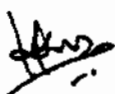


3. Sittings of the Commission for taking evidence

3. 1 In an enquiry like this which deals with an issue of high social relevance and significance, it is both appropriate and essential to know the views of a broad spectrum of public opinion of all shades. This is also essential in a statutory enquiry under the Commissions of Inquiry Act, 1952.

3. 2 The Commission on 9-1-2001 issued a Notification inviting the opinion of the public and organisations in the matter of the adequacy or otherwise of representation of the Backward Classes in the services. The above Notification was published in the leading daily news papers in the State. The public readily responded and as many as 209 representations were received by the Commission. Though the time limit of 31-1-2001 was there in the Notification inviting representations, representations received thereafter also were taken on the file. As a matter of fact, some organisations brought written representations with them when they appeared before the Commission for giving evidence. There are a few instances where representations brought and produced at the time of evidence were copies of representations already submitted in response to the Notification dated 9-1-2001.

3. 3 Thereafter on 29-5-2001 the Commission had a sitting in the District Panchayat Conference Hall situated at the premises of the Kozhikode Civil Station. Then a second sitting was held in the Council Hall of the Corporation of Cochin at Kochi on 6-6-2001. The third sitting was in the office of the Commission at Thiruvananthapuram on 21-6-2001. All the three sittings were notified to the public by advertisement in the leading Malayalam Daily News papers. This was to enable the public including those who had requested for an opportunity to appear before the Commission and give evidence in their written representations already submitted to the Commission. As according to the Commission there was good publicity and sufficient notice, the



Commission did not issue individual notices about the sittings to any of those who requested for an opportunity to adduce evidence. As many as 49 persons, both individuals and representatives of various organisations appeared before the Commission and gave evidence.

3. 4 A perusal of the representations received and the oral evidence adduced at the sittings of the Commission reveal that a good number of individuals and organisations are really interested in the subject matter of the inquiry by the Commission. Some of them have taken pains to study the different aspects of the question and have placed before the Commission their strong views in the matter. It is only proper that the Commission makes a brief survey of the representations received and the evidence adduced before the Commission in this report.

3. 5 As already stated the response from the public to the notification issued by the Commission inviting the views of the public on the subject matter of the inquiry by the Commission, was very good. In their enthusiasm a few persons and organisations have sent more than one representation. Representation 106 and 107 contain the same printed matter signed by different persons. Similarly, R. 77, R. 77A, R. 78, R.116, R.117, R.118, R.119, R.120, R.121 and R.122 are the same printed matter signed by different persons belonging to the Dalit Christians Group. R.177 and R.177 A are two representations bearing the same date filed by the United Muslim Organisation, State Committee, but the contents in the two representations are not the same. R.127, R.127A, R.130 and R.133 are representations filed by the same person. R.127 is a photocopy of R.132. R.140 is only a photo copy of R.101 representation. R.101 dated 30.1.2001 was delivered at the office of the Commission on 31-1-2001. R.140, a photo copy of R.101, without the Annexures, is seen received in the office of the Commission on 18-6-2001. R.186 and R.186A are two representations bearing two different dates filed by the very same two persons, R.157 and R.158 are two separate representations filed by the same

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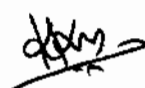
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person. R.157 is in English and R.158 is in Malayalam. R.75 filed on 7-12-2000 and R.76 filed on 30-1-2001 are from the same organisation.

3.6 The majority of the representations received by the Commission are from persons belonging to Backward Classes and form Backward Class organisations. The same is the position regarding those who appeared before the Commission to give evidence at the sittings held at Kozhikode, Kochi and Thiruvananthapuram. This is only quite natural. There are a few representations from the Scheduled Castes and Scheduled Tribes though the scope of the inquiry will not cover them.

