



Educational rights of scheduled castes and scheduled tribes

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Abstract

Education is very essential for the development of our society. It is also the best medium for the upliftment of those people who are neglected by the society. "The more educated the people living in that country, the greater the development in their economy." So making each and everyone educated especially the weaker sections of the society like the Scheduled Castes and the Scheduled Tribes is the most essential criteria for making the country more developed. In the year 1961, about 90 percent of the Scheduled Castes and the Scheduled Tribes were illiterate. The literacy rate of the Scheduled Castes and the Scheduled Tribes increased to 66.1 percent and 59 percent as per the 2011 census. Our Indian constitution provides us with many provisions related to education through which the government of India is obligated to ensure the proper education of all. Out of all these provisions article 15 and article 46 of the Indian constitution mainly deals with the education of the Scheduled Castes and the Scheduled Tribes. The government took many initiatives for the betterment of the people belonging to the weaker sections of the society to ensure that each and everyone get education inspite of their poor financial conditions. Earlier the students used to face many problems in various educational institutions, but now the scenario has changed and they are also given equal opportunities in the field of education. There is also an increase in the employment sector. Therefore, by the introduction of the modern education system the Scheduled Castes and the Scheduled Tribes are benefited a lot and their upliftment had eventually helped in the developmental process of our country.

Keywords: education, Indian constitution, literacy rate, upliftment, government initiatives

Introduction

Education is very essential for the development of the society. It is also the best medium for the upliftment of those people who are neglected by the society. An educated person is well aware of all his rights and duties towards one another. He is also aware of all the necessary things going around him. "The more educated the people living in that country, the greater the development in their economy." So making each and everyone educated especially the weaker sections of the society like the Scheduled Castes and the Scheduled Tribes is the most essential criteria for making the country more developed.

Aldous Huxley has remarked, "If your aim is liberty and democracy, then you must teach people the art of being free and end of governing themselves." This refers to the social conditions of India after its independence and it being a democratic country has made several statutes for the upliftment of the backward classes and reduce social inequality. The constitutional provisions has tried to neutralize the social discriminations and put all the communities at par with each other.

According to Kothari Commission (1964-66), "One of the important social objectives of education is to equalize opportunity, enabling the backward or underprivileged class to use education as a means to improve their condition." This tells us that the development of the backward classes and the reduction of inequality is the very way by which the democracy in India can flourish.

The decision of the supreme court in Unnikrishnan V. state of A.P., (1993) 1 SCC 645 where, "the court has confirmed that right to education is implicit under Article 21 and proceeded to identify the content and parameters of this right to be achieved by Articles 41, 45, and 46 in relation to education." In this context, Article 46 not only protects the weaker section of the society, and it makes it at par with the scheduled castes and the scheduled tribes.

The expression 'educational and economic interest' mentioned in Article 46 stated that the State must endeavour to do welfare especially of this section of people. Article 46 and Article 21 makes it obligatory on the state to achieve the goal of the welfare of the weak sections of the society.

Educational status of Scheduled Castes and Scheduled Tribes

Indians are divided into four main classifications; Scheduled Castes, Scheduled Tribes, Other Backward Class and General. Out of these in India, the Scheduled Castes and the Scheduled Tribes are the most disadvantaged sections of our society.

According to Article 341 (1), “the President 1[may with respect to any State 2[or Union territory], and where it is a State 3, after consultation with the Governor 4thereof,] by public notification⁵, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State 6[or Union territory, as the case may be.]”

According to article 342 (1) “The President 7[may with respect to any State or Union territory, and where it is a State 8, after consultation with the Governor 9 thereof,] by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.”

The Scheduled Castes are mostly found in the states of Punjab, Uttar Pradesh, Himachal Pradesh, west Bengal and Haryana. Whereas the Scheduled Tribes are mostly found in the north-eastern states and the states of central India.

In the year 1961, the Scheduled castes and the Scheduled tribes constituted more than 90 percent of the rural population of the country. In 1991, more than 80 percent of scheduled castes and Scheduled tribes population lived in rural areas. The situation has improved and a lot of people are living in the urban areas.

The literacy status of the Scheduled Castes and the Scheduled tribes is very low about 90 percent of scheduled castes and Scheduled tribes were illiterate in the year 1961. There was an increase in the literacy rates of the total population from 16.7 percent in 1951 to 65.2 percent in 2001. The literacy rate of the scheduled castes increased from 10.4 percent in 1961 to 45.2 percent in 2001 and later increased to 66.1 as per the 2011 census and that of Scheduled Tribes from 8.5 percent in 1961 to 38.4 percent in 2001 which has later increased to 59 percent as per the 2011 census.

“As per Periodic Labour Force Survey (PLFS) report 2017-18 published by Ministry of Statistics and Programme Implementation, literacy rate for STs is 67.7% and corresponding figure over all is 76.9%. The PLFS 2018-19 report reveals an improvement in literacy rate of STs at 69.4% as compared to 78.1% over all.”

