

2. The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

Sir, I lay a copy of each of the Bills on the Table.

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(THE DEPUTY CHAIRMAN in the Chair)

**THE CONSTITUTION (NINETY-SECOND AMENDMENT)**

**BILL, 2001 - Contd.**

SHRI K.B. KRISHNA MURTHY (Karnataka): At the outset, Madam, I would like to express my gratitude to you for giving me an opportunity to speak on this Bill. Mr. Cho. Ramaswamy opposed this Bill. I would like to say that out of the 32 crores Scheduled Caste population, only 40 lakhs are employed in the Government, and my friend here said that this amendment is going to destroy the future of many youths in this country. Madam, I beg to differ with him.

I - possibly there may be many - am disturbed at the gradual erosion of the basic legislative intent of reservation envisaged by the founding fathers of our Constitution, by a stream of Apex Court Judgements, due to vague interpretations of Articles 16(4), 46 and 335. In recent times, due to the interpretations of the Supreme Court, the Constitutional guarantees under Articles 16(4), 46 and 335 have been diluted. A plain interpretation of Articles 16(4), 46 and 335 is as follows:

While Article 16(4) provides for reservation of appointments under the State for members of the Scheduled Castes by way of an exception to the guarantees under Article 16(1), Article 46 is a directive to the State to promote the economic interests of the Scheduled Castes and Scheduled Tribes; and the first part of Article 335 enjoins upon the State to take into consideration the claims of members of the Scheduled Castes and Scheduled Tribes in making appointments under the Government. Madam, while complying with this direction under Article 335, the provisions of Articles 16(1) & 46 should be read together. Going by this interpretation, it follows that the special consideration under Article 335 will extend to initial recruitment as well as promotions to higher posts under the Government.

In spite of the clarity provided in Articles 16(4), 46 and 335, the Supreme Court is applying vague legal dynamics and delivering judgements, which, by letter and spirit, oppose the legislative intent of these sacred Constitutional guarantees to the Scheduled Castes and Scheduled Tribes.

The Supreme Court judgements are conflicting with the Constitutional provisions relating to reservation policy governing promotions. There seems to be diverse opinions in judgements, which have conflicted with each other in the cases relating to promotion for the Scheduled Caste and Scheduled Tribe Government employees.

Madam, some demotions have taken place in Karnataka also. Many engineers have been humiliated. In the Badappanavar case, a cruel joke was played on the Scheduled Caste and Scheduled Tribe engineers. They were initially recruited on reservation basis as Junior Engineers, and some rose to the position of Superintending Engineers and Chief Engineers. The Supreme Court, in this case, allowed seniority to these Engineers up to the level of Executive Engineers and declared the seniority from there onwards, at par with the general category. This judgment was given retrospective effect and in the consequence many Superintending Engineers were demoted as Executive Engineers and Chief Engineers as Superintending Engineers. Great injustice was caused to these Engineers, who were humiliated. Taking the above facts into consideration, the Government should enact suitable laws and bring them within the orbit of the 9<sup>th</sup> Schedule to prevent interference from the courts.

Regarding vacancy-based roster to post-based roster, an Office Memorandum has been issued. It has to be withdrawn. As per the Supreme Court judgment, all backlog vacancies should be filled up before implementing the post-based roster system. Hence I appeal that this OM may be withdrawn.

I request the hon. Minister to give directions to all State Governments to reinstate the officers who have been demoted to their original postings where they were before their demotions.

The Government should come out with a clear picture of what is going to happen to the Scheduled Caste/Scheduled Tribe employees, who are working in the public sector undertakings. Now as the public sector

undertakings are being disinvested, and it is the Government and the public sector undertakings which are the major employers of the Scheduled Castes and Scheduled Tribes under its reservations policy, I would like to know how the Government is going to tackle this problem, as many Scheduled Caste/Tribe people are not going to get jobs under their reservation quota in these organisations.

As regards expanding the scope of reservations to the Scheduled Castes and Scheduled Tribes to enable them to join the mainstream, I appeal to this august House and to the Government to introduce reservations in the High Courts, the Supreme Court, the State Legislative Councils and the Council of the States *i.e.* Rajya Sabha.

With these words, I support the Bill.