3.7 A community-wise split up of the representations received from the Backward Classes is given hereunder:

3.8 R.1, R.3, R.32, R.48, R.80, R.82, R.96, R.98, R.103, R.113, R.129, R.138, R.150, R.154, R.171, R.184, R.191 and R.192 are representations from the Muslim community. R.51, R.53, R.69, R.86, R.108 and R.176 are representations received from Ezhava community. R.97, R.106, R.107, R.115, R.147, R.161, R.164, R.175 and R.183 are representations received from various sections of the Viswakarma community. R.136, R.143 and R.202 are representations received from the Dheevara community. R.15, R.23, R.34, R.165, R.166, R.196 and R.197 are representations received from the Potters community known by different names. R.2, R.172 and R.187 are representations received from the Latin Catholic. R.170 is a representation received from the Anglo-Indian community. R.26, R.85, R.137, R.152 and R.193 are representations received from the Veersaiva community. R.52, R.194 and R.195 are representations from the Ganaka community. R.168 and R.174 are representations received from Kudumbi community. R.163 is a representation received from Padmasaliya community. R.75, R.76, R.141 and R.142 are representations received from Hindu Nadars. R.74, R.78, R.83, R.116, R.117 and R.118 are representations received from Dalit Christians. R.8 is a representation received from Nadar Christians while R.91 is a representation received from Velans and







R.10 is a representation received from Yogeswara. It is a fact that some of these communities are known by different names in different parts of the State.

3. 9 Though the task entrusted to the Commission is to go into the adequacy or otherwise of the representation of Backward Classes in the services, a number of organisations and individuals belonging to the Forward Classes have submitted their representations to the Commission in the matter. Some of them have taken pains to appear before the Commission and tender evidence in support of their stand against reservation for Backward Classes. R.6 and R.24 representations submitted to the Commission insist that there should be no discrimination on caste basis in the matter of recruitment. R.35 pleads for economic reservation while R.43 is for giving up reservation after a particular period. R.44 wants 1 per cent reservation for 24 Mana Telugu Chetty Sangham and R.71 wants reservation for Namboodiries. R.109 representation insists that no representation in services should be there on the basis of community and recruitment must be on the basis of merit alone. R.110 holds the view that Forward Classes have not got proper representation in the services. The stand taken in R.112, an anonymous representation is that the complaint of the Backward Classes that they are not getting proper representation in the services is nothing but farce. R.101 is a representation strongly opposing the continuance of the reservation for Backward Classes on the ground that the Backward Classes in the Kerala State and S.Cs and S.Ts have got representation in services beyond their percentage fixed by the Government. In support of this contention, ten annexures have been produced. R.100 is a representation insisting for a classification of Forward Classes for appointment to services under the State. R.110 is a representation for scrapping of reservation in the matter of appointments to State services and insisting that all appointments should be on the basis of merit. W.5 in his evidence insists that the poor among Forward Classes should have reservation. W.30 wants to give up the present system of reservation for Backward Classes and replace it by economic reservation. R.178 contends that Muslim and Ezhava communities have overcome the

social, educational and other backwardness as is evident from the percentage of Ministers and M.L.As belonging to these two communities and hence they are to be excluded from the list of Other Backward Classes. W 39 in his evidence has asserted that the communities who claim to be socially backward have secured 75% of the posts in the Government. In R.179, representation by Depressed Communities Front and in the evidence of W.39, Secretary of the Front, the stand taken is that no social inequality is there now and hence backwardness has to be determined on economic basis. It is also urged that all those who are below poverty line irrespective of community should be entitled for reservation of posts in the services.

3. 10 The complaint in almost all the representations from the Backward Classes is that their representation in the services is much less than what they are entitled to. Most of these communities want an increase in the reservation quota. They demand adequate representation in the services according to their population in the State. In R.171 it is contended that the Backward Classes who form 65% of the population have only 30% of the jobs while the Forward Classes who form only 35% of the population have 70% of the jobs in the services. R 82 and R.171 also insist that the lack of representation of the Muslims in the services should be made good by "Special Recruitment". In R.177 it is stated that in 1961, special recruitment was made for Muslims, Other Christians and Scheduled Castes and Scheduled Tribes. These demands are repeated by W.25 in his evidence. In R.176 it is alleged that in Class I and Class II posts, Backward Classes are not adequately represented. W. 36, the Secretary of the Samithy, in his evidence before the Commission has also underlined this aspect. In R.22, the demand is that the "Other Backward Christians" should have an increase in their representation in the services on the basis of their population. R.52 wants that Ganakas should have 10% quota reserved for them whereas R.173 limits that to 3%. The complaint of W.31 is that Velaars (Potter Community) are not actually getting any appointment and hence they should have a 1% quota. The complaint in R.175 is that in the first six months of 2001, though about 8000 recruitments were made through the Public Service Commission, the Viswakarma

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community did not get any appointment. The demand of W.34 is that the Viswakarma should have 7% reservation. According to W.44, the Dheeveras should have 5% reservation. The demand in R.53 representation is that even after 50 years of independence the Dalit and the Backward Classes have not got adequate representation in the services according to their population in the State. R.11, R.47, R.59, R.87, R.129, R.165, R.183, R.187, R.194, R.197 and R.199 are some other representations which make the same demand. W.26, W.34, W.40 and W.46 are some of those who in their evidence before the Commission, have demanded an increase in the representation of their communities in the services according to their population in the State.