Women of these groups were mostly illiterate. The literacy rate of scheduled caste women in the year 2001 was only 34.6 as against the male who has a literacy rate of 55.1 percent. Again the literacy rate of the Scheduled tribe women in the year 2001 was only 28.4 percent and that of the male members were 48.3 percent.

Constitutional provisions regarding education

Our Indian constitution provides us with many provisions related to education through which the government of India is obligated to ensure the proper education of all. The provisions are as follows:

1. Article 15 (4), 15 (5): Educational and social advancement of backward classes.
2. Article 21 A: Right to education.
3. Article 25, 28(1), 28 (2), 28 (3): Religious education.
4. Article 29: Protection of education and economic interests of SC, ST and other weaker sections.
5. Article 30: Right of minorities to establish and administer educational institutions.
6. Article 45: Right to free and compulsory education for children until they complete the age of six years.
7. Article 46: Promotion of education and economic interests of Schedule Castes, Scheduled Tribes and other weaker sections.
8. Article 51 A: Provides for fundamental duties so as to strive for excellence.
9. Article 350 A: Instruction in mother-tongue at the primary stage.
10. Article 351: Directives for the promotion and development of the Hindi language.

Out of all these provisions article 15 and article 46 of the Indian constitution deals with the education of the scheduled castes and the scheduled tribes in India.

Article 46 states that, “The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.”

This article mainly deals with the education of the scheduled castes and the scheduled tribes.

In *Mohini Jain V. state of Karnataka* (AIR 1992, SC 1858), the petitioner miss Mohini Jain, was denied admission because of high capitation fee of rupees four and half lakhs per annum in private medical college in Karnataka. The Supreme Court held that, “the right to education at all level is a fundamental right under article 21 of the constitution and charging capitation fee for admission illegal and amounted to denial of citizens’ right to education.”

State of Madras V. Champakam Dorairajan (AIR 1951 SC 226), is a landmark decision of the supreme court of India. After this judgement, the constitution of India was amended for the first time. It was the most important judgement regarding the process of reservation in India. The Supreme Court upheld the judgement of the Madras High Court, and held that the caste based reservation in India by the Government Order of 1927 in the madras presidency was in violation of the Article 29(2) of the constitution, and the system of caste based reservation was abolished.

Avinash Mehrotra v. Union of India & Others, Writ Petition (Civil) No.483 of 2004, (2009) 6 SCC 398, The Supreme Court decided that, “there is a fundamental right to receive education free from fear of security and safety, and the right to education incorporates the provision of safe schools pursuant to Articles 21 and 21A of the Constitution. No matter where a family seeks to educate its children (i.e. including private schools), the State must ensure that children suffer no harm in exercising their fundamental right to education.”

In regards with this, Dalveer Bhandari, J. reasoned: 'Educating a child requires more than a teacher and a blackboard, or a classroom and a book. The right to education requires that a child studies in a quality school, and a quality school certainly should pose no threat to a child's safety.'

Three major commissions are set up by the central government after the independence for the formulation of various policies and programmes regarding the education are as follows:

1. University Education Commission, 1949.
2. Secondary education Commission, 1952.
3. University Grants Commission, 1964.
4. Kothari commission, 1964.

Development of Scheduled Castes and Scheduled Tribes in the field of education

The government took many initiatives for the betterment of the people belonging to the weaker sections of the society to ensure that each and every one get education in spite of their poor financial conditions.

The important schemes initiated by the government for the promotion of education of scheduled castes or scheduled tribes are as follows:

1. Opening of schools in tribal habitations.
2. Removal of tuition fees in government schools upto elementary level in all states.
3. Providing the scheduled castes and scheduled tribes' students, with free text books, stationary and school bags.
4. Providing free uniform to scheduled castes and scheduled tribes girls.
5. Mid-day-meals are provided.
6. Giving pre matric and post matric scholarships to all the scheduled castes and scheduled tribes students.
7. Giving scholarships for higher education in Abroad.
8. Opening ashram schools for tribes living in remote areas.
9. Hostels are provided for scheduled castes and scheduled tribes boys and girls at the post primary and the secondary level.
10. Girls belonging to the scheduled castes are provided with special educational development programmes.
11. Sits are reserved for scheduled castes and scheduled tribes' students at various institutes for higher education.
12. Relaxation in the minimum cut-offs in qualifying for the different institutes
13. Scheduled castes and scheduled tribes students are provided with special coaching to improve their academic skills and linguistic proficiency so that their level of comprehension is raised.
14. Reservation in general hostels.
15. Reservation in scholarships.

Thus this provisions had a huge impact on the literacy rates of these sections of the society, and it has led to huge spike in the literacy rates of the scheduled castes and scheduled tribes' communities.

Problems in various educational institutions

The scheduled castes and scheduled tribes students were earlier deprived of many of their human rights but the reason of their deprivation was different. The Scheduled Castes were considered untouchables before the independence and the commencement of the constitution. They were assigned a low place in the Hindu caste system. For many centuries they were denied of their right to education due to which they suffered from poverty, ignorance and has lost their faith in themselves.

