

Special Report on Non-implementation of Reservation Policy in Banaras Hindu University, Varanasi.

INTRODUCTION

The National Commission for Scheduled Castes has been set up under Article 338 of the Constitution of India to look after the safeguards provided to the Scheduled Castes under the Constitution of India.

The present report is a unique case of grave violation of Reservation Policy and non-cooperation with this Constitutional Body, by Dr.Lalji Singh, Vice-Chancellor, BHU, Varanasi . National Commission for Scheduled Castes has, therefore, decided to submit a Special Report under Clause 5 (d) of Article 338 of the Constitution of India.

FUNCTIONS AND DUTIES OF THE COMMISSION

The functions, duties and powers of the Commission have been laid down in clauses (5), (8) and (9) of the Article 338 of the Constitution. (Annexure-II).

Clause (5): It shall be the duty of the Commission-

- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
- (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;

- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and evaluate the progress of their development under the Union and any State;
- (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards
- (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of these safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and
- (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

Clause (8)- The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely;-

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents;
- (f) any other matter which the President may, by rule, specify.

Clause (9)- The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes.

On the basis of a number of complaints / representations received from SC/ST Employees Association of the Banaras Hindu University, the National Commission for Scheduled Castes under Clause 5

(a) & (b) had decided to investigate and monitor all matters of service grievances, and of non – implementation of Reservation Policy for the SCs/STs in BHU, Varanasi.

The National Commission for Scheduled Castes has received following complaints from the SC/ST Employees Association of BHU.

1) **Dr. Indu Choudahry**, General Secretary, SC/ST Employees Welfare Association, L-29, Tulsidas Colony, BHU, Varanasi alleged that the University Authorities have in general ignored the Rules and Regulations with regard to the Reservation Policy; e.g. in filling up of the vacant posts, or giving promotions and have not provided the benefits available under law to the SCs. Whenever any SC employee, having grievance, individually lodges a complaint with the Authorities, instead of redressing the grievance, the authorities frame them in the false cases. Dr. Indu Choudhary has further raised the following issues:

- i. To provide office space to SC/ST Employees Welfare Association, BHU, Varanasi for safeguarding the interest of the SC/ST employees in the BHU.
- ii. Clearing the back-log quota for SC/ST/OBC in the BHU as per UGC guidelines, in teaching as well as non-teaching posts.
- iii. She has also alleged that a sum of Rs. 27000/- has been deducted from her salary without any reason. When complained against it, a vigilance case was framed against her. Similar complaints have also been received from the General Secretary and the Joint Secretary of the SC/ST Employees Welfare Association.
- iv. The harassment on the basis of a press report that she is using her university residential address as the correspondence address of the Association. A show caused notice was issued by the BHU Administration.

Reply of the BHU has been received through the Ministry of HRD, New Delhi. BHU has informed that 36 vacancies of SCs and 18 of STs in the Professor Cadre, and 73 for SCs and 38 for STs in the Associate Professor Cadre have been advertised, with cut-off date of 30.03.2013. They also pointed out that the Standing Committee for Scheduled Castes and Scheduled Tribes had already resolved that reservation is not applicable in the admissions for honours and specialization courses. Due to that, reservation quota for these categories has been withdrawn from 2012-13 onward. The case of Dr. Sobhna Narlikar, Assistant Professor, Department of Journalism and Mass Communication, and of Shri Sunil Kumar Verma, Assistant Professor, and of Dr. Triyogi Nath are under consideration before a Committee. They have also informed that, as regards Dr. Indu Choudhary, she has shown her university residence as the office address of the SC/ST Employees Welfare Association, which is against the rules.

2) **Shri Mahendra Pratap Singh**, of 'Project Vijay' also submitted a representation regarding non-filling up of the back-log vacancies in Banaras Hindu University.

The Dy. Registrar, Banaras Hindu university, submitted reply that as per 200 points Roster, there are 51 posts in professor scale, 103 for Associate Professor scale and 208 in Asstt. Professor's scale for the SCs. In 2009-10, the 35 vacancies of Professors, reserved for SCs, were advertised. The remaining 15 posts could not be advertised due to the pending issue of conversion of the I.T. BHU into the I.I.T. BHU.

The petitioner submitted a rejoinder and stated that the BHU has not advertised any post under special recruitment drive, and that they have not taken any action as per DoPT's OM dated 26.08.2011 according to which all the back-log posts were to be filled up by 31.03.2012.

