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# OBC VOICE



## KALAINAR

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### ARCHITECT OF DRAVIDIAN MODEL OF GOVERNANCE



### AHINDA CRUSADER

Why Public Sector  
Employment  
Declining?



Creamy Layer  
Is it Valid  
Now?



Proportional  
Representation in  
Judiciary



## LAUNCH OF MONTHLY MAGAZINE 'OBC VOICE' AT CHENNAI - 1.5.2023



### LEADERS AND BANK EXECUTIVES GREETS



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The views expressed  
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# Lateral Recruitments

## Where is social justice?

**U**PSC, vide its advertisement dated 20.5.2023, has invited applications for lateral recruitment of Joint Secretary and Director / Deputy Secretary level posts on contract basis. Four Joint Secretaries and 16 Directors/Deputy Secretaries will be inducted through lateral recruitment in these Ministries/Departments, it said. This is the third such recruitment drive undertaken by this Government.

In a written reply to a question raised in Rajya Sabha on 22nd May 2021, Hon'ble Minister of Personnel Dr.Jitendra Singh said, 9 candidates were selected for appointment as Joint Secretaries in various Ministries/Departments of the Government of India through lateral recruitment in 2019. Further, 31 candidates have been selected for appointment through lateral recruitment in 2021, comprising 3 candidates for the post of Joint Secretary, 19 for the post of Director and 9 for the post of Deputy Secretary. ***"On the question of reservation policy for these appointments, Hon'ble Minister has categorically stated that this issue does not arise."***

Reservations in government jobs are constitutionally and legally mandated, so the answer on why they are not extended to lateral entry was sought by NCBC with DOPT earlier in February 2021 itself.

In order to avoid reservation policy, the posts of identical nature have not been clubbed and instead advertised department-wise as single post. In a similar situation that arose in recruitment of Faculties in Universities, Parliament in June, 2019 (CEI Act, 2019) passed legislation to treat posts in similar cadre as a Unit so that reservation policy is not ignored citing single post in a department. Now the Union Government is ignoring this concept in lateral recruitments at Secretary level by declaring as 'department-wise posts' and denying reservation policy.

The concept of reservation policy is not mere job; it is representation in the top echelons of power and in decision making process. The data provided by the Government reveals that the representation of OBCs in top Secretary, Joint Secretary Positions is very minimal. At the level of Joint Secretary, representation of OBC (6.91%), SC (4.73%) and ST (3.27%) put together are just 14.91% only. If in direct recruitments at the Joint Secretary and Deputy Secretary level positions, reservation is not applied, the representation of OBCs will further go down, which is against the concept of social justice.

Many of the retired bureaucrats as well as social organisations are critical of the government's move. Their criticism "that it is not only a violation of the right to equality of opportunity of the Indian Constitution, but also unfair to those who are already part of the civil services and have to spend years before reaching the Joint Secretary level" cannot be brushed aside lightly.

Let Hon'ble Prime Minister intervene to protect social justice. ■



# தமிழ்நாட்டின் வளர்ச்சிப் பாதையில் அழியாத தாக்கத்தை ஏற்படுத்திய பன்முக ஆளுமை முத்தமிழ் அறிஞர் கலைஞர்

**த**மிழக அரசியல் வரலாற்றில் 70 ஆண்டுகளுக்கும் மேலாக தமிழக அரசியலில் கலைஞர் தவிர்க்க முடியாதவராக இருந்தார். 1957 முதல் தொடர்ந்து சட்டமன்ற உறுப்பினராக அய்ந்து முறை தமிழ் நாட்டின் முதலமைச்சராக, திமுக என்ற மக்கள் இயக்கத்தின் மகத்தான தலைவராக திகழ்ந்த கலைஞரின் முத்திரையின்றி, தமிழ்நாட்டில் கடந்த 50 ஆண்டுக்கும் மேலாக எந்த ஒரு அரசியல் நிகழ்வும் நடந்ததில்லை.