THE DEPUTY CHAIRMAN: I have got six more names. We have decided to have voting in another four minutes as Members are present here.

Shri Borgohain. Kindly finish within three minutes.

SHRI DRUPAD BORGOHAIN (Assam): Madam, I rise to support this amendment. This is related to the upliftment of Scheduled Castes and Scheduled Tribes. As the promotion system with consequential seniority is very essential for their upliftment, the effect of the judgment given by the Supreme Court needs to be removed. That is why this amendment is essential.

Secondly, the people belonging to the Scheduled Castes and Scheduled Tribes should take part in the governance of the country. That is why I say they need promotions and they be given seniority. That is very essential to allow them to take part in the governance of the country in the right manner.

Madam, there are still certain backlogs.

I request the hon. Minister to look into the matter and clear the backlog.

I have heard Mr. Kapil Sibal's argument with great attention. He said about certain things. He also spoke about certain judgements. I have an apprehension that these judgements may create some problems while implementing this Bill. In order to remove those problems, it is highly essential that the Government brings forth a comprehensive legislation. I feel this amendment is not enough.

Madam, this Bill relates to the upliftment of the Scheduled Castes and Scheduled Tribes. These people are very backward. With regard to development, we have seen so many difficulties and unevenness. Though we are in the midst of the 54<sup>th</sup> year of our Independence, there is an unevenness with regard to development in various parts of the country. When there is an unevenness with regard to education ; and also amongst various communities. First, this unevenness should be removed. Certainly, we should help these backward people, particularly, the Scheduled Castes and Scheduled Tribes. This unevenness cannot be removed through this Bill because it is not comprehensive. Therefore, I request the Minister to bring forth a comprehensive Bill for the upliftment of these people. Thank you.

SHRIMATI S.G. INDIRA (Tamil Nadu): Madam Deputy Chairman, I thank you for giving me an opportunity to speak on the Constitution (Ninety-second Amendment) Bill, 2001. I support this Bill, I welcome this Bill because it is in the interest of the Government servants belonging to the Scheduled Castes and Scheduled Tribes.

The Supreme Court judgement in the case of Virpal Singh Chauhan, 1995 which was reported in AIR, 1996, Supreme Court, led the Government to issue an official memorandum dated 30<sup>th</sup> January, 1997. It affected the Government servants belonging to the Scheduled Castes and Scheduled Tribes. Here, I would like to quote what Dr. Ambedkar had said in the Constituent Assembly, "Law is made by the Legislature, but the Judiciary in its own individual conscience pronounces which law is good and which law is bad." Exactly this is what has happened in this case.

In this connection, I would like to say what my leader Puratchi Thalaivi, when she was the Chief Minister of Tamil Nadu had done for the Scheduled Castes and Scheduled Tribes. She got the Reservation Act passed in 1996. It had benefited the people of the Scheduled Castes and Scheduled Tribes and also Other Backward Classes. It was included in the

Ninth Schedule of the Constitution at Entry No. 257A. She has formulated so many schemes for the Scheduled Castes and Scheduled Tribes. She announced a scheme for giving financial aid and bicycles, free of cost, to the girls belonging to the Scheduled Castes and Scheduled Tribes. It is very much in her mind to help the Scheduled Castes and Scheduled Tribes.

I would like to quote from the Hindustan Times, dated 31<sup>st</sup> August, 2001, "The latest move will help just the creamy layer within the Scheduled Caste/Scheduled Tribe communities in the middle and upper middle level of India's huge bureaucratic system, leaving the large mass of helpless employees, to run the errands of the high and mighty." I would like to say that the benefit of this reservation policy should percolate to the lower level of the Scheduled Castes and Scheduled Tribes. ...not the upper level of the Scheduled Caste and Scheduled Tribe people.

I would like to point out another aspect, Madam. With this reservation, there should be reservation to the women of the Scheduled Castes and the Scheduled Tribes. Also, the Amendment should be included in the Ninth Schedule.

I thank you very much, Madam, for giving me this chance.

SHRI PREM CHAND GUPTA (Bihar): Madam, I thank you very much for giving me this opportunity at the last minute.

