

**COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND
SCHEDULED TRIBES
(1995-96)**

(TENTH LOK SABHA)

FIFTY-THIRD REPORT

**MINISTRY OF LABOUR
AND
MINISTRY OF WELFARE**

Action Taken by the Government on the recommendations contained in the Fourth Report of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes (Tenth Lok Sabha) on the Ministry of Labour and Ministry of Welfare—Reservations for Scheduled Castes and Scheduled Tribes in Private Sector Employment.



*Presented to Lok Sabha on 26.8.1995
Laid in Rajya Sabha on 26.8.95*

**LOK SABHA SECRETARIAT
NEW DELHI**

August, 1995/Bhadra, 1917 (S)

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**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND
SCHEDULED TRIBES
(1995-96)**

Shri Paras Ram Bhardwaj — Chairman

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3. Shri Babu Ram — *Deputy Secretary*
4. Shri Gopal Singh — *Under Secretary*

INTRODUCTION

I, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes having been authorised by the Committee to finalise and submit the Report on their behalf, present this Fifty-Third Report (Tenth Lok Sabha) on Action Taken by the Government on the recommendations of the Committee contained in their Fourth Report (Tenth Lok Sabha) on Ministry of Labour and Ministry of Welfares—“Reservations for Scheduled Castes and Scheduled Tribes in Private Sector Employment”.

2. The Report was considered and adopted by the Committee on 23 August, 1995.

3. The Report has been divided into the following Chapters:

I. Report

II. Recommendations/observations which have been accepted by the Government.

III. Recommendations/observations which the Committee do not desire to pursue in view of the replies of the Government.

IV. Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration.

V. Recommendations/observations in respect of which final replies of the Government have not been received.

4. An analysis of the Action Taken by the Government on the Recommendations of the Committee contained in their Fourth Report is given in Appendix. It would be observed therefrom that out of the 6 recommendations/observations contained in the Report, 2 recommendations *i.e.* 33.33 percent have been accepted by the Government. The Committee do not desire to pursue 1 recommendation *i.e.* 16.66 percent of their recommendations in view of the Government reply. 3 recommendations *i.e.* 50.00 percent in respect of which replies of the Government have not been accepted by the Committee require reiteration and there is no recommendation in respect of which final replies of the Government have not been received.

NEW DELHI ;
August, 1995
Bhadra 1917 (S)

PARAS RAM BHARDWAJ,
Chairman,
Committee on the Welfare of
Scheduled Castes and Scheduled Tribes.

CHAPTER I

REPORT

This Report of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes deals with the action taken by the Government on the recommendations contained in their Fourth Report (Tenth Lok Sabha) on the Ministry of Labour and Ministry of Welfare — Reservations for Scheduled Castes and Scheduled Tribes in Private Sector Employment.

1.2 The Fourth Report was presented to Lok Sabha on 28.4.1992. It contained 6 recommendations. Replies of the Government in respect of these recommendations have been received and have been categorised as under:

- (i) Recommendations/observations which have been accepted by Government. (Sl. Nos. 1 and 2).**
- (ii) Recommendations/observations which the Committee do not desire to pursue in the light of the replies received from the Government. (Sl. No. 4)**
- (iii) Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration (Sl. Nos. 3, 5 and 6)**
- (iv) Recommendations/observations in respect of which final replies of the Government have not been received.**

NIL

1.3 The Committee will now deal with those Action Taken replies of the Government which need reiteration or merit comments.

Recommendation (Sl. Nos. 3, 5 and 6, Paras 1.39, 1.42 and 1.43)

1.4 In para 1.39 of the 4th Report of 10th Lok Sabha, the Committee had observed serious consequences of new economic policy on SCs & STs and stated that it is essential to take up immediate measures for (a) ensuring that the reservation policy in employment covering the Government and public sector is extended to cover all new employment opportunities in that segment of economic activity which is handed over to the private sector by the Government (b) extending the reservation policy in all such industrial service and trading organisations, which receive any type of assistance from the Government in the shape of loans from financial institutions, subsidies from the Central and State Governments, concessions in the form of land allotment or other incentives from the Government (c) ensuring that any retrenchment of the staff working in the Government and public sector organisations as a consequence of the new economic policy or economy measures, does not adversely affect the interests of SC/ST and render the employees belonging to these categories unemployed (d) taking immediate steps to implement the above mentioned recommendations without any delay and in a time bound frame work .

