

The lowdown on row over SC/ST Act verdict

A recent verdict of the Supreme Court has invited criticism from political parties and others who argue that it amounts to diluting the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The court laid down new guidelines for police officers on how to ensure that innocent persons, especially public officials, are protected from false complaints. Most parties demanded that the Centre file a petition to review the order. They contend that the judgment, and some of the observations in it, would result in the law losing its teeth and leave Dalits unprotected against atrocities. While agreeing to hear the review petition, the Bench has, however, declined to suspend its order. It clarified that its order was aimed at protecting the innocent, not undermining Dalit rights.

The Bench of Justices A.K. Goel and U.U. Lalit was dealing with an appeal by the Director of Technical Education (DTE), Maharashtra, a public servant, whose plea for quashing a criminal case against him was declined by a High Court. The court found that an employee of an educational institution had given the complaint solely because the DTE refused to grant sanction to prosecute the institution's principal. It said none of the ingredients of any of the offences listed against him were made out in the complaint. The Bench then took note of cases of a similar nature before other courts in which false and frivolous complaints were made under the Act for personal motives. Hence, it wanted to lay down guidelines to prevent misuse of the law so that the innocent could be protected. It sought to explain that "interpretation of the Atrocities Act should promote constitutional values of fraternity and integration of society. This may require a check on the false implication of innocent citizens on caste lines."

It matters because the court's ruling has led to an explosion of Dalit anger. A nationwide protest on April 2 resulted in violence. Nine people died across the country. The protesters, as well as the proponents of social justice and Dalit emancipation, have questioned the verdict. They disagree vehemently with the ruling that the bar under the Act on grant of anticipatory bail need not prevent courts from giving the accused advance bail if there was no merit in the complaint against them, and if on judicial scrutiny, it was found to be *prima facie* malafide. The ruling also said public servants should not be arrested under the Act without the permission of their appointing authority; and, in the case of others, without the approval of the District Senior Superintendent of Police. It further said a Deputy Superintendent of Police should hold a preliminary inquiry into complaints to rule out their being false or motivated ones.

The Bench said there was "acknowledged abuse" of the power to arrest under the Act. It also observed that the "Act cannot be converted into a charter for exploitation or oppression by any unscrupulous person or by the police for extraneous reasons against other citizens, as has been found on several occasions in decisions referred to above." Another observation by the Bench that caused consternation was "it is necessary to express concern that working of the Atrocities Act should not result in perpetuating casteism."

Under court procedure, the same Bench that delivered a verdict must also hear the review petitions. The Centre will now seek to convince the court that the ruling would make it even more difficult for Dalit victims of caste-based violence and discrimination from getting their complaints investigated. If the court is convinced, it may agree to modify its order or recall part of it. In the event of its refusal to do so, the Centre will have to explore other legal options to ensure implementation of the Act as it stands.

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