



# RESERVATIONS IMPLEMENTATION IN PRIVATE SECTOR: A STUDY OF ANDHRA PRADESH

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## ABSTRACT

*Reservation is always contentious and sentimental issue and raises many concerns of the people. The policy of reservation and safeguards provided to Scheduled Castes and Scheduled Tribes and Other Backward Classes has adversely affected the unity and solidarity of the nation. Reservation in India is all about reserving access to seats in the government jobs, educational institutions and even legislatures to certain sections of the population. The reservation can also be seen as positive discrimination. Reservation in India is a government policy, backed by the Indian Constitution. Part XVI deals with reservation of SC and ST in Central and state legislature. The need for reservation can be looked from legal and socio-cultural perspective. The act of reservation is reserving seats in educational institutions, certain places of employment for certain castes and classes of society which are considered „backward“, those being the Scheduled Castes, Scheduled Tribes and Other Backward Castes. Reservation is an effective measure to end the oppressive discrimination. Reservation facilitates empowerment and social harmony for all in the segments.*

**Keywords:** Constitution, Reservation, ST, SC, OBC, SEBC, Women

**Cite this Article:** Piriya Sairaj, P.Arun Kumar and A.V.Joga Rao, Reservations Implementation in Private Sector: A Study of Andhra Pradesh, International Journal of Commerce and Business Studies (IJCBS), 5(1), 2023, pp. 1–8.

<https://iaeme.com/Home/issue/IJCBS?Volume=5&Issue=1>

## INTRODUCTION

Members who benefit from the reservation system means „paying back to the society“, which also needs to be seen as advocacy for uplifting the weakest.

B.R. Ambedkar (18March 1956) Reservation as an issue needs systematic study and approach. The objective of the constitutional makers was to provide protection to the weaker and down-trodden sections of our society those who have withstood oppression and suffering at the hands of the powerful section of the same society. This incorporation was meant as an upheaval process for backward classes to mitigate most of the oppression faced during the casteist era. It was done by granting them equal opportunities and special reservations to ensure their participation in the legal framework of the country. The system of reservation in India comprises a series of affirmative action measures, such as reserving access to seats in the various legislatures, to government jobs and to enrollment in higher educational institutions. The societal inequality in India is represented by the grossly

The proposal to extend reservations to the private sector has generated mixed reactions. The private sector is divided on the idea. The issue may go yet again to the Supreme Court. The implications of the proposal could be that labour productivity in the private sector may decline, the undeserving among the SC/STs and OBCs may get most of the benefits as they have managed to in the public sector in the past and for the really marginalised SC/STs reservations may not mean much as they are not equipped to avail of the benefits. Andhra Pradesh state percentage of reservation is around 50%. Including the overall 1/3 reservation for women, 66.66% of seats are reserved in Andhra Pradesh in Education and Government jobs. Andhra Pradesh BC quota has sub-quotas for castes, classified in A, B, C and D.

**Andhra Pradesh** also passed a law to provide job reservation for locals. It reserved 75% private jobs across all categories in industrial units, factories, joint ventures as well as Public-Private Projects. The law passed by the Andhra Pradesh assembly is currently challenged in the court and the court is yet to decide on it.

The Andhra law exempted companies for three years if they demonstrate that specialised manpower needed by them is not available locally but they have to train and engage local candidates within this duration. A legislation passed by the Andhra Pradesh assembly, nearly 20 months ago, to reserve at least 75% of jobs for local candidates in private sector and public private partnership companies in the state has started slow on account of low industrial activity in the state, the lack of adequately trained local candidates, and the government decision to give time to companies to meet the quota. The Andhra Pradesh Employment of Local Candidates in the Industries and Factories Act, 2019 was passed in the state assembly on July 17, 2019. The legislation is yet to be implemented in full, as the state government has chosen to go slow in enforcing the law. “For existing industries which want to go in for expansion or fresh recruitment, we have given three years’ time to implement the new reservation law,” state industries minister Mekapati Gautam Reddy said.