1.5 In view of the above observations the Committee recommended in para 1.42 that the decision taken by the Government in July, 1990 that reservation need not be extended for SCs/STs in respect of private sector at that stage needs to be reviewed in the light of new economic policy.

1.6 On the point of constitutional amendment to provide reservation for SCs & STs in private sector, the Committee had recommended in para 1.43 that instead of relying on the legal advice given far back in 1983 the matter should be thoroughly examined afresh, as promised by the Secretary of the Ministry of Labour during evidence, taking into consideration the developments since then and the views held by the former Minister of Welfare.

1.7 In their action taken note, the Ministry of Labour have stated that extension of reservation policy for SCs & STs in private sector employment requires amendment in certain articles of the Constitution, the matter was referred to Ministry of Law and Justice, Government of India, to obtain their legal opinion. The opinion of the Attorney General of India to whom the matter was referred to by the Ministry of Law & Justice, has been received in the DGE&T, Ministry of Labour, through that Ministry i.e. Ministry of Law & Justice. The Attorney General of India has held that the "legislation for reservation in the private sector is constitutionally not in order".

1.8 The Committee are not satisfied with the reply furnished by the Ministry of Labour, Government of India. The Ministry of Welfare (*vide* para 1.13 of Original Report) has stated that provision may be made for reservation for SCs & STs in the matter of appointment to services under the private sector. This has been supported by Article 16 (4) of the Constitution which permits the State to make the provision for the reservation in appointments or posts in services in favour of any backward class which in the opinion of the State, is not adequately represented in the services under the State.

1.9 The subject of reservation in private sector was also considered by a Committee set up by the Ministry of Labour (*vide* para 1.15 of original report) in 1978 under Shri P. C. Mathew on National Employment Service which recommended that it would be desirable that reservation of jobs for the disadvantaged categories of SCs and STs and physically handicapped are extended to private sector also and that the reservation should be made statutory. Any technical difficulty should be overcome by amending the Constitution.

1.10 The recommendation of the Mathew Committee was considered and endorsed by Ministry of Labour (*vide* para 1.16 of original report).

1.11 Keeping in view the recommendation given by the Committee in their 41st Report (5th Lok Sabha), its reiteration in the 18th Report (6th Lok Sabha) and the recommendation of the Mathew Committee, the Committee reiterate its recommendation of implementation of reservation for SCs & STs in private sector and strongly feel that legislation should be enacted to give effect to these recommendations as has recently been done in case of implementation of Reservation in promotion under 77th Constitution amendment.

CHAPTER II

RECOMMENDATIONS / OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 1 Para No. 1. 34 and 1. 35 Page No. 14)

The new economic policy, as envisaged, aimed at liberalisation of the economy will have its impact on the socio-economic conditions of various sections of the society. It is in this context that its consequences on the poorer sections of society, particularly the Scheduled Castes and Scheduled Tribes have to be Considered carefully. The founding fathers of the Constitution were fully aware of the educational and economic backwardness of these two vulnerable sections of our society. Hence, they made special provisions in the Constitution providing for a positive discrimination in their favour so as to integrate them with the mainstream of the Indian Society. The most important of these provisions is on the reservation in services of the Central and State Governments in terms of Article 16 (4) of the Constitution. This provision has been extended to cover employment opportunities in the Railways and all other public sector institutions/industrial services and trading corporations operating either as companies under the Companies Act or under an Act of Parliament or State Legislature.

The operation of the new economic policy will reduce the economic activity in the Government and public sector organisations substantially. There will be reduced employment opportunity both in the Government and public sector in future. Privatisation of the economic activity is the corner stone of the liberalisation process. Thus, the Constitutional provisions regarding reservation in Government services would become operationally inconsequential to make any impact on the economic conditions of the Scheduled Castes and Scheduled Tribes. The encouragement to and incentives for the foreign and multinational investment in Indian economy coupled with privatisation of the public sector and the economy in Government expenditure would leave the Scheduled Castes and Scheduled Tribes in a helpless situation in the employment market unless adequate and immediate measures are adopted to correct the emerging imbalance in this regard.

