

CASTE CENSUS IN BIHAR: MANDLA 2.0?

Rashi Kaushik*

ABSTRACT

Recently the Bihar government on October 2, 2023 published the 'Bihar Caste Baste Survey 2022'. Several pleas were made to SC to stop the publication of this survey but the apex court said it can not stop the Bihar Government from publishing its details by saying it cannot interfere in the State's policymaking decision¹. The allegations were made on the basis that it was politically motivated and is also violative of article 21. It was also alleged that Bihar government didn't have the power to do so. The Bihar government stated that purpose of Caste Census is being done in the interest of social justice.

Keywords: Caste Census, Policymaking, Social Justice.

INTRODUCTION

Bihar had conducted its last official census that collected the full caste data was in 1931.

The Bihar government, before conducting this 2022 survey stated that estimating the population of Other Backward Classes correctly was difficult at that time, given that the census does not collect data on every Indian's caste.

Therefore, exponents of the caste-based census argue that the exercise is necessary to channel welfare policies and implement schemes according to the population. Bihar government stated by emphasising on the point that it is a big aim of theirs that The scientific data to be collected through caste-based survey would facilitate in preparing state budget tailored for welfare of oppressed classes and better implementation of welfare schemes.

Nitish Kumar had previously also demanded the removal of 50% cap from the reservation. "But it is high time that the limit of 50% be raised. He stated that the cap is depriving OBCs [Other Backward Classes] and EBCs [Extremely Backward Classes] of opportunities in proportion to their population." Conducting a caste-based census had been a long-standing

*LLB, SECOND YEAR, LAW CENTRE II, FACULTY OF LAW, UNIVERSITY OF DELHI.

¹ Youth for Equality v. State of Bihar SLP© NO. 16970/2023

demand and resolutions for this were passed unanimously by Bihar's Legislative Assembly in 2018 and 2019.

Demands for such an exercise raised by Kumar, one of the Mandal movement's leaders in the 1990s, was a thorny issue between his Janata Dal (United) and the BJP when they were allied until August. In 2021, a state delegation had also met Prime Minister Narendra Modi to demand such an exercise across the country. However, this demand was rejected by the BJP-led Union government. Bihar's Mahagathbandhan government then went ahead with the exercise at the state level.

WHAT IS CASTE CENSUS?

Enumerating, describing, and understanding the population of society and what people have access to, and what they are excluded from is important not only for social scientists but also for policy practitioners and the government.

- In this regard, the Census of India, one of the largest exercises of its kind, enumerates and collects demographic and socio-economic information on the Indian population.
- However, the critiques of the exercise of the census consider it as both a data collection effort and a technique of governance, but not quite useful enough for a detailed and comprehensive understanding of a complex society. They suggest regular conduct of Caste Census in order to understand the societal structure completely.
- It is indeed strange that while caste plays such a dominant role in our social, economic and political life, no credible and comprehensive caste data exists for more than half the population of our country. But the conduct of the Caste census itself has garnered resistance from within the society/critics that it may accentuate caste-based discrimination and violence.

PROVISION GIVEN IN CONSTITUTION

Our Constitution too favours conducting a caste census. Article 340 mandates the appointment of a commission to investigate the conditions of socially and educationally backward classes and make recommendations as to the steps that should be taken by governments.

PROCEDURE FOR THIS CASTE SURVEY

The survey was carried out in two phases, which each had its own criteria and objectives.

First Phase: During this phase, the number of all households in Bihar were counted and recorded. Enumerators were given a set of 17 questions which were to be mandatorily answered by the respondent.

Second Phase: During this phase data on people living in the households, their castes, sub-castes, and socio-economic conditions were collected. However, filling the Aadhaar number, caste certificate number and ration card number of the head of the family, were optional.

FINDINGS OF THE SURVEY

The survey shows that the EBCs with 112 castes comprise the largest chunk of the population in the State with a 36.01% share; with 29 castes and a 27.12% share, the OBCs are the second largest contingent of the population. The Yadavs, with a 14.26% share, is the dominant caste in the OBC group. The Scheduled Castes population is pegged at 19.65% while the number of the general unreserved population is 15.52%.

ANALYSIS OF THE REAL REASON BEHIND THIS CASTE CENSUS

Though it is stated by the Bihar government that this survey was conducted for public good but many fingers are pointing out that this may be politically motivated. Some people even filled a bunch of pleas in the Supreme Court against its publication. It is being alleged that since the elections are coming, it could be a step to do the caste-based politics to gain more vote which is not a new thing for Indian political scenario. With the general elections just months away, the caste survey of Bihar has been looking like a move to get an edge over their rival party's Women's Reservation Act.

A widespread belief exists that backward classes in India have been undercounted and hence denied their proportionate share of benefits. It is believed that Mahagathbandhan have been keen on caste census given that a large chunk of their voters belong to this segment as well as the fact that caste equity is the basic ideology of Rastriya Janata Dal party.

