

Whether Meiteis of Manipur meet the Constitutional criteria for ST status

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Post independent India has so far notified ten Presidential Orders under Article 342(1) of the Constitution. The first Constitution (Scheduled Castes) Order, 1950 was notified based on the list of depressed classes framed by Dr. J.H. Hutton in his Census Report 1931. The list of Scheduled Tribes in the State of Manipur was first notified through the Constitution (Scheduled Tribes) (Part C States) Order, 1951. There are at present 34 lists of Scheduled Tribes in the State of Manipur and more than 700 Scheduled Tribes in all of India.

Constitutional Criteria for Recognition as Scheduled Tribes : The term "Scheduled Tribe" is a constitutional fiction for the purpose of identifying a group as a separate social class with reference to social, economic, political and cultural obligations imposed by the Constitution.

Article 366 (25) defines it as such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes. Under Article 342(1), the President may with respect to any State or Union Territory, and where it is a State after consultation with the Governor 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.

It is significant that the Constitution itself has not defined the term "tribe" or "tribal community" though it is clear from the expression "such tribes or tribal communities or parts of or groups within such tribes or tribal communities" that for a community in order to be qualified for recognition as a Scheduled Tribe has to be first a "tribe" or a "tribal community". However, as per the settled criteria based on the 1931 Census, the Kalelkar Report 1955, the Lokur Committee Report 1965 and the Chanda Committee Report 1967, a tribal community for recognition under Article 342(1) must cumulatively possess the following characteristics, namely - Indications of primitive traits; geographical isolation and habitation in remote or less accessible areas; distinctive culture; shyness of contact with the community at large; and general backwardness in all respects.

It implies a nomadic descent, with distinct customary code of conduct, mode of worship and cultural ethos, shaped in accordance with the given traditional moorings and customary beliefs and practices, and generally inhabiting hilly or intractable regions or forests, which results in seclusion from the mainstream of national life leading to severe historical deprivation thereto.

In stark contrast, Meiteis constitute 75% of the total population of Manipur and being the dominant majority, there is conscious historical process of marginalization of ethnic minorities in the State. Historically, Meiteis constitute the ruling "caste" and the hill tribals are considered as social and cultural outcasts. Their socio-economic and political dominance within this casteist-conceived hierarchy is complete and prevailing in short.

Thus, the claim of the Scheduled Tribe Demand Committee of Manipur premising on the aspect of socio-educational deprivation is factually superficial and hollow. As per the Central List of OBCs for the State of Manipur, 1995, the Meitei Pangals, Meiteis and Meeteis, including Meitei Brahmins, Meitei/Meetei Sanamahis and Rajkumars are recognized as OBCs and the aspect of job creation, social and educational advancement, if any, is sufficiently taken care of by this conferment. Admittedly, it would be altogether a different case if the history of Manipur was so drawn that practically no scope for one community leaving the other deprived could be made out as in the case of Nagaland. However, we cannot wish away the opposite historical reality in the State of Manipur.

Legal Nuances : Notification under Article 342(1) should not be presumed as a random recitation of presidential discretion without any set of Constitutional principles, much less as a promiscuous mistress

whose magical charm could be invoked or renounced anytime. The assumption that the status can be a subject of free adoption or renunciation at the fanciful choice of any community is an absolute misconception.

The conferment of Scheduled Tribe status under Article 342(1) is not merely an administrative action, but it involves scientific process with elaborate enquiries into the stock of materials, including sociological, anthropological and ethnological enquiries and is thereafter issued in due consultation with the Governor of the concerned State. Thus, the Supreme Court of India has repeatedly held that notifications issued under Article 342(1) are final and conclusive and it is not permissible even for the Courts to make any addition thereto or subtraction therefrom.

Specification of Scheduled Tribes under Article 342(1) can only be made necessarily with reference to a particular locality, State or Union Territory and not on all India basis and there cannot be a list of All India Scheduled Tribe. Consequently, a Dhobi in Rajasthan and Uttar Pradesh may be a Scheduled Caste, but not necessarily so in Andhra Pradesh and Namasudras in Andhra Pradesh cannot be declared a Scheduled Caste just because they are in West Bengal. For the same reason, Kolis in Maharashtra do not become a Scheduled Tribe just because they have a cultural affinity with the Scheduled Tribe Mahadeo Kolis.

It is a perverse misconception to assume that every community whichever is tribal is automatically entitled to the status of Scheduled Tribe as a matter of right. The question of sociologically locating one as Mongoloid or Aryan racial stock has also nothing to do with the incidence of conferring the status of Scheduled Tribe. What is sine quo non for the purpose is not mere indication of primitive descent or general backwardness, but the existence of severe historical deprivation on account of such seclusion and from its very etymological connotation and constitutional purpose, the term cannot be validly associated with the privileged majority such as the Meiteis in Manipur.

Nevertheless, the Scheduled Tribe Demand Committee of Manipur has posited that declaring Manipur as hill State is a necessary prerequisite for reclaiming social brotherhood. For reasons obvious, the claim is susceptible to accusation of intellectual dishonesty and is historically subversive. On the contrary, such adamant reluctance to respect the competing historical reality between the hill dwellers and the plain dwellers is all the more deepening the already surcharged mutual suspicion.

The modus operandi of such paradoxical assertion in fact is easily understood as a motivated reaction against the newly emerging tribal consciousness. Such arbitrary narratives of deconstructing historical diversity at its root is viewed as part and parcel of the sustained manipulation to identity cleansing against the existential interest of the ethnic minorities. However, should the Scheduled Tribe Demand Committee of Manipur has any genuine concern for universal brotherhood, the need of the hour is to address the perceived historical wounds rather than resorting to such unconstitutional and politically ill-conceived assertions.