

A CASE FOR EQUALITY

Relevant for: Developmental Issues | Topic: Rights & Welfare of STs, SCs, and OBCs - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

A five-judge bench of the Supreme Court ruled on Thursday that state governments can sub-classify Scheduled Castes and Tribes to provide preferential treatment to the more deprived among them so that the real purpose of reservation can be achieved. This contradicts a 2004 order of a five-judge bench that had ruled against states creating subcategories within the SC-ST categories. The final word has not been said since the case has now been referred to a seven-judge Constitution bench of the apex court.

There is merit in the Supreme Court's reading that "reservation creates inequalities within the reserved castes itself". Its support for sub-classification in order for the government to adopt "a distributive justice method so that State largesse does not concentrate in few hands and equal justice to all is provided" is in consonance with the principle and spirit of reservation spelt out in the Constitution. Evidence suggests that a few castes have been cornering most of the benefits extended by reservation to SCs, including in employment and admission to educational institutions. This is not surprising since some groups have historically had a relative advantage of access to material resources, including land, cultural capital, and education, over other groups in the Scheduled Castes. With reservation treating the SCs as a homogenous community, these social and economic inequalities within have widened. The relatively dominant sections have gained at the expense of the weaker groups, causing resentment among the latter and forcing them to mobilise on the issue. Many state governments — Andhra Pradesh, Tamil Nadu, Bihar, and Punjab — have introduced subcategories within the SC reservation in a bid to rectify the situation. In the absence of state intervention, the dominance of certain castes may continue at the expense of more depressed communities and diminish the emancipatory potential of reservation.

But state intervention must be carefully thought through and protected from political-electoral exigencies. Bihar offers a cautionary tale. In 2007, the [Nitish Kumar](#) government introduced the Mahadalit category and identified 18 of the state's 22 Dalit communities for inclusion. In 2008, two of the four relatively better-off SC groups, the Pasis and Dhobis, were included. The Jatavs were classified as Mahadalits the next year, leaving only the Paswans, seen to be a core constituency of [Ram Vilas Paswan](#)'s Lok Janshakti Party, out of the ambit of the subcategory. Such political opportunism only serves to discredit an instrument that has gone a long way in addressing historical injustice and inequality.

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