The journalist and author Saba Naqvi quoted regarding this, "The RJD could find that the so-called dominant OBC groups such as Yadavs may not have had a population growth that matches some smaller EBC communities, Yet, the RJD would be willing to bite the bullet as it is fundamentally a Mandal-era party whose primary ideology is social justice".²

² Saba Naqvi in her column on Bihar Caste Census

REPORT'S IMPACT ON RESERVATION QUOTA IN BIHAR

It is quite clear that the reservation quota will be increased in the Bihar, as stated by RJD chief Lalu Yadav, as per the population proportion which has come out in the survey report. Mhagathbandhan leaders have been kept saying "Jiski jitni bhagedari, utni hissedari (greater the population, greater the share), which can be understood as a hint that it will definitely result in increasement of reservation quota. On the other hand, it was getting criticised as some people believe, this survey is not accurate. The census report is likely to pave the way for the political demand for doing away with the 50% ceiling on reservation imposed by the Supreme Court.

The impact of this survey was so wide that it has created a debate over reservation in whole nation. This has also turned into a debate between backward v. forward.

History of Reservation System in India:

The History of the Reservation System in India passes many stages as follows -

- The State pursues reservation as a policy to some extent to rectify past injustices done to particular castes by the so-called "higher castes." The Indian caste system has isolated many "lower castes" from the mainstream, limiting their growth. The consequences are still being noticed to a significant extent
- The original Indian Constitution only provided for legislative quotas and only for ten years till 1960 (article 334). Subsequent constitutional changes prolonged the time of quota reservation in legislatures.
- Reservation measures in educational institutions and government jobs under articles 15(4) and 16(4) were also added subsequently through Changes To the constitution³ The reservations mentioned in articles 15(4) and 16(4) have no temporal restriction on their validity
- Initially, reservations were confined to SC and ST [articles 15(4) and 16(4)]. Later, OBCs were introduced to the reservation list in 1991 [Article 15(5)]. In 2019, Economically Weaker Sections are now covered [Articles 15(6) and 16(6)]

The Purpose of Reservation in India:

The two primary purposes of reservations in India, according to the constitution as follows-

³ Mandal Commission case (Indira Swahney & others v. Union of India, AIR 1993 SC 477)

- Progress of Scheduled Castes (SC) and Scheduled Tribes (ST) OR any socially and economically backward groups of people (Eg: OBC) OR financially deprived sections (EWS) – Articles 15 (4), 15 (5), and 15 (6) (6)
- Proper participation of any backward class of people OR economically disadvantaged sections (EWS) in State services. – Article 16 (4) and Article 16 (5) (6)

The Extent of Reservation in India:

The extent of Reservation in India is available in the following causes:

- Government Educational Institutions as described in Article 15 (4), (5), and (6)
- Government Employment as defined in Articles 16 (4) and (6) (Parliament and State Legislature)

Before 2019, the reservation was largely based on socioeconomic and educational disadvantage (caste). However, the 103rd constitutional amendment in 2019 takes economic backwardness into account.

The extent of reservation in India is divided into three categories-

SC/ST Reservation: The purpose of reservations in India to Scheduled Castes (SCs) and Scheduled Tribes (STs) in services is not merely to provide jobs to members of these communities. Its fundamental purpose is to empower them and assure their participation in state decision-making. Furthermore, the state is ready to end practices like untouchability.

Scheduled Castes (SC) have a 15% reservation in jobs and higher education, while Schedule Tribes (ST) receive a 7.5% quota. Article 16(4A) provides reservations for recruitment posts and advancements for the SC/ST category.

OBC Reservations: The Mandal Commission Report introduced the Reservation for Other Backward Classes (OBC) (1991). OBCs get a 27% allocation in government jobs and higher educational facilities. The OBC reserve, on the other hand, has a ‘creamy layer’ concept. Only individuals from the Non-Creamy Layer would be able to make OBC reservations. The creamy layer concept excludes certain affluent OBC members from the degree of quota based on money and social standing. This approach also ensures that the advantages of reserving are not passed onto future generations.

EWS Reservation: The Central Government of India recently implemented EWS Reservation. In government work and educational institutes, Economically Weaker Sections (EWS) are allowed a 10% reservation among General Category candidates. Incorporating necessary sections does this into the Indian Constitution (103rd Constitution Amendment Act, 2019) and the expansion of Reservation in India.

CASTE CENSUS AND ITS RELTION TO WELFARE SCHEMES

Exponents of this survey believe that the survey report would definitely force political parties to announce and initiate more welfare schemes for the poor and marginalised sections of society. It is hard for any political party to ignore the welfare of these marginalised societies when OBCs, EBCs, SCs and STs make up a large number of the total population in the State. Now it is going to be hard for the ruling party in Bihar if they don't make any welfare policies for these sections as he also created a difference between OBC and EBC. As per the claims of opposing party the EBCs have been the real "neglected" community and the caste survey report is now going to hugely "impact" State politics. They also sated that if the ruling party does not make any policies regarding their welfare, this move is going to back fire at them.

However, ruling coalition party leaders like Mr. Nitish Kumar, RJD chief Lalu Prasad, Deputy Chief Minister Tejashwi Yadav, have said that they would review the welfare schemes announced by the government for the development of the poor and marginalised sections and said "what is needed, will definitely be done".

CONTROVERSY REGARDING PUBLISHING THE REPORT

Various organisations and the Central Government have pointed out the legality and validity of this caste-based survey. They alleged that this report is faulty and Bihar government cannot publish it. This report was finally published on October 2, after so much controversy.

CONCLUSION

Thus, it is evident that Bihar Caste Census which government is calling a survey only, can be called MANDAL 2.0 whose motive is to conduct a caste-based census for welfare of the marginalised section. This might result in removing the cap of 50% reservation in the Bihar and reservation of backward classes and extremely backward classes might get increased.