Supreme Court Quashing AP's 100% Quota Order

Why in news?

- The Supreme Court (SC) has quashed a January 2000 order of the erstwhile state of Andhra Pradesh.
- [The order provided 100% reservation to Scheduled Tribe (ST) candidates for the post of teachers in schools in the scheduled areas.]

What was the State's rationale?

- There was chronic absenteeism among teachers who did not belong to those remote scheduled areas where the schools were located.
- The State government's original orders of 1986, and the subsequent order in 2000, were an attempt to address this.
- The Governor of then undivided Andhra Pradesh had cited Schedule V of the Constitution to pass the order.
- It provides for administration of Scheduled Areas in states other than Assam, Meghalaya, Tripura and Mizoram.

What are the SC's arguments now?

- **Equality** - The scheme was not against affirmative programmes as such, but the implementation manner was detrimental to the rest of society.
- Andhra Pradesh has a local area system of recruitment to public services.
- The President, under Article 371D, has issued orders that a resident of a district/zone cannot apply to another district/zone for appointment.
- The 100% reservation thus adversely affected the interests of other candidates.
- These include not only Scheduled Castes and other backward communities but also other ST communities not native to those areas.
- The court thus concluded that the reservation violated Articles 14 (equality before law), 15(1) (discrimination against citizens) and 16 (equal opportunity) of the Constitution.
- SC ruling stresses that overzealous reservation tends to affect rights of other communities.
- **Schedule V** - The court held that creation of 100% reservation through the government order was akin to making a new law.
- But the Schedule V only allows the Governor to not apply or apply a law to a

scheduled area with modifications.
- It does not allow the Governor to make a new law altogether.
- **Suggestions** - The court noted the move of drafting only members of the local tribes was not a viable solution to teachers' absenteeism.
- It noted that the government could have come up with other incentives to ensure the attendance of teachers.
- The court however agreed to not quash the appointments to the posts made since 1986.
- This was done on the condition that the states of Andhra Pradesh and Telangana would not attempt to bring in a similar quota in the future.

What are the larger concerns in this regard?

- **Reservation ceiling** - Dr. B.R. Ambedkar had observed that any reservation normally ought to be for a "minority of seats".
- This is one of the points often urged in favour of the 50% cap imposed by the Court on total reservation (although with exceptions in special circumstances).
- If at all the cap be breached, a special case must be made for it.
- However, it must also be noted that there is a continuing need for a significant quota for STs, especially those living in Fifth Schedule areas.
- **Revision of list** - In this backdrop, courts tend to emphasise on revision of the list of SCs and STs.
- The power to amend the lists notified by the President is not in dispute.
- However, it is not totally acceptable to say that the advanced and "affluent" sections within SCs and STs are cornering all benefits.
- The SCs and STs thus need due representation for their rightful empowerment.

Source: The Hindu, The Print

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