

Issues with Teachers' quota in Universities

Why in news?

The Supreme Court recently dismissed a Special Leave Petition filed by the HRD Ministry against a 2017 order of Allahabad High Court.

What did the Allahabad High Court rule?

- The matter of **Vivekanand Tiwari & Anr v Union of India and Ors** dealt with the recruitment of teachers in Banaras Hindu University (BHU), a central educational institution.
- The petitioners sought cancellation of the then recruitment drive in the University.
- They demanded a fresh beginning, treating each department as a unit for calculating the number of faculty posts reserved for SCs, STs and OBCs.
- At that time, as mandated by the University Grants Commission (UGC), the number of SC, ST, and OBC faculty positions were calculated by treating the university as a "unit".
- All posts of the same grade across departments in a university were grouped together to calculate the quota.
- The High court upheld the plea and criticised the UGC for applying reservation in teaching jobs in a "blanket manner".
- It clarified that if the University is taken as a 'Unit', it could result in some departments/subjects having all reserved candidates and some having only unreserved candidates which would be discriminatory and unreasonable and is violative of Article 14 & 16.

What was the basis of this judgement?

- The posts of Assistant Professor, Reader, Associate Professor and Professor of each subject or the department are placed in the same pay-scale.
- But their services are neither transferable nor they are in competition with each other.
- It is for this reason that clubbing of the posts for the same level treating the University as a 'Unit' would be completely unworkable and impractical.
- Thus, the HC quashed Clauses 6(c) and 8(a)(v) of the guidelines framed by the UGC in 2006, and the letter of the UGC dated February 19, 2008, which forbade the practice of creating department-wise cadres.

- While in the case of Clause 8(a)(v), the HC cited the interpretation of the Supreme court for implementation of the roster system in **R K Sabharwal and Ors vs State of Punjab and Ors** case.
- The SC had then ruled that reservation rosters in government services should be with reference to posts, and not vacancies.
- Also, the roster would be implemented in the form of a running account from year to year.

How did UGC change its formula?

- The Allahabad HC decision was upheld by the Supreme Court in June 2017.
- Subsequently, the UGC recommended to the HRD Ministry that the High Court's verdict should be applied to all universities.
- The amended Section 6(c) now says that in case of reservation for SC/ST, all the Universities shall prepare the roster system keeping the department/subject as a unit for all levels of teachers as applicable.
- The amended Section 8(a)(v) says that the roster shall be applied to the total number of posts in each of the categories [e.g., Professor, Associate Professor, Assistant Professor]within the department/subject.
- However, there was widespread controversy following the order of the UGC.
- Hence, the HRD Ministry moved a Special Leave Petition before the Supreme Court last year, challenging the Allahabad HC order.

Why did government challenge it?

- Ministry of Social Justice and Empowerment compiled data on teaching posts generated across several universities since the UGC order of March 2018.
- It reveals that, of the 706 vacancies advertised by 11 central universities, only 2.5% posts were for SCs, and none for STs.
- A projection was presented by Banaras Hindu University to the HRD Ministry to show how the new formula would have impacted.
- It showed that the posts reserved for SCs would be reduced by half, those for STs by almost 80%, and those for OBC teachers by 30%.

OLDFORMULA VS NEW

Number of reserved posts, if BHU takes university as a unit (OLD)

Name of posts (cadre)	General	SC	ST	OBC	Total
Professor	197	38	18	00	253
Associate Professor	410	79	39	00	528
Assistant Professor	581	172	86	310	1,149
Total	1,188	289	143	310	1,930

Number of reserved posts, if BHU takes department as a unit (NEW)

Name of posts (cadre)	General	SC	ST	OBC	Total
Professor	250	03	00	00	253
Associate Professor	500	25	03	00	528
Assistant Professor	812	91	26	220	1,149
Total	1,562	119	29	220	1,930

****Data shared in govt SLP filed in SC this month*

What are the other shortcomings?

- Reservation based on department as 'unit' means the number of reserved posts will be determined separately for each department.
- A department with only one professor cannot have reserved posts.
- This will drastically reduce the number of SC, ST, and OBC teachers in higher education.
- Under the old formula, posts of professors across different departments were clubbed together, and there was a better chance of positions being set aside for SCs, STs, and OBCs.
- Since reservation will only be implemented by rotation, it could take years to ensure proportional representation among teachers in higher education.

Source: The Indian Express