On the other hand the Scheduled tribe people lived in the rural areas and remain untouched from the development process for a long time due to which they developed their own culture and belief which they wanted to preserve.

The problem lies with the society, although the Scheduled Castes people want to integrate with the society, the society won't integrate with them whereas the scheduled tribe people who wants to keep them separated from the integration process are reached by the society for integration.

Due to these factors initially the Scheduled castes and scheduled tribes students faced a lot of problems in the educational institutes. They were neglected and were not taken proper care. But now the scenario has changed and they are also given equal opportunities in the field of education.

Changes in the level of employment

The levels of education of all social groups have increased a lot over the last few decades. The other backward category and the general category have somewhat similar education pattern in the present time. Among the scheduled castes and the scheduled tribes there is also a sharp increase in the level of education of young men and women beyond primary schooling. There is also a uniform increase in the higher education level of the scheduled castes and the scheduled tribes because of the reservation of seats in various higher education institutions. As we know that the educational level is directly proportional to the employment level so the increase in the level of education eventually will cause an increase in the level of employment. Thus the employment level has also shown an increase after the introduction of various policies and programmes for the scheduled caste and the scheduled tribes due to which their education level has also become better. Many of the

scheduled caste and the scheduled tribes' people are now employed in various high posts with a good salary and are now in a respectable position in the society. They now have equal social status similar to the other category people and their conditions are now much better than earlier.

The Supreme Court in *Devadason v. Union of India* (AIR 1964 SC 179), by a majority of 4 to 1 struck down "the carry forward rule as unconstitutional on the ground that the power vested in Government under Article 16(4) could not be exercised so as to deny reasonable equality of opportunity in matters of public employments for members of classes other than backward." The Court said that "each year of recruitment must be considered by itself and the reservation for the backward communities each year should not be excessive so as to create a monopoly or to interfere unduly with the legitimate claims of other communities. Accordingly, the Court held that the reservation ought to be less than 50 percent, but how much less than half would depend upon prevailing circumstances of each case."

The Supreme Court in *Indra Sawhney v. Union of India* (AIR 1993 SC 477), overruled *Devadason v. Union of India* and held that "the carry forward rule valid so long as it did not in a particular year exceed 50 percent of vacancies. Only in certain extraordinary situation prevailing in a State the 50 percent limit can be exceeded.

The Supreme Court in *State of Kerala v. N.M. Thomas* [AIR 1976 SC 490 : (1976) 2 SCC 310], by a majority of 5:2 held that "the classification of employees belonging to Scheduled Castes and Scheduled Tribes for allowing them an extended period of two years for passing tests for promotion from other classes of employees was a just and reasonable classification having rational nexus to the object of providing equal opportunities for all citizens in matters relating to employment or appointment to the public office."

Conclusion

The scheduled castes and scheduled tribes constitute the major section of the society. These two sections were denied of many of their rights for many centuries, the most important one being the right to education. But after the various initiatives taken by the government their position in the society has gone through a drastic change due to the increase in the literacy rates. Most of the people of these sections are now well educated and are given equal opportunities in various fields as the other sections of the society. Their condition in the society has improved a lot due to their advancement in the field of education.

This advancement in the field of education has also improved their financial condition. Most of the scheduled caste people who were earlier engaged in low level works are now doing jobs of high rank and the scheduled tribe people who were earlier living in the rural areas are now slowly moving to the urban areas so that their children gets quality education. Therefore, by the introduction of the modern education system the scheduled castes and the scheduled tribes are benefited a lot and their upliftment had eventually helped in the developmental process of our country.

References

1. Literacy Rate of Scheduled Tribes – Shri Mahadeo Singh Khandela.
2. Government is Implementing a Number of Schemes / Programmes to Increase Literacy Rates and Education Level of STs – Shri Arjun Munda.
3. Avinash Mehrotra v. Union of India.
4. Constitutional Provisions on Education in India – physicscatalyst.com
5. Scheduled Caste Welfare in India – Ministry of Social Justice and Empowerment.
6. Constitutional provisions for development of Scheduled Tribes – National Commission for Scheduled Tribes.
7. Educational Provisions For Scheduled Caste / Scheduled Tribe – Radhika Agarwal.
8. Educational levels of SC, ST, OBC rising. A new study looks at caste gap in jobs, income too – Vidya Mahambare, Sowmya Dhanaraj and Sankalp Sharma.
9. Education of Scheduled caste and Scheduled tribes – egyankosh.ac.in
10. Literacy in India : Steady march over the years – Ministry of Human Resource Development.
11. Article 46 cases – indiankanoon.org
12. The Constitution of India.
13. Constitutional law of India – Dr. J.N. Pandey – Page no.: 180, 181, 377.
14. Constitutional law of India – Wadhwa
15. Scheduled Castes and Scheduled Tribes, Protection of Atrocities Act.