आजादी के 54 साल के बाद भी जो राष्ट्रपिता महात्मा गांधी ने और डा. अम्बेडकर ने जो संविधान में शैड्यूलड कास्ट और शैड्यूलड ट्राइब्स के लिए सामाजिक न्याय के प्रावधान का सोचा था वह आज भी पूरा नहीं हो पा रहा है। महोदया, आज सरकार ने अमेंडमेंट लाने का बिल पेश किया है लेकिन इसके बावजूद कुछ न कुछ कानूनी दांवपेच, कुछ न कुछ रुकावटें लगाई जाती हैं जिससे दलितों को अपने पूरे अधिकार नहीं मिल पाते हैं। इसके लिए मैं सरकार को सुझाव दूंगा कि वह इसके लिए कोई ऐसा कानून बनाए जिससे जो लोग उसमें बाधा डालते हैं, उनके खिलाफ सख्त से सख्त एक्शन लिया जा सके। मैं अपनी तरफ से और अपने दल की ओर से इस बिल का स्वागत करता हूँ। जैसे कि कपिल सिब्बल जी ने कहा कि मेक-शिफ्ट अरेंजमेंट नहीं करना चाहिये। सब दलों को एक साथ बैठ करके ऐसा प्रावधान बनाना चाहिये जिससे दलितों को पूरा हक मिल सके। आज तक जो हम करते आए हैं, वह पीसमील में करते आए हैं। वह पीसमील में नहीं होना चाहिये। जब तक एक कंप्रेहेंसिव प्रोग्राम बना कर के इसे इंप्लीमेंट नहीं किया जाएगा तब तक महात्मा गांधी का यह सपना अधूरा ही रहेगा और हम सब लोग इसके लिए जिम्मेदार होंगे। धन्यवाद।

**उपसभापति :** श्री सतीश प्रधान जी, आपके वाकई दो मिनट लिखें हैं।

**श्री सतीश प्रधान (महाराष्ट्र) :** वाकई दो मिनट हैं। धन्यवाद, माननीया उपसभापति महोदया, मैं संविधान में 92वें संशोधन बिल का समर्थन करने के लिए खड़ा हुआ हूँ। लेकिन समर्थन करते समय भी मैं सिर्फ दो तीन बिन्दु इस सरकार और सदन के सामने रखना चाहूँगा। सिर्फ बिन्दु रखूँगा उन पर स्पष्टीकरण ज्यादा नहीं दूँगा। हमें इस विषय पर गौर से सोचने की आवश्यकता है। हर समय हम बात करते हैं कानून में संशोधन करो, और कड़ा कानून लाने की कोशिश करो। हर चीज़ सिर्फ कानून से खत्म नहीं होगी। यह बहुत बुरी बीमारी हमारे यहां समाज में लगी हुई है और इसको हल किये जाने की आवश्यकता है। यदि यह बीमारी दूर होगी तो सिर्फ कानून से नहीं होगी। हमें भी उसके लिए समाज के अन्दर जाना होगा, जनता के सामने जाना होगा और वहां पूरी तरह से समाज में परिवर्तन लाने की कोशिश करनी पड़ेगी, सामाजिक पुनरुत्थान करने की आवश्यकता होगी। यदि ऐसा करने में हम सफल हुए तो सब बीमारी खत्म हो सकती है। लेकिन जब चुनाव आता है तो हर आदमी को तुम्हारी जाति क्या है, जमात क्या है, यह पूछना शुरू करते हैं। जब स्कूल में बच्चा जाता है तब भी उसको यही पूछा जाता है। यह हर समय जाति पूछने की और जमात पूछने की बात चलती है, इसको खत्म किये जाने की आवश्यकता है। इस विषय पर हम श्रद्धा रखते हैं। मेरी शिव सेना पार्टी भी इस पर विश्वास रखती है। शिव सेना का जन्म हुआ था, शिव सेना प्रमुख बालासाहेब ठाकरे जी ने बताया था ब्राह्मण ब्राह्मणेतर, 96 कुळी 92 कुळी, मराठा मराठेतर, स्पर्श-अस्पर्श, यह सभी भेद खत्म करो और सब जनता को इकट्ठा लेकर आओ। इसी विषय पर विश्वास रख कर हम सब लोगों को साथ में ले कर आए। शिव सेना प्रमुख बाला साहेब ठाकरे जी के पिता जी जो महाराष्ट्र के जाने माने अच्छे से अच्छे समाज सुधारक थे, उन्होंने भी यही कहा था और उन्होंने सब लोगों को साथ में लाने के लिए कहा था। लोगों ने उनके घर के ऊपर उनकी प्रेत यात्रा निकालने की भी कोशिश की फिर भी उसका सामना किया था। यह भी मैं बताना चाहता हूँ। ऐसी स्थिति में यदि हम सभी समाज में जाकर लोगों को समझाकर उनके वहां सामाजिक पुनरुत्थान करने की बात करेंगे तो अच्छा होगा। इसके लिए एक और सुझाव है। जैसे कि डा. बाबा साहेब अम्बेदकर के ऊपर अन्याय हुआ, संत ज्ञानेश्वर के ऊपर अन्याय हुआ, गाडगे महाराज जी के ऊपर अन्याय हुआ - इन लोगों के ऊपर बनी फिल्म उपलब्ध है। ये फिल्में लोगों को दिखायी जाएं कि उसके बादजुद भी कैसे खड़े होकर इन लोगों ने रास्ता निकाला और पूरे समाज को किस ढंग से मार्ग दिखाया। इस विषय को गौर से देखकर इस ढंग के या और कोई रास्ते निकालकर यदि लोगों को बताएं तो उसका ज्यादा असर होगा, नहीं तो समाज में इस ढंग से, कानून से आप एक दिन के लिए या धार दिनों के लिए इलाज करेंगे लेकिन यह परमानेंट इलाज नहीं रहेगा, यह भी मैं बताना चाहता हूँ। उपसभापति महोदया, आपने मुझे समय दिया, धन्यवाद।

