

## Managing perceptions: on amending the SC/ST Act

If we accept that politics is about pragmatism, about managing perceptions, about defusing difficult situations, and keeping a sharp eye out on the prevailing political winds, then the [Union Cabinet's decision to amend the provisions of the SC/ST \(Prevention of Atrocities\) Act](#) appears both reasonable and unavoidable. It is arguable that no dispensation at the Centre could have ignored the massive Scheduled Caste protests against the Supreme Court verdict that was perceived as diluting the provisions of the 1989 law. With the call for a nationwide shutdown on August 9, one that an NDA constituent, the Lok Janshakti Party led by Ram Vilas Paswan, had threatened to join, the Centre was goaded into acting quickly. The proposed amendments are aimed at undoing three new rules laid down by the court: that the bar on anticipatory bail under the Act need not prevent courts from granting advance bail if there is no merit in a complaint; that there can be an arrest only if the appointing authority (in the case of public servants) or the district superintendent of police (in the case of others) approves such arrest; and that there should be a preliminary inquiry into complaints. What they do is state that the bar on anticipatory bail will remain "notwithstanding any judgment or order of any court", that there will be no need for a preliminary inquiry before an FIR is registered and that no approval is required before someone is arrested under the Act.

From the very beginning it was clear that the entire issue had less to do with the correctness of the Supreme Court judgment and more to do with the way it was interpreted, and sometimes deliberately misinterpreted. The judgment had not altered or read down any of the key provisions of the Act. The Court was at pains to emphasise that it was only seeking to protect the innocent against arbitrary arrest and that there should be no denial of relief and compensation to SCs and STs, whose rights should be protected. While no one can object to procedural safeguards against false accusations, it is possible that the Court's concerns about what it saw as misuse of the Act resulted in the perception that it was introducing norms to prevent quick action on complaints. It is arguably much more likely that such perceptions consolidate at a time when the conviction rate under the Act is dismally low and atrocities against Dalits are a disturbing reality. It is vital that any law that is founded on punishing social ostracisation maintains a fine balance between protecting the rights of the individual to a fair trial and enforcing not only the letter but also the spirit of a legislation that was introduced to protect the dignity of the disadvantaged, who have suffered unspeakably as a result of the abhorrent practice of social discrimination.

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