

# India's Supreme Court intervenes in caste-reservation controversy

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India's Supreme Court has intervened in the controversy over the United Progressive Alliance (UPA) government's plans to expand caste-based reservations (mandatory affirmative action programs) at the country's premier universities and professional institutes, saying the issue "requires judicial review."

In a ruling issued Tuesday arising from two "public interest litigation" cases that challenge the legality of the government's plans, a two-judge panel of India's highest court ordered an end to strikes at public hospitals by doctors and residents. The almost three week-old *medico* strike had seriously disrupted hospital services in many major urban centers and become the focal point of the anti-reservation agitation.

Of greater consequence, however, was the panel's assertion of the court's right to scrutinize the constitutionality of the government's plans. Agreeing with the claims of the plaintiffs, Justices Arjit Pasayat and Lokeshwar Singh Pantia said the proposed expansion of reservations would "have serious social and political ramifications and this court will deal with it appropriately."

The panel ordered the government to answer a series of questions concerning the rationale for, and criteria to be used in, setting aside 27 percent of all entry-places at central government-funded universities for students who belong to a state-created agglomeration of lower-caste groups known as the Other Backward Classes (OBCs). The ruling thus opens the door for the court to order delays in the implementation of the UPA reservation scheme, modify it, or even strike it down entirely.

The Congress Party-led UPA is using the reservation issue to provide itself with a populist cover for its continued implementation of the neo-liberal agenda of big business—an agenda that has produced acute social distress in rural India and a vast increase in the number of urban unemployed.

While India's poor are effectively denied education and health care because of the lack of decent public facilities and trained personnel, the UPA government is claiming that by reserving a tiny number of university-entry places for OBCs-15,000 or less per year—it is striking an historic blow against caste oppression and for social equality.

No less self-serving are the claims of the corporate media and

big business which, in the name of upholding merit, have egged on the anti-reservation protests. The elite instinctively sympathize with the protesting students, who generally come from prosperous and traditional upper caste families, and are hostile to any questioning—however minimal and misconstrued—of the gross social inequalities that characterize Indian capitalism.

Through the current furor over OBC reservations in central government-funded universities, the corporate elite is, above all, seeking to carry out a pre-emptive strike against the UPA's as of yet nebulous plans to extend reservations to business. Private sector reservation would not create a single job, only ration out the woefully inadequate number of jobs according to caste. But business fears it will mean additional regulatory costs and views any curtailing of management prerogatives as a return to the "bad old-days of Nehruvian socialism."

The corporate media welcomed the Supreme Court's ruling as did the Youth for Equality, the ad hoc student group that has been in the forefront of the anti-reservation protests.

Declared the *Hindustan Times* in an editorial Wednesday, "The striking medical students' ... have played a heroic role in resisting the irrational government policy of enforcing quotas for the OBCs in institutions of higher learning. The Supreme Court's decision to look into all the aspects of the issue is a victory, and the students should see it as such."

In recent years the Supreme Court has aggressively attacked worker rights. In an infamous August 2003 decision, it upheld the constitutionality of the brutal measures the Tamilnadu state government took to crush a strike of government workers, then proclaimed that public sector workers, and possibly other workers, have no inherent constitutional right to strike.

In this case, by contrast, the court, instructed the government to drop any and all disciplinary action against the *medicos*.

Justices Pasayat and Pantia indicated sympathy for the plaintiffs' contention "that the adoption of this policy will divide the country on caste basis," saying "the court will consider this issue later."

The judges ordered the government to explain on what basis OBC membership was determined and the rationale for these criteria. (Government inquiries have come up with different caste-based definitions of what groups should be included in

the “other backward classes” and this, along with the fact that the government does not employ caste as a census category, has led to varying estimates of what percentage of India’s population ought to be classified as OBC, ranging from 30 to 52 percent.)

The judges also instructed the government to explain the reasoning behind its decision to fix the percentage of university places reserved for OBCs at 27.5 percent and how the reservation scheme will be implemented. In an attempt to mollify opposition, the government announced last week that it would dramatically increase the total number of places in central government-funded institutions so that the new OBC quota does not reduce the real number of general or non-reserved places. But university administrators and other have complained that such an expansion could not be properly carried out, given the need for new facilities and instructors, within the one-year time frame established by the government.

The supreme court panel gave the government 8 weeks to answer to its questions and the public interest legislation litigants a further 6 weeks to respond to the government’s answers. During this time, rallies and demonstrations for and against reservation will in all likelihood continue.

The supreme court intervention underscores that India’s ruling elite is sharply divided over the reservation question.

Most of the political establishment has voiced support for OBC reservation in central-government funded institutions. The official opposition, Hindu supremacist Bharatiya Janata Party (BJP), which in the name of Hindu unity poses as an opponent of caste-ism, initially endorsed the UPA initiative along with its partners in the National Democratic Alliance. But in recent days divisions have emerged, with some prominent BJP politicians joining the anti-reservation protests, while other BJP leaders who identify themselves as “OBC leaders” have criticized the party leadership for not being more supportive of the government on this issue.

The corporate media and business groups, by contrast, have been strongly supportive of the anti-reservation agitation, making it a veritable *cause célèbre* and the dominant domestic news story for much of May. From these quarters voices have been increasingly heard that call into question the very notion of reservation.

While OBC reservation emerged as a major political issue only in 1989, reservations for dalits (the ex-untouchables) and the tribal peoples in parliament, higher education and government jobs became state policy soon after India became independent of the British Empire.

Reservations have utterly failed to raise the vast majority of dalits and tribals from abject poverty. But they have served as an important prop of bourgeois rule, nurturing a small layer of dalit and tribal petty bourgeois that is loyal to the Indian state and zealous in its promotion of identity politics.

The current reservation controversy is an expression of acute social crisis. The ruling elite is sharply divided over the

government’s latest attempt to use caste appeals—long the stock and trade of Indian politics—to give a populist covering to its pursuit of the socially incendiary neo-liberal agenda of big business.

The anti-reservation strikes and protests meanwhile are testament to the fact, the claims of “shining India” notwithstanding, that even among the more privileged sections of the middle class there is acute anxiety over jobs and economic security.

And then there are the hundreds of millions of toilers whose anger and opposition to mass unemployment and social deprivation cannot find positive expression because those who claim to lead the working class—the Communist Party of India (Marxist)-led Left front—are sustaining the Congress-led UPA government in office, even as it institutes neo-liberal policies and pursues a strategic partnership with the Bush administration. At one with this policy is the Left Front’s support for the UPA’s plans to extend reservations.

As the *World Socialist Web Site* explained in a recent article, India’s toilers must reject the entire framework of the reservation debate:

“There is a grave danger that the Stalinists will enable the Indian ruling class to divert the mass social discontent of India’s toilers into mobilizations focused on the rationing of education-places and jobs—that is the rationing of capitalist misery—on caste lines. Such politics leaves the program of big business and the capitalist social order unchallenged and reinforces caste divisions, thereby allowing the bourgeoisie to press forward with the implementation of its neo-liberal policies and opening the door for the BJP and other ultra-right forces to falsely present themselves to the rural and urban middle class as their defenders.”

A genuine struggle against caste oppression is possible only through a working class-led movement that mobilizes all sections of the oppressed, irrespective of caste, religion or ethnicity, against the UPA government and the capitalist social order, and for jobs, educational opportunities, and quality public services for all.



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