**उपसभापति :** श्री गांधी आजाद, संक्षेप में बोल दीजिए।

**श्री गांधी आजाद (उत्तर प्रदेश) :** धन्यवाद महोदया। मैं इस बिल का समर्थन करने के लिए खड़ा हुआ हूँ। यदि यह बिल पहले ही आता तो और बहुत स्वागत योग्य होता। वैसे तो 17 जून, 1995 को लागू किया गया है लेकिन इन 5-6 वर्षों के दौरान जो हमारे साथी सेवा मुक्त हो गए, उनको यह लाभ नहीं मिल सकेगा।

महोदया, संविधान लागू होने के बाद संविधान की व्यवस्था के तहत आरक्षण की व्यवस्था की गयी और उसको लागू करने के लिए केंद्र सरकार और प्रदेश की सरकारें लगातार शासनादेश, नियम, कानून बनाती रहीं। लेकिन आज इस सदन में भुझे खेद के साथ कहना पड़ रहा है कि आज आजादी के 50 साल बाद भी किसी भी विभाग में आरक्षण का कोटा, अनुसूचित जाति, अनुसूचित जनजाति का कोटा पूरा नहीं है। यह इस बात को प्रमाणित करता है कि यहां के नियोजकों की नीयत में जरूर खोटा है। पहले यह कहा गया कि - able candidates are not available, जब able हो गए तो कहा गया - able but not suitable for the post. इस तरह से कह करके आज तक आरक्षण कोटा पूरा नहीं किया गया। मैं सरकार से जानना चाहता हूं कि जिन नियोजकों द्वारा इस तरह की मनमानी की जाती है सरकार क्या उन नियोजकों के विरुद्ध कोई कानूनी कार्यवाही करने का उपाय कर रही है? महोदया, प्रोन्नति के मामले में विभागीय नियमावतियों का शिकार ये अनुसूचित जाति और अनुसूचित जनजाति के लोग होते हैं तथा साथ ही साथ सी.आर. जो उन्हीं नियोजकों द्वारा दी जाती है उसका भी शिकार हो जाने के कारण आरक्षण का लाभ इनको समुचित नहीं मिल पाता है। इसलिए मेरा सुझाव है कि अनुसूचित जाति और अनुसूचित जनजाति के लोगों की एक वरिष्ठता सूची अलग बनायी जाए और इनके जो भी आगे रिक्त पद हैं, प्रमोशन के रिक्त पद हैं उनमें डी पी सी बैठकर, रोस्टर के अनुसार उनके कोटे को पूरा करने पर तत्काल कार्यवाही करने के लिए सरकार कोई न कोई निर्देश जारी करे। साथ ही साथ अनुसूचित जाति और अनुसूचित जनजाति की रिक्तियों और बैकलाग को तत्काल पूरा कराया जाए और पूरा न करने वाले नियोजकों के विरुद्ध कानूनी कार्यवाही भी करने पर सोचा जाए। साथ ही साथ मैं सरकार से मांग करता हूं कि निजी क्षेत्रों के उद्योगों में भी आरक्षण व्यवस्था लागू की जाए। न्यायालयों में भी - उच्च न्यायालयों और सर्वोच्च न्यायालयों के न्यायाधीशों में भी आरक्षण नहीं है। इसी राज्य सभा में भी आरक्षण नहीं है और विधान परिषदों में भी आरक्षण नहीं है। मैं सरकार से मांग करता हूं कि विधेयक लाकर यहां भी आरक्षण की व्यवस्था की जाए। साथ ही साथ यह भी मांग करता हूं कि आरक्षण व्यवस्था को संविधान की नीची अनुसूची में सम्मिलित किया जाए ताकि न्यायालयों के दांव पेंचों की शिकार यह आरक्षण व्यवस्था न हो सके। आबादी भी हमारे देश की बढ़ी है। इसलिए मैं मांग करता हूं कि एक विधेयक ला करके आबादी के हिसाब से आरक्षण को भी बढ़ाया जाए। साथ ही साथ, विश्वविद्यालयों में भी उप