3) **Shri Lal Chand Prasad**, New F-8, Hyderabad Colony, Banaras Hindu University, Varanasi, Uttar Pradesh has alleged that the BHU has indulged

in gross violation in implementing the Reservation Policy for the SCs/STs, with regard to the recruitment for the posts of Professors, Associate Professors, and Asstt. Professors. He also stated that even on repeated reminders, the University has not taken any action in this regard. The Back-log vacancies pertaining to SCs and STs have not been filled up.

4) Shri Om Prakash, President, SC/ST Union, Distt. Jaunpur, Uttar Pradesh has alleged that the Vice-Chancellor, Dr. Lalji Singh and his associates have violated the Recruitment and Reservation Policy for the SCs. They have also refused to investigate the matter of corruption in the University. It has also been alleged that the University made appointments in the RAC Deptt. without any sanctioned posts. Also the Rules and Regulations were ignored while making these appointments.

Reply on above 4 complaints given by the University to the Commission about the above complaints :

i. Reservation Roster for the Teaching and Non-teaching posts (Cadre-wise) in the University was prepared as per Post-Based Roster at 200 points and was approved by the Executive Council of the University. Further, a copy of the same has already been sent to the National Commission for SC & ST.

ii. As per Post Based Reservation Roster, out of the total strength of 343 posts of Professors, 687 of Associate Professors and 1386 of Asstt. Professors, SC-51 and ST-25 posts of Professors, and SC-103, ST-51 posts of Associate Professors, and SC-208, ST-104, OBC-374 posts of Asstt Professors have been earmarked.

iii) 35 posts of Professors for SCs and 15 posts of Professors for STs were advertised vide Advt No.1/2009-2010 & 3/2009-2010 (Corrigendum-1,2A, 2B & 2C) The last date of receipt of applications was 21.9.2010 & 8.12.2010, accordingly. 15 posts for SCs and 8 for STs of Professors belonging to the Institute of Technology-BHU, were not permitted to be

filled up, by the MHRD, owing to the pending issue of conversion of the I.T BHU into the I.I.T. BHU. The remaining one post of Professor, for the SC and two for the STs shall be advertised in the next advertisement.

iv. 69 posts of Associate Professors for SCs and 32 of Associate Professors for STs, were advertised vide advertisement No. 1/2009-10, 2/2009-10 & 8.12.2010, accordingly. The last date of receipt of applications was 21.09.2010 & 8.12.2010. The remaining 29 posts of Associate Professors for SCs and 18 for STs, belonging to the Institute of Technology-BHU were not permitted to be filled up by the MHRD, owing to the pending issue of conversion of the I.T. BHU into the I.I.T, BHU. The remaining 2 posts of Associate Professors for SCs and one for ST, shall shortly be advertised in the next advertisement.

[Note: 3 Associate Professor's Posts for SCs have been omitted as no explanation was given by the University. Out of the total 103 such posts, the explanation above is related to only 69 +29+2 i.e. 100.]

v. 85 posts of Assistant Professors for the SCs, 70 for STs and 77 for the OBCs have been advertised vide advertisement No. 1/2009-10, 2/2009-10 & 3/2009-10 (Corrigendum-1,2A, 2B & 2C). The last date of receipt of applications is 21.9.2010 & 8.12.2010, respectively. 234 posts of Assistant Professors have been identified for OBCs against which the incumbents, belonging to the unreserved category are already working. When these posts shall fall vacant, the same shall be filled up from the OBC candidates. As Regards the remaining 28 positions for SCs, 19 for STs and 13 for OBCs in the Assistant Professor's scale, belonging to Institute of Technology BHU, the filling up of those have not been permitted by the MHRD, owing to pending conversion issue of the I.T. BHU into the I.I.T. BHU. The remaining 11 positions of Assistant Professors for SCs and 46 for OBCs, shall shortly be advertised in the coming advertisement.

vi. Out of advertised 35 posts of Professors for the SCs, 15 for the STs and 69 posts of Associate Professors for SCs, 32 posts for STs, and 85 posts of Assistant Professors for SC, 70 for STs, and 77 for OBCs, 4 posts for Professors under SC category and 7 under ST, 25 posts of Associate Professors under SC category, 9 under ST and 6 posts of Asstt. Professors under SC category, 4 under ST and 6 under OBC category are to be re-advertised, due to reasons mentioned below:

a. No eligible candidate possessing minimum essential qualification, as advertised, was available.

b. The Selection Committee found candidate not suitable for selection.

c. No applications were received.

vii. As per the status of filled up positions is concerned, 03 posts of Associate Professors and 112 posts of Asstt Professors under SC category, and 30 posts of Assistant Professor under ST and 17 under OBC category have been filled up against the identified posts under each category.

viii. Amongst Group-‘A’, 22 posts have been identified for SC category, out of which 21 posts have been filled up under this category. Remaining 01 post has been advertised.

ix. Amongst Group- ‘A’, 47 posts have been earmarked for OBC category, out of which 28 posts have been filled up. 19 posts have been identified as OBC posts which are currently occupied by the unreserved people. As and when these posts shall fall vacant, the same shall be filled up by the OBC candidates.

x. No back-log vacancy (permitted by UGC) under direct recruitment, exists in Group ‘B’, ‘C’ and ‘D’.