Recommendation (Sl. No. 2 Para 1. 36, 1.37 and 1.38 Page No. 15)

The Committee recognising the immense employment potentials in private sector had recommended in their 41st Report (5th Lok Sabha) that reservation in services for SCs and STs should be extended to private enterprises. It was reiterated in the 18th Report (Sixth Lok Sabha) of the Committee also and it was desired that legislation should be enacted to give effect to this recommendation. This issue has now assumed added importance in the present context of restructuring of economy when it is contemplated to restrict the sphere of public sector and open the economy to private sector on an increasing scale.

The Committee were informed that this issue was also considered by the Committee on National Employment Service (popularly known as Mathew Committee). That Committee, recommended that it would be desirable that reservation of jobs for the disadvantaged categories of SCs and STs and physically handicapped are extended to private sector also and that the reservation should be made statutory. Any technical

difficulty should be overcome, if necessary, by amending the Constitution to extend the coverage of article 31(C) to legislation in pursuance of Article 46. This recommendation was also considered by a high powered Committee set up by the Ministry of Labour and that Committee had also endorsed it. In order to take the requisite further action, legal opinion was solicited. Somehow the legal position as was then conveyed to the Ministry was that it would not be possible under the constitutional framework to provide any changes which would enable them to extend reservation to private sector also. The Ministry accepted that position. The Committee were however informed by the Ministry of Welfare that the matter was also examined in that Ministry. The Minister of Welfare held discussions with all concerned and took the view that reservations could be made in private sector under Article 46 read with Article 15(4). The Ministry of Welfare submitted a note to the Cabinet for providing reservations in private sector.

However, on 19.7.1990 Cabinet decided that the reservations need not be extended to private sector establishment at that stage.

The Secretary, Ministry of Labour, however, assured the Committee during evidence that although earlier the legal opinion was that they could not extend reservation in private sector but certainly based on whatever has transpired since then, the ways the constitutional law had developed and based on the guidance of this Committee, this issue would certainly be considered again.

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT REPLIES

(Recommendation Sl. No. 4; Para No. 1.40 & 1.41)

The economy measures to reduce the Government expenditure might result in reduced allocation for welfare schemes for the poor, handicapped and depressed people, including the Scheduled Castes and Scheduled Tribes. Past experience of the economy measures strengthens this suspicion. The Committee, therefore, urge that the Government should ensure that the economy measures are so designed as not to affect the interest of these sections of society. For this purpose the Committee stress that it may be ensured:

- (a) that the allocations for welfare schemes in the Central and State budgets are in no case less than those made for the financial year 1991-92;
- (b) that grant-in-aid institutions, including the educational institutions, follow the reservation policy in letter and spirit and do not attempt to circumvent the constitutional provisions in respect of SC/ST by diverting the grants to such activities as are not covered by these constitutional provisions.

In Committee's opinion it would not be enough to make only policy statements in respect of the suggested measures. What is required and needs to be done immediately, lest a serious damage is caused to our social structure, is to give statutory shape and sanction to these measures and commitment to implement them should be made in unequivocal and categorical terms in the Parliament. For this purpose, if it is found necessary to amend the Constitution, required legislation should be enacted urgently.

Reply of the Government

Reservation Policy applies equally to Government Department and Public Sector Undertakings. However, no such reservation, concessions or relaxations are available to SCs and STs in Private Industries. The new economic policy introduced, with a view to improve efficiency and productivity, will definitely lead to shrinkage in employment causing adverse effect in the share of job reservation for STs and SCs. In view of the changing situation, steps are being taken to increase efficiency, abilities and capabilities of SC/ST employees through suitable coaching/training schemes so as to enable them to compete with the general persons for employment in all sectors including Government as well as Private Sector.

