

## Bifurcation and blame: on granting Special Category Status to States

The bifurcation of Andhra Pradesh by the United Progressive Alliance (UPA) government has left a troubled legacy. The then Prime Minister Manmohan Singh's statement of six paragraphs in Parliament on February 20, 2014 contained the promise of according special category status to the successor State of Andhra Pradesh. This has stirred up a hornets' nest, with both the ruling party and the Opposition in the Andhra Pradesh Assembly upping their ante and demanding that the Union government honour the commitment. Union Finance Minister Arun Jaitley has pleaded inability and has instead agreed to give a generous package. He has placed the blame at the door of the Fourteenth Finance Commission (FFC). This is not the first time that the Commission has been blamed for special category status not being given. There were newspaper reports about Venkaiah Naidu, when he was Union Minister for Urban Development, also blaming the FFC for the Union government's inability to accord special category status. In fact, the circular on the special package issued in September 2016 stated, "Following the recommendations of the 14th Finance Commission, the class of special category states ceases to exist."

### Reading the report

To be sure, the terms of reference of the FFC did not require it to deal with the categorisation of States into the "special category" and "non-special category". Therefore, it was not required to make any recommendation on the issue. Nor is the classification of States into general and special categories the creation of the Constitution and therefore, the Finance Commission, which was formed under Article 280 of the Constitution, has no business to make any recommendations on the issue. Did it really make such a recommendation as alleged, or has the FFC simply been made a fall guy as it no longer exists?

A careful reading of the report shows that it came nowhere near making any recommendation relating to special categorisation. The principal task of the Finance Commission is to assess the revenue and cost disabilities of the States and make recommendations to offset these disabilities through tax devolution and grants so that all the States are enabled to provide comparable levels of services at comparable revenue effort. The only reference to categorisation was where the report stated, "We did not make a distinction between special and general category states in determining our norms and recommendations. We believe that while there are certain common factors that impact cost disability and fiscal capacity of States, there exist circumstances that are unique to individual States. Our endeavour has been to take a comprehensive view of these commonalities and special characteristics of individual States while making our assessment and recommendations. In our assessment of State resources, we have taken into account the disabilities arising from constraints unique to each State to arrive at expenditure requirements..." (Para 2.29).

The point is that the FFC did not make any recommendation to the President on whether or not it should accord special category status. The terms of reference of the Commission did not require it to address this issue and therefore the Commission was not concerned about it. Indeed, there were demands from special category States that different norms should be used for assessing their revenue capacity and expenditure needs since they do not have a broad enough tax base and have severe cost disabilities. It is in regard to this that the Commission clarified that it would use a uniform yardstick and assess the revenue capacity and expenditure needs, and in doing so, take into account State-specific problems. With regard to the bifurcation of Andhra Pradesh, the Commission simply stated, "The Commission shall also take into account the resources available to the successor or reorganised States on reorganisation of the State of Andhra Pradesh in accordance with the Andhra Pradesh Reorganisation Act, 2014 (6 of 2014) and the Ministry of Home Affairs notification number S.O. 655 (E) dated 4th March, 2014 and make

recommendations, for successor or reorganised States, on matters under reference in this notification” (Para 1.3). Thus, the additional terms of reference too did not require the FFC to dwell on the issue, nor did the FFC do so.

In fact, the Constitution or the Finance Commissions have had nothing to do with asymmetric arrangements created under the so-called special category status. The status was accorded to some States by the National Development Council on the recommendation of the erstwhile Planning Commission on the basis of five important criteria, namely, hilly and difficult terrain; low population density and/or sizeable share of tribal population; strategic location along borders with neighbouring countries; economic and infrastructural backwardness; and non-viable nature of State finances. The Finance Commissions have had no role in either specifying the criteria or making recommendations for admission to special category status.

An executive decision

I have not gone into the larger question of desirability of providing asymmetric arrangements among the States on discretionary grounds. There are asymmetric arrangements laid down in the Constitution, such as Article 370 for Jammu and Kashmir, and in Articles 371A to H for the States in the Northeast, and even these are under the “temporary, transitional and special provisions” (Part XXI). Asymmetric arrangements on discretionary and political grounds will only weaken the fabric of federalism. Unfortunately, in this, all ruling political parties are guilty of misdemeanour.

Thus, nowhere has the FFC referred to the issue of desirability or of according special category status in its report. Therefore, attributing blame to the FFC for the inability to accord special category status is clearly misleading. The decision to give and not accord special category status in the past was taken by the erstwhile National Development Council on the recommendation of the Planning Commission based on aforementioned factors and this was entirely an executive decision. Neither the Constitution nor the FFC have had anything to do with this.

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