppression by any unscrupulous person or by the police for extraneous reasons against other citizens. Any harassment of an innocent citizen, irrespective of caste or religion, is against the Constitution. This court must enforce such a guarantee. Law should not result in caste hatred.”

It was said that Section 3 (1)(x) is misused as it penalises anyone who insults or intends to humiliate anyone belonging to SC or ST Community at a place in public view and the automatic arrests for this have usually leads to filing of 10 percent false cases. Section 18 denies the anticipatory bails to the accused and given power to the officers to arrest the accused even before proper investigation which is believed to override the fundamental and individual rights of the accused.

Thus, the Supreme Court in its decision made some changes in the act with the guidelines that:

- The bar on anticipatory bail under Section 18 of the 1989 Act cannot prevent the court from issuing an advance bail where they find no merit.
- The arrest can be done only if approved by the appointed authority or after the inquiry by law.
- No F.I.R could be registered against a public servant unless confirmed by the appointing authority.
- It asked for an inquiry by the superintendent of police to check if the allegations are true and not superficial.

Giving the judgement the bench said, “its primary objective by giving this judgement is to save the innocent from being arrested”. It does not want to become an obstruction in the implementation of act nor was curbing the rights of SCs and STs but is trying to ensure that the liberties and rights of other individuals are also not at stake and hence wanted to ensure that no innocent be arrested for the crime they have not committed only because of some false charges filed by someone to specially to create rift between the classes with political agendas.

But the judgement was not all welcomed and there was a backlash and disharmony in whole of the country. The SCs and STs rose to protest as they feel betrayed and said that the judgement challenged their rights and was a way to curb and dilute the entire POA act. Many critics said that the provisions of the judgment will cause delay in the investigations. It was said that the Supreme Court presumed that

¹⁰ The Status of Policing in India Report 2019: Police Adequacy and Working Conditions, 2019 (conducted together by Common Cause and Lokniti-Centre for developing Societies).

as the conviction rate is less than the number of convictions, the reason would be false case but the reason could also be the lack of implementation of the act. *It was argued the survey report which said that police personals believe 1 out of 5 case is false is moved by the upper caste police officials whereas the lower caste officials do not feel the same who are even discriminated in their police trainings.* As a result of the judgement and new provisions the SC and ST community came on the roads and Bharat Bandh was announced and as many as nine people were killed and several others injured in the violence.

These people reacted intensely on the judgement just for the fear of losing some of their powers (or the so-called rights) but did not realise that it was done to save the innocent people from being blackmailed who because of a single false charge be arrested arbitrarily. Though they were right at ensuring their rights and asking justice for they are still the backward class but the bench said it cannot be granted at the sake of innocents being put behind the bars.

2018 Amendment bill And 2020 Judgement

Hence after several protests, loss of lives and violence the centre filed a review petition in the Supreme Court which it kept reserved for some time whereas in the meantime the Modi government presented another bill in the Lok Sabha which was against the decisions of the Supreme Court. The bill excluded the provision of anticipatory bail for a person arrested under atrocities act. The amendment bill also did not mandate a necessary inquiry before filing a F.I.R. Further it said that the investigating officer does not needs the approval of any higher particular authority to arrest any public servant. So basically, this bill countered every provision provided by the Apex Court in its March 8 judgement. This bill was passed by the Rajya Sabha as well and hence the original SC ST POA Act was restored.

But the bill was again challenged by some people as it was considered to be misused and deterrent to their fundamental rights. Several petitions were left pending in the Court and the decision reserved to which the bench finally gave the verdict on 10 February 2020 and overruled its earlier decision nullifying the new provisions while upholding the Modi governments new amendment bill constitutional and hence, restored the SC ST POA Act, 2018. The bench said that the cause of false allegations cannot be considered caste but it can also be because of human feelings and hence it would be wrong to categorize all the SC ST community as liars or crooked. The Court agreed that these people continue to suffer and are being oppressed from centuries and hence original act will remain as it was and the Supreme Court will make no new changes and that this is more of a legislative matter than executive. The bench further said that the provisions given in the previous judgement were not valid as were given under the extraordinary powers of the court and were even impractical. The bench added

that anticipatory bail could only be used in the prima facie cases and no other as the act is already been underused and including more provisions will only deprive the SCs and STs for reaching out for help.