कुलपति, रीडर, प्रोफेसर, प्रवक्ता आदि के पदों के लिए आरक्षण व्यवस्था नहीं है, मैं सरकार से मांग करता हूं कि विधेयक ला करके इनमें भी आरक्षण व्यवस्था लागू की जाए। सरकारी सहायता प्राप्त शिक्षण संस्थाओं में भी अध्यापकों और कर्मचारियों के लिए आरक्षण व्यवस्था नहीं है, मैं सरकार से मांग करता हूं कि विधेयक ला करके वहां भी यह आरक्षण व्यवस्था लागू की जाये। वैसे तो मेरी राय है कि इस देश की मनुवादी व्यवस्था एक कोढ़ है, एक सीढ़ीनुमा जाति व्यवस्था या जो वर्ण व्यवस्था है उसे समाप्त करने के लिए सरकार द्वारा कोई कारगर उपाय करने की जरूरत है ताकि इस देश में ईंसानियत, मानवता और भाईचारे की बहाली हो सके और देश समृद्ध हो सके।

अंत में मैं इस विधेयक का समर्थन करते हुए अपनी बात को विराम देता हूं। धन्यवाद।

THE DEPUTY CHAIRMAN: Shri Shankar Roy Chowdhury. If everybody speaks a little brief, then we can let the Minister reply.

SHRI SHANKAR ROY CHOWDHURY (West Bengal): Madam Deputy Chairperson, I would like to raise a few issues and place them before the Government as well as the House.

Firstly, it is clear from what the speakers across the board have said that the question of empowerment of the Backward Classes is an extremely, socially and economically, sensitive issue, but what we have also found is that in our laudable desire, in our laudable programme, to ensure empowerment and social justice, we have often come into conflict with constitutional rights as well as natural justice. It is a contradiction. I do not know how we will solve it, but we have to sit together and put our collective minds together to try and solve this basic dichotomy.

I would like to submit a few points for consideration of the Government and I would request the hon. lady Minister, through you, Madam, to try and give some assurance, some clarification on the issues that I am going to raise.

Number one, people like me are the members of unscheduled backward classes, ex-servicemen. We are often told, from State to State, कि साहब, "रिजर्वेशन फॉर द शैड्यूल्ड कास्ट्स एंड शैड्यूल्ड ट्राइब्ज देने के बाद आप लोगों के लिए जो रिजर्वेशन है वह नहीं मिल सकती।" It is happening from State to State, and I would like to have an assurance from the Government, while I support reservations for the socially deprived classes, that it would not suppress the rights of a bloc of people to whom reservations have been given. But the Government's reservation policy ensures that the ex-servicemen are deprived of the reservations in almost every State. I would like to have an assurance from Madam Minister on this issue.