5) The petitioner **Dr. Paramita Suklabaidya**, Asstt. Professor, SOTHSSM, New Delhi-110068 has represented to the Commission about her harassment and has further submitted the following grievances:

- i. Her past service at Pondicherry has not been accounted for in the tenure by the BHU.
- ii. Her complaint of misbehaviour by personnels to the SC/ST Cell at BHU
- iii. Pay Fixation in the Sr. Scale.
- iv. Issuance of LPC by BHU for pay protection in IGNOU.
- v. Payment of arrears, as per 6th Pay Commission.
- vi. Transfer of her Service from BHU to IGNOU.

The Commission took up this matter with the BHU Administration and asked for report. However, the reply/ report in the matter is still awaited.

6) **Dr. Shobhana Rajesh Nerlikar**, Asstt. Professor, Deptt. of Journalism and Communication, BHU, Varanasi, U.P. has alleged that Prof. Basu, Head of the Deptt. and Shri Gautam Chatterjee, both have been harassing and exploiting her since 2003. The complaint was lodged with the BHU Administration but they did not take any action. She has further stated that, for the last 10 years, she has not been given any responsibility of examination activities including practical examinations. The Deptt. is ignoring her deliberately. The petitioner wanted to take research students but Professor Basu has not been letting her to do so. Rather, he incites the students to go against her. Sometimes entry of the petitioner into the College is also blocked.

Reply is awaited.

Action Taken in the Commission

In view of the above complaints and replies submitted by the BHU, Varanasi, the National Commission for Scheduled Castes had decided to hold a meeting with the Vice-Chancellor, BHU, Varanasi, in order to resolve the above issues. Accordingly, the Vice-Chancellor, BHU was called on 5.11.2012, for discussion, in the Commission. But he did not turn up. Finally the Commission decided to issue a Summon for his appearance in the Commission. Again he did not turn up. He sent his junior officer to the Commission. The Commission issued 8 Summons on various dates i.e. on 19.11.2012, 10.12.12, 17.12.12, 15.1.13, 28.1.13, 1.4.13, 13.5.13 and 17.6.13, for his appearance in the Commission. He never turned up and avoided to come to the NCSC under one pretext or the other.

During the hearing on 17.6.2013, Dr. Sanjay Kumar Yadav, Asstt. Registrar, BHU, who appeared before the Commission, did not even know about the grievances of the petitioners. He was not aware about special recruitment drive for filling up of the reserved vacancies in the BHU. He did not even know as to how many SC/ST vacancies are filled up by the BHU Administration in the last recruitment, and how many SC/ST candidates were recruited.

The V.C., BHU met the Hon'ble Chairman of the Commission in person. He was advised to follow the rules of law and the Constitution of India. In all the communications, those he has sent to the Commission, he has not mentioned anything about the redress of grievances. He gave only reasons as to why he could not appear in person. Eight Summons have been issued and the V.C. did not turn up. It is an act of undermining the Constitutional Authority and total disregard to safeguarding the interest of the deprived sections of the Society, those safeguards provided in the Constitution of India.

The Secretary, Ministry of Human Resource Development, Govt. of India vide his D.O. No. 1-24/2012/-Desk (U) dated 5.4.2013 had informed to the Commission that in the Month of December, 2012, the Department had forwarded the Summons to the Vice-Chancellor on 28.12.2012, intimating him that the Commission had taken a serious note of his absence. He was asked to appear before the Commission on 15.1.2013 at the scheduled time, along with the records. Subsequently, a revised Summon for postponing the hearing to 28.1.2013 was also forwarded to the Vice-Chancellor, for compliance. But he did not appear in the Commission.

Commission as a Constitutional Authority:

It is already clear that under Clause 5(a) of Article 338 of the Constitution of India, the National Commission for Scheduled Castes is mandated to investigate and monitor all matters relating to the safeguards provided for the SCs under the Constitution and/or under any other law for the time being in force and/or under any order of the Government and to evaluate the working of such safeguards. Service Safeguards provided under Article 16(4), 16(4A), 16(4B), 320(4) and 335 are regulated through orders/guidelines issued by the Department of Personnel and Training and in the case of Universities by the University Grants Commission also. Therefore, the Commission has the power to investigate into the matters relating to service conditions of every employee of the University.

