

# A SOUND REVIEW: ON SUPREME COURT RECALLING ITS VERDICT DILUTING SC/ST ANTI-ATROCITIES LAW

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

After last year's amendments aimed at nullifying the effect of a Supreme Court judgment that was seen as diluting the law against atrocities on Scheduled Castes and Scheduled Tribes, the apex court's decision recalling the earlier verdict may not appear very significant. However, the latest order by a three-judge Bench on the Centre's petition seeking a review is more than a mere academic exercise. Its sound reasoning and sympathetic reconsideration have fortified the legislative measure to restore the law on atrocities committed on Dalits as originally conceived by Parliament. The March 2018 decision laid down three new rules as safeguards against the Act's possible misuse: that the bar on anticipatory bail under Section 18 need not prevent courts from granting advance bail; that a person can be arrested only if the "appointing authority" (in the case of a public servant) or the SP (in the case of others) approves such arrest; and that there should be a preliminary enquiry into all complaints. It caused an uproar among Dalits, and a nation-wide protest in August last year turned violent in some places. There was political clamour for Parliament's intervention to restore the anti-atrocities law to its original rigour. That the Bench declined to stay its own order when a review was sought spurred the government into action.

There was widespread criticism then that the BJP's perceived espousal of upper caste interests and its weak submissions in court had led to the verdict. It was even argued that the Centre was under political compulsion to undo the perception that the interests of the SCs and STs were in danger. The court's re-examination, on the contrary, is anchored in sound principles. It first underscores that special laws for the protection of SC and ST communities flow from social realities, the discrimination they still face and the circumstances that preclude them from mustering the courage to lodge a complaint in the first place. The court assails the assumption that SC/ST members are more likely to give false complaints than the general population (as evidenced by the fact that there is no preliminary enquiry or prior sanction for arrest envisaged for other complaints). In other words, the additional "safeguards" against the alleged abuse of law by Dalits is another form of discrimination, the court has pointed out. Further, it rejects the idea of treating Dalits as people prone to lodging false complaints. The directions for getting an authority's sanction for arrest or holding a preliminary enquiry for this class of cases alone are extra-statutory, and clearly amount to the judiciary engaging in legislation. The review is a timely reminder that the top court's power to pass any order required to uphold justice cannot be used to give directives contrary to existing laws or to supplant them altogether.

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