3. 11 In R.37 there is a request that the Commission should find out the caste-wise population in the State. R.53 insists that the community-wise population should be found out at the outset. In R.48 the claim is that about 19 percent of the State population are Muslims while in R.98 the claim is that they are about 25 percent. In R.129 also the claim is that Muslims are the largest community in the State. W.4 also in his evidence repeats this claim. In R.108 the claim is that Ezhavas form 30 percent of the State population and they are about 90 lakhs. In R.176 also the claim is that Ezhavas are the largest community in the population of the State. R.116 states that Dalit Christians are 30 lakhs. R.166 claims that Potters are 16 lakhs. R.173 claims that Ganakas are 10 lakhs. According to R.174, there are 6.5 lakh Kudumbis in the State. W.44 asserts that Dheeveras are 40 lakhs. R.196 points out that Potters are 16 lakhs. According to R.201, Vanika Vaisyas are 9 lakhs. R.26 claims that Veerasaivas are 10 lakhs. The question is how much reliance can be placed on these assertions made by the different communities.

3. 12 There is a demand made in a good number of representations that reservation must be there in the recruitment to all posts where salary is paid from the consolidated fund of the State. R.11, R.46, R.51, R.108, R.137, R.171, R.176, R.177 and R.184 are some of the representations which high-light this point. It is the aided schools and private colleges in the State that they have in mind. The total staff strength of these

institutions is somewhere near 1.5 lakhs. In R.127A, the demand is for necessary legislation for reservation for Backward Classes in private sector also. In R.176, the demand is that all appointments to posts where salary is paid from the consolidated fund of the State should be filled up through recruitment by the Public Service Commission. It is also demanded that reservation should be extended to the co-operative sector. In his evidence W.36 has repeated these demands. Witness numbers 1, 22, 37, 42 and 47 are some of those who have put forward the demand that reservation should be made applicable to all posts where salary is paid from the consolidated fund of the State.

3. 13 There are a few representations where the complaint is that appointments are made ignoring the reservation principle or overlooking the reservation quota. Some of the witnesses also has high-lighted this aspect in their evidence before the Commission. W.13 in his evidence has gone to the extent of asserting that according to the Mahatma Gandhi University no rotation principle is to be observed in the matter of isolated appointments. R.162 is a representation complaining that in their appointments no reservation rotation was observed and that they were given ranks below others who could have been ranked only below them. The first signatory in R.162 has given evidence before the Commission as W.16 repeating the allegation contained in R.162.

3. 14 A good number of representations received from Backward Classes and a number of Witnesses who appeared before the Commission to give evidence, oppose tooth and nail the unit system of 20 insisted by Rule 14(a) of the Kerala State and Subordinate Services Rules, 1958 and the rotation chart given in Rule 14(c). It is alleged that Backward Classes who are entitled for recruitment on the basis of merit are adjusted in their reservation quota and by this device Forward Classes candidates who are not entitled for selection manage to get into the select list. It is further urged that this should be stopped and Rule 14 should be amended to prevent this injustice to the Backward Classes. In R.1 the demand is that the rotation chart should be 100 instead of 20. According to R.171 the whole reservation is torpedoed by the unit system and rotation

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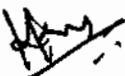
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chart provided in Rule 14 of the K.S.S.R. In R.79, R.80, R.81 and R.87, a serious challenge against the unit system and the rotation chart is made. According to W.34, the rotation should be changed every ten years. The demand by W.42 is to stop the 20 unit system. According to W.45 and W.46, the rotation should be changed every five years. R.106 and R.188 want the unit system and the rotation chart to be changed. W.9 in his evidence and R.154 submitted to the Commission has gone deep into the details of the matter to show that the unit system and the rotation torpedoes the whole reservation concept.

3. 15 There is a demand in R.51 representation submitted to the Commission that a separate department for the welfare of Backward Classes should be there. It is also pointed out in this representation that in States like Tamilnadu there is a separate department for the welfare of Backward Classes.