The state’s law has come into focus because of Haryana’s recent law, reserving for locals, 75% of jobs (paying under ₹50,000 a month) in new units, even in the private sector. The Andhra Pradesh law doesn’t mention a salary cap. The Andhra government insists that all new units submit details of the total workforce required under the heads skilled, semi-skilled, administrative and managerial employees. “The department of industries will grant the no-objection certificate (NOC) only after ascertaining that 75% of employees in all the departments are locals,” the minister said.

A company can be exempted if it writes to the government that it requires specialised manpower, not available locally, but this will require an examination by the state industries department. “In such cases, the employers need to give an undertaking that they will train and engage local candidates within three years in close collaboration with government agencies. Otherwise, the NOC would be withdrawn,” Reddy said. Interestingly, there haven’t been too many new projects in the state in these 20 months.

According to data from the industries department, between October 2019 and September 2020, 44 large and mega industrial projects were approved in the state with an investment of ₹22,282.16 crore, seeking to provide employment to 18,385 people; in the same period, as many as 10,019 micro, small and medium enterprises were proposed at an investment of ₹2,979.86 crore, aimed at providing employment to 76,716 people.

According to Andhra Pradesh Chambers of Commerce and Industry Federation general secretary Potluri Bhaskar Rao, many of these ventures could not take off, due to coronavirus pandemic. “A few companies in the MSME sector have come up, but they could not find a suitable workforce locally,” Rao said.

Vasireddy Murali Krishna, secretary of Federation of AP Small Industries Association, who owns a small-scale chemical business in Krishna district, said that generally, no industry or factory would prefer non-locals to work in their companies if sufficient local talent is available.

“It is easy to get the work done with the locals. But where is the trained workforce locally? Even if we employ the locals as per the government guidelines, there is no guarantee that they would stick to the job. On the other hand, if we employ non-locals, they will work for at least a few years.”

Objective of providing reservations to the Scheduled Castes(SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs) in services is not only to give jobs to some persons belonging to these communities. It basically aims at empowering them and ensuring their participation in the decision making process of the State. Justice B.P. Jeevan Reddy, while delivering the majority judgement in the matter of Indra Sawhney & Ors Vs. UOI & Ors, observed that public employment gives a certain status and power, besides the means of livelihood. The Constitution has, therefore, taken special care to declare equality of opportunity in the matter of public employment. Keeping the broader concept of equality in view, Clauses (4) and (4A) of Article 16 of the Constitution declare that nothing in the said Article shall prevent the State from making any provision for reservation of appointments or posts in favour of backward class of citizens which in the opinion of the State is not adequately represented in the services under the State. Article 16 of the Constitution and also Article 335 which have direct bearing on reservation in services are reproduced below:

Article 16 (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens which in the opinion of the State, is not adequately represented in the services under the state.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favor of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Article 335. The claims of the member of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently, with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or of a State. Provided that nothing in this article shall prevent in making of any provision in favor of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.

## **EVOLUTION OF THE SCHEME OF RESERVATION**

On attainment of Independence, instructions were issued on 21-9-47 providing for reservation of 12 ½ per cent of vacancies for SCs in respect of recruitment made by open competition. In case of recruitment otherwise than by open competition this percentage was fixed at 16 2/3 per cent. Difference between recruitment by open competition and otherwise then by open competition has been explained in Chapter-II. After the Constitution was promulgated, MUA, in its 7 Resolution of 13-9-50, provided 5 per cent reservation for STs apart from the percentage fixed for SCs already in force. The 1951 Census showed that the percentage of SCs in the total population was 15.05 per cent and that of ST 6.31 per cent. The percentages were not revised at the time as a comprehensive bill revising the lists of SCs and STs was under consideration. The other reason for not revising the percentage was that reservation had already been provided for SCs in posts filled otherwise than by open competition to the extent of 16.66 per cent and instructions had also been issued for following a regional and local percentage for Class III and Class IV posts attracting candidates from a locality or a region. The 1961 Census revealed that the SC and ST population in proportion to the Indian population stood at 14.64 per cent and 6.80 per cent respectively. Accordingly, the percentage of reservation for SCs and STs was increased from 12 ½ and 5 per cent to 15 per cent and 7 ½ per cent respectively on 25-3-70. The 1971 Census did not warrant any such review. The actual impact of 1981 Census figures on all India percentages could not be known because the Census of 1981 could not be carried out in the State of Assam. The Government in 1993 introduced reservation for Other Backward Classes in direct recruitment broadly at the rate of 27%. After introduction of reservation for OBCs, total reservation for SCs, STs and OBCs comes to 49.5% in case of direct recruitment on all India basis by open competition and 50% in case of otherwise than by open competition. As per various judgments of the Supreme Court, total reservation for these communities cannot exceed the limit of 50%.