This 2020 judgement has become a landmark case in the history of SC/ST POA Act and an important decision for the people belonging to these communities. The faith of these people in the judiciary, justice and the act restored with the decision but some of the people of upper class are still dissatisfied as the act seems more of a privilege to SC/STs and a disadvantage to upper castes rather than an act to neutralise the caste in societies taking people to one India.

Lack of Implementation- Another big loophole

The Supreme Court was right at acknowledging the underuse of act for it has been 30 years since the act has been enacted but has never been implemented properly till now. The special courts do not function as they must and quick justice is not ensured. The SC ST police personals are not trained enough that they can individually deal with the matters. The required mandated officers do not pay heed to follow the process and do not individually take interest in these matters. The contingency funds that each state is asked to set up to provide compensation and allowances to the victims of the atrocities has not been set up by about 18 states still. Special officers are assigned according to the act to analyse the reports at different level and then submit them to their officials who will further present a report of implementation of the Act and the steps taken by the states to the centre but the process is not followed. A lot of problems faced by the victims have been already mentioned in SC/ST Act, 1989, though some of the things have improved but still not this much that these people can live a dignified life without the need of this Act and its special provisions. The people belonging to the upper class still have the feeling of superiority over these people and hence they are still subjected to feeling of humility and atrocities against them did not stop. Rape of Dalit women, killing of SC Bridegroom, Mob lynching of a particular tribe, etc are still some common news headlines.

Still Controversial (Vested Political Interests)

The controversy of the act being fair or inclined to SCs and STs and denying fundamental rights to accused is still not resolved. The critics feel the earlier 2018 judgement a better judgement whereas others believe the Amendment Act 2018 and 2020 decision more justifiable. The people belonging to general category feel it unfair as the people belonging to SC ST Community are privileged having the SC ST Act as well as the reservation system besides the equality and other provisions provided to them

in the constitution. They feel levered down because of injustice in the act of arresting without inquiry and no bail whereas on the other hand the SC ST community think that this is not the privilege but their rights as they are the marginalised sections and depressed class who have been alienated for years and have to face the oppression at the dominant class now as well. They feel the act as a way to come forward to speak against the wrong, they are subjected to. Both of the sides are not wrong but the people who use their rights to gain undue benefit over the rights of others create the problem. The SC ST Amendment Act was enacted to help this sect of society but as soon as its misuse increased the act became a controversial topic. Moreover, there the political interests who do not let the matter cool down because of the vote bank. The SC judgement if not completely right was even not completely wrong at emphasising the denial of rights to accused at being arrested without inquiry and not given bail but the political pressure built up due to the coming 2019 elections, protests, NDA's interference and continuous pressure from the BJP leaders belonging to SC ST Community, the SC/ST POA Amendment Act, 2018 was passed so quickly in the parliament directly nullifying the judgment instead of coming with some better solution to balance the rights of both the accused and victims (upper and lower communities). The opposition too did not question the bill because of otherwise being said against the SC ST Community leading to riots and weakening of political position.

Conclusion

This caste system is do deep rooted in India that it cannot be done away but it can surely be tried to not let these petty things become a reason that we forget the brotherhood and oneness we share. India cannot move forward until and unless these walls of caste and religion are not shattered from our hearts. Hence, whatever law is passed whatever situation arises it must not be caste specific but according to the needs. The current Act is appropriate for the SCs and STs but there is need of some changes so the accused or the upper class too do not feel it against their rights.

Some of the changes can include lessening the duration of trials, bail on the matters after inquiry, better implementation of act, inclusion of special officers, strict actions against false charges, compensation to be rewarded soon but after making sure that the charge is not false, Some SC ST officer included in the process, etc.

The most crucial thing is upholding the fraternity and ending the discrimination and not to ask for acts for privileges. Hence people themselves should understand that the act is an instrument to protect a specific community and not a political issue to elongate as it is just a tool in ending the discrimination and not to create it.

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