Secondly, while I fully approve that the Scheduled Castes/the Scheduled Tribes should be on the revised roster--the hon. Member, Shri Kapil, has made a point about it - a decision has to be taken in that regard. How much weightage in these promotions is being given to 'efficiency bar'? It is a matter, more or less, of procedure that since you happen to be on a particular roster, you shall be promoted. Is any consideration being given to 'efficiency bar'?

Number three, what is the Government's policy? Or, indeed, what is all your approach to the question of 'creamy layer' amongst the



Backward Classes? Number four, I feel it is a very dangerous trend; I feel it is a fissiparous step, but the demand for reservations, increasing reservations, though justified, no doubt, for Scheduled Castes/Scheduled Tribes, is now being voiced in different quarters of the country for religious minorities as well. What is the view of the Government on that? That is all I have to say, Madam.

SHRI N.K. PREMACHANDRAN (Kerala): Madam Deputy Chairperson, thank you very much for giving me this opportunity to express my views as well as my party's views on this Constitution Amendment Bill. I support this Constitution (Ninety-Second Amendment) Bill, 2001, subject to certain reservations. This Bill proposes to amend the Constitution in order to overcome a hurdle that has been created by the issuance of the O.M. dated 30<sup>th</sup> January, 1997. This O.M. was a consequence of the Supreme Court judgements in two cases. Those cases have been mentioned in the Statement of Objects and Reasons, namely, the case of Virpal Singh Chauhan and the case of Ajit Singh-No.1. The spirit of the judgements is that the basic structure of the Constitution cannot be changed; the fundamental character of the Constitution cannot be amended by the legislature. This point has been well elucidated by my learned friend, Shri Kapil Sibal, before this House. An apprehension has also been raised in this House. What is the use of this proposed amendment at this juncture? The Bill proposes an amendment to article 16(4A), and I quote:

"...for the words "in matters of promotion to any class", the words "in matters of promotion, with consequential seniority, to any class" shall be substituted".

This is the amendment proposed by this Bill. The spirit of the judgements of the Supreme Court in the aforesaid cases is that the basic structure of the Constitution cannot be changed. Even if we pass this amendment, will it help the Scheduled Caste and Scheduled Tribe people who are in Government service? I would like to know whether the aforesaid hurdle could be overcome. This is the apprehension that is prevailing now. This has to be clarified. This is number one.

The second point is regarding the empowerment of the Scheduled Castes, the Scheduled Tribes and the Backward Classes of the country. So many slogans have been raised during the last five decades. The

reservation policy, etc., are there. But what is the fate of the Scheduled Castes and Scheduled Tribes of the country? This issue has been elaborately discussed in this House. What is the present situation? By virtue of the liberalised economic policy, the privatisation policy, as well as the downsizing of the administration--which has been declared by the hon. Prime Minister of our country--two per cent of the workforce in the Central administration and the public sector undertakings is going to be reduced. It means, 20 per cent of the workforce will be out after a lapse of ten years. The fundamental right, the right to reservation of jobs for the Backward Classes, the Scheduled Castes and Scheduled Tribes, is being violated by the Government through its policy of downsizing the administration, privatisation and disinvestment. It means, the Government is going to deprive them of their rights. They have a right to reservation in appointments in the public sector undertakings, schools, universities and Government sectors. That right is being denied to them by following the policy of disinvestment. *(Time bell)*... Madam, I am concluding.

I would like to know from the Government, what is its policy, as far as private companies and private institutions are concerned. The Scheduled Castes and Scheduled Tribes, who are entitled to job reservation, are being denied that right, due to the policy of the Government. I would like to know whether the Government will rethink on this issue or review its decision so that the Scheduled Castes and Scheduled Tribes would get adequate representation in the appropriate fora. Privatisation is directly hitting the Scheduled Castes, the Scheduled Tribes and the Backward Classes. This issue has to be taken into account. If this goes on, the Scheduled Castes, the Scheduled Tribes and the Backward Classes will be denied their right to reservation in appointments in Government services and public sector undertakings; there will be no empowerment of these sections of the people; and there will be no social justice. With these observations, I conclude.