It is an admitted fact that the Vice Chancellor is the Head of the University. This fact is confirmed by the statement of the Secretary, Human Resources and Development, Government of India, made before the Commission, who also affirmed that for all administrative matters, the Vice Chancellor is the head and accountable for all the affairs of the University. The Secretary also informed the Commission that he too had asked the

VC, BHU to cooperate and appear before the Commission, for finalization of the enquiry, related to the grievances of SC employees and regarding the deprivation of safeguards for the SCs, provided in the Constitution of India and different statutes and orders of UGC and Government of India. But the Vice Chancellor never appeared before the Commission.

Rule 7.2 (a) (v) (a) of the Rules of Procedure of the NCSC provides “summoning and enforcing the attendance of any person from any part of India and examining him on oath.” As in the instant case, the VC is the Head of the department and a Competent Authority to take decisions, the Commission prudently decided to call him for discussing with him the grievances and for resolving the issues.

OBSERVATIONS

In view of the complaints and reply submitted by the BHU, Varanasi the National Commission for Scheduled Castes had correctly decided to hold a meeting with the Vice-Chancellor, BHU, Varanasi, in order of resolve the above issues. Accordingly, the Vice-Chancellor, was called on 5.11.2012 for the discussion in the Commission but he did not turn up. Finally ,as per nuance, the Commission decided to issue a Summon to him for his appearance in the Commission along with all the records of the cases. Again he did not himself turn up. Junior officers were sent to the Commission. The Commission has issued Summons on 8 occasions, on dated 19.11.2012, 10.12.12, 17.12.12, 15.1.13, 28.1.13, 1.4.13, 13.5.13 and 17.6.13 for his appearance in the Commission. He never turned up and avoided to come to the NCSC under one pretext or the other. The Secretary, Higher Education, M/o Human Resource Development, Govt. of India who appeared before the Commission stated that for all administrative matters, V.C. is the head and is accountable for all the affairs of the University. The Secretary, who looks after the issues of all the Central Universities including BHU, stated that he too had asked the

V.C., BHU to cooperate and appear before the NCSC for finalization of the enquiry into the grievances of Scheduled Castes employees and deprivation of safeguards of Scheduled Castes provided in the Constitution of India and different statutes and orders of UGC and Govt. of India.

The National Commission for Scheduled Castes had conducted a Review Meeting on 11.12.2008 in regard to the implementation of Reservation Policy in BHU, Varanasi. A copy of the minutes of the Meeting is placed at (Annexure- 'A'). During the discussions, it was observed that in BHU, not a single Reader and Professor belonging the SC category had been appointed. Even the strength of Lecturers was much less than the prescribed percentage. Till date, BHU had not cleared the back-log vacancies in both Teaching as well as Non-Teaching Staff. The NCSC had shown its concern that the BHU was not serious to fill up the reserved posts.

As per Clause (5) of the UGC guidelines (Annexure – B) issued in 2005, to all the Universities, Deemed Universities, Colleges and Research Institutions, they are directed to adopt the UGC guidelines for the effective implementation of Reservation Policy applicable in all teaching posts such as posts of Lecturers, Readers, Professors, by whatever other nomenclature the posts are known, and for all the posts of non-teaching staff. It is observed that the BHU has never implemented the Reservation Policy. The information submitted by the BHU, Varanasi is vague and beyond satisfaction. They have not implemented even the UGC guidelines.

The Secretary, Higher Education, M/o Human Resource Development, Govt. of India who appeared before the Commission has clarified that for all administrative matters, V.C. is the head and is accountable for all the affairs of the University. He too has asked the V.C., BHU to cooperate and appear before the NCSC, for finalization of the enquiry. During the discussion on 15.4.2013, the Secretary pointed out that reservation is

applicable in the BHU as well and the Govt. of India shall ensure this both in letter and spirit. The Govt. of India also instructed the Vice-Chancellor to appear before the NCSC, but he ignored even the instructions of the Govt. of India.

The NCSC also wrote DO letters to the Hon'ble HRD Minister on 30.11.2012, 19.2.2013 and on 7.3.2013, highlighting the atrocities committed by the BHU against the SC officers / employees working in the University, and sought intervention for safeguarding the interest of the SCs. The M/o HRD issued instructions to the HRD Department for immediate intervention and prompt action. But no action has yet been taken on this issue. The NCSC has issued several Notices and Summons to the Vice-Chancellor, BHU, Varanasi. The Vice-Chancellor ignored all such Summons and never appeared before the Commission. The attitude of Vice-Chancellor, BHU shows his high handedness and utter disrespect to the Constitutional Body. The Commission has further been informed by the petitioners that instead of redressing their grievances, the BHU Administration has indulged in further harassing them, by issuing Memo's and initiating disciplinary actions.