Reservation has been extended to different modes of promotion in stages. In 1957, reservation was provided for SC & ST in departmental competitive examinations. Reservation in promotion by selection in Group C and Group D was provided in 1963 and in the same year reservation in departmental competitive examination was limited to Class III and Class IV only. The position was slightly changed in 1968 when reservation in limited departmental examination to Class II, III and IV and promotion by selection 'to Class III and IV was subjected to a condition that element of direct recruitment should not exceed 50 per cent. Reservation in promotion by 'seniority subject to fitness', came in force in 1972 subject to the condition that the element of direct recruitment does not exceed 50 per cent. In 1974, reservation in promotion by selection from Group C to Group B, within Group B and from Group B to the lowest rung of Group A was introduced subject to the condition that the element of direct recruitment, if any, does not exceed 50 per cent. The limitation of the direct recruitment not exceeding 50 per cent was raised to 66 2/3 % per cent in 1976 and to 75% in 1989.

### **RULES OF RESERVATION FOR ADMISSION:**

(i) Category A seats shall be reserved, to the following categories in Admissions to Professional courses: (1) Region-wise reservation of seats:

Admission to 85% of the seats in each course shall be reserved for the local candidates and the remaining 15% of the seats shall be un-reserved seats as specified in the Andhra Pradesh Educational Institutions (Regulations and Admissions) Order, 1974 as subsequently amended.

EXPLANATION: For purpose of these rules,-

(i) Local Areas means:

(1) The part of the State comprising the districts of Adilabad, Hyderabad (including Twin Cities) Ranga Reddy, Karimnagar, Khammam, Medak, Mahaboobnagar, Nalgonda, Nizamabad and Warangal shall be regarded as the Local Area for the purpose of admission to the Osmania University, the Kakatiya University and the Telangana University and to any other educational institutions (other than a state-wide university or state-wide educational institution) which is subject to the control of the State Government and is situated in that part.

(2) The part of the State comprising the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Krishna, Guntur and Prakasam shall be regarded as the Local Area for the purpose of admission to the Andhra University, the Acharya Nagarjuna University and Adikavi Nannaya University and to any other educational institutions (other than a statewide university or state-wide educational institution) which is subject to the control of the State Government and is situated in that part.

(3) The part of the State comprising the districts of Anantapur, Kurnool, Chittoor, Cuddapah and Nellore shall be regarded as the Local Area for the purpose of admission to the Sri Venkateswara University, the Sri Krishnadevaraya University and the Yogi Vemana University and to any other educational institutions (other than a state-wide university or state-wide educational institution) which is subject to the control of the State Government and is situated in that part.

(ii) Local Candidate means:

(A) A candidate for admission shall be regarded as a local candidate in relation to a local area.

(a) If he/she has studied in educational Institution or educational Institutions in such local area for a period of not less than four consecutive academic years ending with the academic year in which he/she appeared or as the case may be, first appeared in the relevant qualifying examination, or

(b) Where, during the whole or any part of the four consecutive academic years ending with the academic year in which he/she appeared or, as the case may be, first appeared for the relevant qualifying examination, he/she has not studied in any educational Institutions, if he/she has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination in which he/she appeared or, as the case may be, first appeared.

### **Reservation for SC/ST/BC Communities:**

(a) 15% of seats in each course in each institution shall be reserved for the candidates belonging to Scheduled Castes .