In the Ministry of Welfare, the budget allocations for SCs/STs and Handicapped persons has been as follows:—

		(Rupees in Crores)		
S. No.	Allocations for SCs/ STs and Handicapped	1991-92	1992-93	1993-94
		(Central Sector Plan)		
1	2	3	4	5
1.	Scheduled Castes	369.46 (BE)	391.63	473.17
2.	Scheduled Tribes	24.62 *9.67	24.62 *10.50	30.00 *15.83
3.	Handicapped	38.00	38.00	41.00

* The provision for the scheme Post Matric Scholarship for Scheduled Tribes is handled by SCD Division.

In this context, the Ministry of Human Resource Development (Deptt. of Education) have also stated that the following budget allocations have been made under the two schemes:—

S. No.	Name of the Scheme	1991-92	1992-93	1993-94
		(Rupees in Lakhs)		
(i)	Scheme of upgradation of merits of SC/ST students by extra coaching	55	55	55
(ii)	Budget allocations for the Centrally Sponsored Schemes of Integrated Education of Disabled Children	400	350	450

As regards Implementation of the reservation orders in admissions of SCs/STs, the Deptt. of Education has been issuing instructions to the Institutions receiving grant-in-aid to strictly implement the reservation orders.

Besides this Ministry, the National Commission for SCs & STs, DOPT, Ministry of Finance and Ministry of Industry (BPE) are monitoring the implementation of Govt.'s policy on reservation. For more effective implementation of prescribed Rules/Orders on reservation, Govt. is also contemplating to introduce a legislative Bill on Reservation Policy in the Parliament soon.

5. The Department of Personnel & Training has indicated that "Action for implementing the recommendations of the Committee in the matter of safeguarding the interests of SC/ST employees, can be initiated only after a clear picture of new economic policy is known".

6. The Department of Economic Affairs have indicated that "Bank do not fix year-wise targets for providing financial assistance to various categories of borrowers. However, Public Sector Banks have been asked to raise a proportion of their credit to priority sector to 40% of their total advances. Direct finance extended to agriculture (including allied activities) is to reach 18% of their total credit. The advances to weaker sections, which comprise small and marginal farmers, tenants farmers, share croppers, landless labourers, artisans and village and cottage industries; IRDP beneficiaries; persons belonging to SC/ST communities; Differential Rate of Interest (DRI) Schemes, beneficiaries and beneficiaries of Schemes for Urban Micro-Enterprises (SUME) are to reach a level of 10% of their total credit or 25% of the priority sector advances.

The public sector banks are under instructions of the Government and Reserve Bank of India (RBI) to extend financial assistance to weaker sections of the society and to Scheduled Castes/Scheduled Tribes beneficiaries on an ongoing basis. In the various schemes/programmes of the Government to promote self-employment ventures, the following targets have been prescribed for weaker sections of the society and SC/ST beneficiaries in the matter of lending by public sector banks.

<i>Scheme</i>	<i>Targets</i>
(i) Weaker Section	10% of net bank credit to weaker sections, SC/ST form part of weaker sections.
(ii) Differential Rate of Interest at 4% rate of Interest (DRI)	1% of net bank credit of previous year's advances out of which 40% should be the share of SC/ST.
(iii) Integrated Rural Development Programme	50% of the amount should be for SC/ST.
(iv) Self-Employment Scheme for Educated Unemployed Youth (SEEUY)	30% of the beneficiaries should be SC/ST.
(v) Scheme for Urban Micro Enterprises (SUME)	Under the Scheme, which started on 15th June, 1990. No targets for SCs/STs have been fixed. However, SCs/STs are to be given weightage in proportion to their population share in total urban population for providing 'assistance under the scheme. Self-employment Programme for Urban Poor (SEPUP) has since been merged with SUMU from the year 1992-93.

The performance of public sector banks in the matter of lending to SCs/STs under priority sector for the period ending December, 1986 and June, 1992 (latest available) is indicated below:—

Particulars	Accounts in Lakhs Amounts in Rs. Crores			
	December, 1986		June, 1992	
	Accounts	Amt.	Accounts	Amt.
1. Advances to Priority sector	262	23811	357	44995
2. Advances to Weaker Sections	189	5890	249	10948
3. Advances to SC/ST	65	1596	92	3805
4. Percentage share of SC/ST borrowers				
(a) in Priority sector	25.0	6.7	25.7	8.5
(b) in Weaker sections	34.6	27.1	36.9	34.8

From the above position it may be observed that in a period of about 5 years, the outstanding advances to SC/ST has increased by about Rs. 2200 crores and number of accounts have also increased by about 27 lakhs.