3. 16 Some of those who submitted representations to the Commission, made a request for an opportunity to appear before the Commission to give evidence. A number of persons including those who did not make such a request also appeared before the Commission and gave evidence. A list of representations received and a list of witnesses who appeared before the Commission are given in *Annexures 5* and *6* respectively.

3. 17 Most of the Backward Classes have a common complaint that their community has no proper representation in the services. So in their representations they have demanded 'Special Recruitment' to fill up the deficiency. Some of the communities have limited this claim to class I and class II posts where according to them their representation is very poor. R.48, R. 103, R.129 and R.151 are the representations where the demand for Special Recruitment for Muslims is made. R.106 and R.161 are the representations where demand for Special Recruitment for Viswakarma is made. In R.176 representation demand for Special Recruitment for Ezhavas in class I and class II posts is made. Some of the witnesses who gave evidence before the Commission have


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also made this demand. In R.127, it is contended that there is no provision for special recruitment of OBCs in Articles 16(4) and 320 (4) of the Constitution of India.

3. 18 Among the 200 and odd representations received R.17, R.37, R.42 and R.112 are anonymous. R.180 is simply a copy of a representation sent to the Kerala State Commission for Backward Classes, forwarded to the Commission by a covering letter while R.145 is a photo copy of a representation sent to the District Collector, Palakkad; the only changes are by scoring off 'Palakkad District Collector', 'Justice Narendran Commission' is inserted and the date '21st December, 2000' changed as '21st June, 2001'. The authors of R.4, R.5, R.11 and R.20 have chosen post cards to write representations. R.128 is a representation by the President, Backward Class Reservation Protection Council, I. Justus Nadar. It is stated in the representation that it is a petition filed under Sub-section (1) of Section 9 of the Kerala State Commission for Backward Classes Act, 1993. No action is called for by the Commission in this representation. R.189, a Junior Auditor of the Co-operative department wants a deputation to the Commission Office. He has forwarded his bio-data also along with the representation. R.14 is a representation by a former employee of the Food Corporation of India whose services were terminated and whose suit challenging the termination is pending before the Sub Court, Thiruvananthapuram.

3. 19 R.131 is a request to the Commission to enquire into a malpractice of one person getting an appointment by producing a creamy layer certificate by dubious methods. In R.138 the Calicut Dakshini Muslim Jamath requests to make available a copy of some resolution dated 27-10-1999 adopted by the National Commission for Backward Classes including Dakshini Muslims in the Central list of other Backward Classes. R.195 is a representation to exempt Ganakas from creamy layer. The request of witness No.49 (W.49) is for the creation of a Pappada Corporation. One of the requests in R.16 is that a certain percentage of PWD contracts should be reserved for Scheduled Castes and Scheduled Tribes. Another request in the same representation is to reserve

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some Abkari shops for Scheduled Castes and Scheduled Tribes. R.3, R.4, R.5, R.7, R.8, R.12, R.13, R.17, R.21, R.28, R.36, R.50, R.62, R.84 and R.104 are also some of the other representations which are not relevant to the scope of the enquiry by the Commission. R.104 is a mass petition by 27 members of the staff of the K.S.R.T.C. belonging to the Scheduled Castes and Scheduled Tribes who are empanelled workers. In a number of representations the question of inclusion in the O.E.C. as a safeguard for getting admission to educational institutions is raised.

3. 20 There are a number of representations projecting individual grievances of the persons who have submitted these representations. R.185 is a representation by a member of the Kalari Kurup-Kalari Panicker community. His request is that his son, a practicing lawyer should be appointed as a Munsiff-Magistrate. R.141 is a representation by one who has registered with the Employment Exchange as early as 19-7-1973. His grievance is that he is yet to get a job. The grievance in R.167 is that a person who has worked as Daily Wages Messenger in the State Bank of India in different branches from 1984 onwards is now without a job. His request is that the Commission should find out a solution for his problem. R.66 is a representation by a handicapped who has registered his name with the Kochi Town Employment Exchange from 1984 onwards and who is yet to get a job. He requests that the Commission should help him to get a job. The request in R.7 representation by a Senior Auditor of the Co-operative department is that he should be granted the full pension. R.2, R.8, R.30, R.31, R.39, R.54, R.73, R.123, R.125, R.126 and R.143 are some other representations where the grievance is individual.

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