(b) 6% of seats in each course in each Institution shall be reserved for the candidates belonging to the scheduled Tribes. The seats reserved for scheduled Tribes shall be made available to scheduled Castes and Vice-versa, if qualified candidates are not available in the category. If qualified candidate belonging to Scheduled Castes and Scheduled Tribes communities are not available the left over seats reserved for them shall be treated as unreserved seats and shall be filled by the candidates of General pool.

(c) 29% of seats in each course in each institution shall be reserved for the candidates belonging to the Backward classes and shall be allocated among the four groups of Backward classes as shown below: GROUP 'A' 7% GROUP 'B' - 10% GROUP 'C' - 1% GROUP 'D' - 7% (2) GROUP 'E' - 4% If qualified candidates belonging to Backward class of a particular group are not available, the left over seats can be adjusted for the candidates of next group. If qualified candidates belonging to Backward classes are not available to fill up the 29% seats reserved for them, the left over seats shall be treated as unreserved and shall be filled up with candidates of General pool. No candidate seeking reservation for admission under the above categories be allowed to participate, in the Counseling for admission unless he produces the Integrated Community Certificate prescribed by the Govt., and issued by the Revenue Authorities in the Government

The 50% reservation to BCs, SCs, STs and Minorities in nominated posts shall be apportioned as follows:

<b>S.no</b>	<b>Category</b>	<b>Percentage of Reservation</b>
<b>1.</b>	<b>BCs/Minorities</b>	<b>29%</b>
<b>2.</b>	<b>SC</b>	<b>15%</b>
<b>3.</b>	<b>ST</b>	<b>6%</b>
	<b>Total</b>	<b>50%</b>

The basis of reservation cannot be attributed to a single concept but a combination of them. Primary among them is the welfare concept, that is, the upliftment of socially and economically weaker sections of the people. In this case of Scheduled Castes (SC) to a considerable extent, though not solely, the concept of compensations for past injustices and deprivations suffered by them finds place. Reservation in India law is a form of affirmative action whereby a percentage of seats are reserved in the Public Sector Units, Union and State Civil Services and Union and State government departments and in all Public and Private Educational Institutions, except in the religious/ linguistic minority educational institutions, for the socially and educationally backward communities and the Scheduled castes(SC) and Scheduled Tribes(ST) who are inadequately represented in these services and institutions. The reservation policy is also extended for the Scheduled Castes (SC) and Scheduled Tribes (ST) for representation in the Parliament of India.

The framer of the Constitution believed that, due to the cast system, SCs and the STs were historically oppressed and denied respect and equal opportunity in Indian society and were thus under- represented in nation- building activities.

## CONCLUSION

The reservation policy was adopted with a reason to uplift certain castes who were subjugated to atrocities, social and economic backwardness due to the prevalent dominance of caste system. The creamy layer has been excluded from the list of Scheduled Castes, Scheduled Tribes and OBC after the landmark Mandal Case. The Court has always put up a very generic approach to providing reservation. Reservations will continue to play a useful role but will likely be a diminishing part of the solution of Dalit problems. There are major flaws. Reservations apply to the public sector but not the private sector, the probable growth area of the Indian economy. The reservations system would benefit markedly from an administrative facelift. As recommended by the Commission for Scheduled Castes and Scheduled Tribes, a comprehensive act, articulating the policy is needed. The revision and streamlining of procedures, such as SC certification, might help curb abuse. In addition, social programs such as those directed at improving the education system, especially at the primary level and in rural areas should be given more emphasis. The political indulgence in the process of reservation has merely reduced from a noble idea to a strategy to increase the vote bank. A lot of criticism has been made on the criteria of reservation. The socially and economically backward classes are not actually in practical and real sense but backward caste is enough to gain profits in the name of reservations.

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**Citation:** Piriya Sairaj, P.Arun Kumar and A.V.Joga Rao, Reservations Implementation in Private Sector: A Study of Andhra Pradesh, International Journal of Commerce and Business Studies (IJCBS), 5(1), 2023, pp. 1–8



<https://doi.org/10.17605/OSF.IO/9PGQJ>

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