SHRI R.S. GAVAI (Maharashtra): Madam, at the outset, I support and welcome this Bill. As you have given me only a few minutes, I am tempted to deal with the logic and philosophy of reservation instead of dealing with the details of the Bill. Some hon. Members have expressed their reservations about the Bill. The logic, rationale and philosophy of reservation -- a provision which has been incorporated in the Indian Constitution -- of the founding father of the Indian Constitution,

3.00 p.m.

Dr. B.R. Ambedkar, is nothing but a philosophy based on compensation. This is number one. Secondly, the social backwardness and caste system is much more severe than the economic and educational backwardness. Thirdly, as long as the stigma of casteism is there, there is a necessity for making certain safeguard provisions in the Constitution. Some hon. Members sought a clarification whether it is a matter of right for the Scheduled Castes and Scheduled Tribes or we are doing it as a charity. The philosophy of providing a safeguard is that it is a matter of right, it is not a matter of charity. I feel, this philosophy will clear the minds of the people although we have got some misgivings regarding the special safeguards provided in the Constitution.

Don't you think It is a national problem? Crores of people, for no fault of theirs, were kept aloof for generations together and were not allowed to join the mainstream. Don't you think that it is a moral bounden duty of the representatives of the people, law-makers and Members of Parliament to bring them back into the national mainstream? With these few words, I come to the provision of reservation.

THE DEPUTY CHAIRMAN: I thought you are concluding.

SHRI R.S. GAVAI: Madam, I will conclude within two minutes. am within the time limit. I am very much attached to this subject.

The Government of India had issued certain OMs through the DoPT, on 30<sup>th</sup> January, 1997, 2<sup>nd</sup> July, 1997, 22<sup>nd</sup> July, 1997, 13<sup>th</sup> August, 1997 and 29<sup>th</sup> August, 1997 which were detrimental to the cause of the Scheduled Castes and Scheduled Tribes and which were not in keeping with the true spirit of the Constitution. The hon. Minister was kind enough to negate the effect of these detrimental OMs dated 30<sup>th</sup> January, 1997, 22<sup>nd</sup> July, 1997 and 29<sup>th</sup> August 1997. Out of these five OMs, two OMs dated 2<sup>nd</sup> July, 1997 and 13<sup>th</sup> August, 1997 had a detrimental effect.

I would request the hon. Minister, --she has a progressive view and has a progressive family background -- to give some concrete assurances on the floor of this House. The O.M. dated 2<sup>nd</sup> July, 1997, changes the system of maintenance of roster from vacancy-based to post-based, thus

affecting the promotion avenues for the Scheduled Castes and Scheduled Tribes. And, a new roster has been silently introduced. I would request the hon. Minister to review the matter and negate this detrimental O.M. Now, the O.M. dated 13<sup>th</sup> August, 1997, restricting promotion in relation to Group 'A' is contrary to the spirit of the 77<sup>th</sup> Constitution Amendment. I request the hon. Minister to review it and negate this O.M.

Now, to sum up, I am in agreement with the learned Member, Shri Kapil Sibal. The statistics given by the hon. Member before this House indicates that reservation is the minimum guarantee; but even this has not been fulfilled yet. These statistics reveal that even after 55 years of independence, we have not achieved the goal which was in the mind of the founding father of our Constitution, the chief architect of our Constitution, Dr. Ambedkar. Cutting across party lines, we should see to it that there is a time-bound programme for the uplift of the Scheduled Castes and Scheduled Tribes and for bringing them into the mainstream. This kind of a piecemeal legislation will not serve the purpose. So, I request the hon. Minister to come forward with a comprehensive Central legislation, incorporating therein the suggestions relating to reservation and promotion, put forth by Shri Kapil Sibal; and such a Central legislation should be included in the Ninth Schedule of the Constitution. Thank you, Madam.

THE DEPUTY CHAIRMAN: I hope, with the same spirit, you would support the Women's Reservation Bill, which includes the Backward, the Most Backward as well as the Scheduled Castes and Scheduled Tribes.

Before I ask the Minister to reply, there is a small thing to be done so that the Minister, who is a Lok Sabha Member, is free to go back, and Shrimati Jayaprada Nahata gets her rightful place to vote. Yes; Mr. Minister.

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### THE BUDGET (MANIPUR) 2001-2002

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE  
(SHRI BALASAHEB VIKHE PATIL): Madam, I lay on the Table a statement