The Banaras Hindu University is one of the oldest and premier University in the country for Higher Education. It was established by the Parliament in 1916. The BHU is bound to follow the rules of recruitment, rules pertaining to reservations both in admission and promotion, issued from time to time by the Deptt. of Human Resource Development, Govt. of India. It is the responsibility of the University to implement these rules. It is however, observed that the BHU has never taken any serious action. Rather, the Administration has been harassing and victimizing the SC/ST employees on the occasion when they approach the National Commission for Scheduled Castes for the redress of their grievances. This is a total disregard and disrespect to the National Commission which is a

Constitutional body mandated to safeguard the interest of the Scheduled Castes.

The Hon'ble Chairman of the NCSC had also written a d.o. letter all Ministers of Govt. of India and Chief Ministers/States/UTs on 14.12.2010 regarding to issue strict instructions to the officials of the concerned department to ensure that officials/officers belonging to SCs are not harassed for approaching the Commission for protection and safeguard as provided in the Constitution of India, or any other Law in force. The then Hon'ble Minister of HRD has informed that such instructions have been issue to concerned departments and even UGC has also issued instructions to the BHU in April, 2011.

National Commission for Scheduled Castes is mandated to enquire into any specific complaint, in respect of deprivation of rights and safeguards of SCs. On the basis of complaints, NCSC decided to enquire into the cases of SC employees of BHU. Accordingly Vice-Chancellor, BHU was called for the discussion in the matter. The Commission came to know that the Vice-Chancellor, BHU, instead of appearing before the Commission, filed a Writ in the Hon'ble High Court of Allahabad against his appearance in the Commission. The National Commission for Scheduled Castes has sent a letter (Annexure E) to the Hon'ble Prime Minister of India, and brought to his kind notice that wherever NCSC conducts some inquiry and makes recommendations, it is seen that the department often goes to the Court. . As per Article 338 of the Constitution of India, the departments are expected to give due consideration and to cooperate with the NCSC for rendering justice to a sizeable population of the SCs in the country. Writ petition in the Hon'ble High Court with consequential expenses only complicates and delays final delivery of justice to the deprived sections and also usher in a heavy financial burden on the State Ex-chequer

RECOMMENDATIONS

It is observed that the role played by Dr. Lalji Singh, Vice-Chancellor of BHU, Varanasi is against the provisions of the Constitution and Reservation Policy of the country. He deliberately ignored the decorum through non-cooperation with the National Commission for Scheduled Castes, despite several summons, issued by the Commission. He never appeared before the Commission. Instead he further victimized the SC/ST employees and teachers for approaching the National Commission for the redressal of their grievances. The Vice-Chancellor, BHU did not even follow the instructions of Ministry of HRD, and of the UGC Guidelines. Therefore, NCSC recommends that:

1. Dr. Lalji Singh, Vice-Chancellor, BHU should be directed to honour the recommendations of the National Commission for Scheduled Castes for the redressal of the grievances of SC petitioners, without any further harassment to employees approaching the NCSC.
2. This is a unique case of gross violation of Reservation Policy by the BHU and of non-cooperation with the Constitutional Body. Therefore, the Government should initiate legal action permissible under the law including SC/ST (POA) Act, 1989 against the erring officers of the BHU, Varanasi including Dr.Lalji Singh.
3. The BHU, Varanasi should fill up all the back-log reserved posts of Assistant Professors, Associate Professors and Professors, and of all non-teaching staff that include 'A', 'B', 'C' & 'D' groups by launching a Special Recruitment Drive.
4. A High Level Committee should be set up in the M/o HRD to monitor the implementation of Reservation Policy in the BHU, Varanasi. They should also take a decision whether such a person with prejudiced mind should held such post.

5. The SC/ST Employees Association of BHU, Varanasi should be given a formal recognition. All the required facilities should be given to them for the sake of welfare of the SC/ST employees at BHU. The Association should also be allowed to participate in all the meetings of BHU where the interest of the SC/ST employees is involved.
6. The employees of SC/ST category in BHU, Varanasi should not be harassed or victimized for approaching the National Commission for Scheduled Castes, for the redress of their grievances.
7. The Hon'ble Supreme Court may be requested to issue directions to all the Hon'ble High Courts not to interfere with the orders of the National Commission for Scheduled Castes and acknowledge the status of NCSC as a Constitutional body and interim orders against NCSC may not be pursue as a matter of routine..