It is felt that the above policy measures would serve, to channalise the flow of bank credit to weaker sections and separate legislative measures may not be necessary for the same.

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation (Sl. No. 3 Para No. 1.39)

In Committee's view, it is essential, rather imperative, to take up immediate measures for:—

- (a) ensuring that the reservation policy in employment covering the Government and public sector is extended to cover all new employment opportunities in that segment of economic activity which is handed over to the private sector by the Government.
- (b) extending the reservation policy in all such industrial service and trading organisations, which receive any type of assistance from the Government in the shape of loans from financial institutions, subsidies from the Central and State Governments, concessions in the form of land allotment or other incentives from the Government.
- (c) ensuring that any retrenchment of the staff working in the Government and public sector organisations as a consequent of the new economic policy or economy measures, does not adversely affect the interests of SC/ST and render the employees belonging to these categories unemployed.
- (d) taking immediate steps to implement the above mentioned recommendations without any delay and in a time bound frame work.

Recommendation (Sl. No. 5 Para No. 1.42 Page 19)

The decision taken by the Government in July 1990 that 'reservation need not be extended for SCs/STs in respect of private sector at that stage' *needs to be reviewed* in the light of new economic policy.

Recommendation (Sl. No. 6 Para No. 1.43 Page 19)

As regards the question whether the Constitution could be amended to provide for reservation for SCs/STs in private sector, the Committee recommend that instead of relying on the legal advice given far back in 1983 the matter should be thoroughly examined afresh, as promised by the Secretary of the Ministry of Labour during evidence, taking into consideration the developments since then and the views held by the former Minister of Welfare as given in para 1.13 of this Report.

Reply of the Government

The above recommendations contained in the Fourth Report (Tenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes for extension of reservation policy for scheduled castes and scheduled tribes in private sector employment were examined in the DGE&T, Ministry of Labour, Govt. of India, New Delhi-110001. Since the extension of reservation policy in private sector employment requires amendment in certain articles of the Constitution, the matter was referred to

Ministry of Law & Justice, Govt. of India, New Delhi-110001, to obtain their legal opinion. The opinion of the Attorney General of India to whom the matter was referred to by the Ministry of Law & Justice, has been received in the DGE&T, Ministry of Labour, through that Ministry *i.e.* Ministry of Law & Justice. The Attorney General of India has held that the "legislation for reservation in the private sector is *constitutionally not in order*". The Ministry of Labour, Govt. of India, New Delhi, endorses this opinion given by the Attorney General of India, in the matter.

(Ministry of Labour, Govt. of India, New Delhi O.M. No.DGE&T-H-11016/3/92-LS-I dated 5.5.93)

Comments of the Committee

Please see para 1.11 of Chapter-I of the Report.

CHAPTER V

**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL
REPLIES OF THE GOVERNMENT HAVE NOT BEEN RECEIVED**

— NIL —

NEW DELHI ;
August, 1995

Bhadra 1917 (S)

PARAS RAM BHARDWAJ,
Chairman,
Committee on the Welfare of
Scheduled Castes and Scheduled Tribes.

APPENDIX

(*vide para 4 of the Introduction*)

Analysis of the Action Taken by the Government on recommendations contained in the 4th Report (Tenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes.

1.	Total number of Recommendations	6
2.	Recommendations/Observations which have been accepted by the Government (<i>vide</i> recommendation Sl. Nos. 1 and 2).	.
	Number	2
	Percentage to total	33.3%
3.	Recommendations/Observations which the Committee do not desire to pursue in view of the Government replies (<i>vide</i> recommendation of Sl. No. 4)	
	Number	1
	Percentage to total	16.7%
4.	Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration (<i>vide</i> recommendation Sl. Nos. 3, 5 and 6)	
	Number	3
	Percentage to total	50%
5.	Recommendations/Observations in respect of which final replies of the Government have not been received (<i>vide</i> recommendation Sl. No. NIL)	
	Number	NIL
	Percentage to Total	NIL