

CHAPTER II

CONSTITUTIONAL PROVISIONS FOR PROTECTION AND DEVELOPMENT OF SCHEDULED CASTES

The provision and safeguards for Backward Classes and especially for SCs & STs have been incorporated in the Constitution of India. The safeguards are in the field of social, economic, political, educational, cultural and services under the State for the people belonging to these communities for their development. Who constitute Scheduled Castes and how are the Castes scheduled are contained under Articles 366(24) and 341 of the Constitution.

SAFEGUARDS FOR SCHEDULED CASTES

2.2 The safeguards provided to Scheduled Castes are grouped in the following broad heads:

- Social Safeguards
- Economic Safeguards
- Educational & Cultural Safeguards
- Political Safeguards
- Service Safeguards

SOCIAL SAFEGUARDS

2.3 **Articles 17, 23, 24 and 25(2)(b)** of the Constitution enjoins the State to provide social safeguards to Scheduled Castes. Article 17 relates to abolition of untouchability being practiced in society. The Parliament enacted the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to tackle the problem of untouchability, which is being practiced against Scheduled Castes.

2.4 **Article 23** prohibits traffic in human beings and 'begar' and other similar forms of forced labour and provides that any contravention of this provision shall be an offence punishable in accordance with law. Although there is no specific mentions about the SCs in this Article but majority of the bonded labour come from SCs. Thus, this Article has a special significance for them. The Parliament enacted Bonded Labour system (Abolition) Act, 1976 for identification, liberation and rehabilitation of bonded labourers.

2.5 **Article 24** provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Even in this Article, there is no specific mention about the SCs but substantial portion of child labour engaged in hazardous employment belong to SCs.

2.6 **Article 25(2)(b)** provides that Hindu religious institutions of a public character shall be opened to all classes and sections of Hindus. The term Hindu includes persons professing Sikh, Jain and Buddhist religion.

ECONOMIC SAFEGUARDS

2.7 Articles 23, 24 and 46 form part of the economic safeguards for the Scheduled Castes and Scheduled Tribes. The provisions of Articles 23 and 24 have already been discussed in earlier paragraphs.

2.8 **Article 46** provides, "The States 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."

EDUCATIONAL AND CULTURAL SAFEGUARDS

2.9 **Articles 15(4)** empowers the State to make special provisions for the advancement of any socially and educationally backward classes of citizens and for SCs. This provision has enabled the State to reserve seats for SCs in educational institutions in general and professional courses etc.

POLITICAL SAFEGUARDS

2.10 Reservation of seats for SCs/STs in the local bodies of the States/UTs, Legislative Assemblies of the State and in Parliament are provided in the Constitution of India as follows:

2.11 **Article 243D Reservation of seats:-** (1) Seats shall be reserved for (a) the Scheduled Castes; and (b) the Scheduled Tribes in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

2.12 **Article 243T Reservation of seats:-** (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in the Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

2.13 Article 330 Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People:- (1) Seats shall be reserved in the House of the People for-

- (a) the Scheduled Castes;
- (b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and
- (c) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State or Union Territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union Territory in the House of the People as the population of the Scheduled Castes in the State or Union territory or of the Scheduled Tribes in the State or Union territory or part of the State or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union Territory.

(3) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.

Explanation:- In this article and in article 332, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in the Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.

2.14 Article 332 Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States:- (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam, in the Legislative Assembly of every State.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

2.15 **Article 334** Reservation of Seats and special representation to cease after sixty years:- Notwithstanding anything in the foregoing provisions of this Para, the provisions of this Constitution relating to:-

- (a) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and
- (b) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination, shall cease to have effect on the expiration of a period of sixty years from the commencement of the Constitution:

SERVICE SAFEGUARDS

2.16 Service Safeguards are contained in Articles 16(4), 16(4A), and 335. In the year 2001, the Parliament through Constitution (Eighty-fifth Amendment) Act, 2001 amended the provisions contained in Article 16(4A). In Article 16(4A) for the words: "in matters of promotion to any class" the words "in matters of promotion, with consequential seniority, to any class" has been substituted. The effect of this amendment is that the SCs/STs promoted earlier than their counter-part in general category by virtue of reservation policy shall be senior to general category in the promoted scale/post.