ஆட்சி அதிகாரம் கிடைக்கும் போதெல்லாம், விளிம்புநிலை மக்கள் மற்றும் வளர்ச்சி வட்டத்திற்கு வெளியே உள்ளவர்களுக்கு அதிகாரம் அளிப்பதில் கவனம் செலுத்திய தொலைநோக்குப் பார்வை கொண்ட தலைவராக விளங்கினார்.

கை ரிக்ஷா முறை ஒழிப்பு, குடிசை மாற்று வாரியம், கண்ணொளித் திட்டம், பிச்சைக்காரர் மறுவாழ்வு இல்லம், உழவர் சந்தை, ஏழைகளுக்கான மருத்துவக் காப்பீட்டுத் திட்டம் என அடித்தட்டு மக்களின் பொருளாதார மேம்பாட்டுக்கான திட்டம் என்பதோடு நில்லாமல், சமூக மாற்றத்திற்கான புரட்சிகர திட்டங்களையும் அறிமுகப்படுத்திய சமூக சிந்தனையாளர் கலைஞர். தந்தை பெரியாரின் நெஞ்சில் தைத்த முள்ளை அகற்றுகிறேன் என குளுரைத்து, 'அனைவரும் அர்ச்சகராகலாம்' என்ற சட்டத்தை நிறைவேற்றியவர். 1929-இல் செங்கல்பட்டு சுயமரியாதை மாநாட்டில் தந்தை பெரியாரால் கொண்டு வரப்பட்ட 'பெண்களுக்கு சொத்துரிமை' என்பதை தான் ஆட்சிக்கு வந்த 1989-ல் நிறைவேற்றி இந்தியாவிற்கே வழிகாட்டியவர். அவர் அறிவித்த 'இலவச டிவி' குறித்து மேல்தட்டு மக்களின் விமர்சனங்களைப் புறந்தள்ளி, எளிய மக்களின் இல்லத்தில் கொண்டு சேர்த்தவர். பெரும்பான்மை மக்களான பிற்படுத்தப்பட்டோர் நலன் காக்க இந்தியாவிற்கே முன்னோடியாக தனி துறை அமைத்தார். மிகவும் பிற்படுத்தப்பட்டோருக்கு தனி ஒதுக்கீடு, ஒடுக்கப்பட்ட மக்களிலும் மிகவும்

ஒடுக்கப்பட்டோரான அருந்ததியருக்கு தனி இடஒதுக்கீடு, சிறுபான்மையினரான இஸ்லாமியருக்கு இடஒதுக்கீடு, இஸ்லாமியர்களுக்கு இட ஒதுக்கீடு, பெரியார் ஈ.வெ.ரா. மணியம்மை திருமண உதவித் திட்டம் உள்ளிட்ட மகளிர் நல திட்டங்கள் என்பவை அனைத்தும் சமூக நீதி வரலாற்றில் கலைஞர் பதித்த தனி முத்திரைகள்.

தாய்மொழியாம் தமிழுக்கு செம்மொழி அந்தஸ்து, தமிழ்த்தாய் வாழ்த்து, வள்ளுவருக்கு கோட்டம், குமரியில் நிமிர்ந்து நிற்கும் வள்ளுவர் சிலை என தமிழ்நாடுப் பண்பாட்டு தளத்தின் தனித்த அடையாளத்தை உலகுக்கு உணர்த்தியவர்.

தொழில் வளர்ச்சி, உள்கட்டமைப்பு மற்றும் தகவல் தொழில்நுட்பம் ஆகியவற்றுக்கு ஊக்கம் அளித்த தலைவர். இன்று தமிழ்நாடு தொழில் நுட்பத்தில் முன்னணி மாநிலமாக விளங்குகிறது என்றால், அதற்கு அடித்தளம் இட்டவர் கலைஞர்.

திராவிட இயக்கத்தின் அடிநாதமாக விளங்கும் சமூக நீதி, கல்வி இரண்டும் அவரது ஒவ்வொரு செயல்பாட்டிலும் எதிரொலித்தது. அவரது ஆட்சிக்காலத்தில் உயர்கல்வி முக்கியத்துவம் பெற்றது. மாவட்டங்கள் தோறும் மருத்துவக் கல்லூரி, அறுபதாக இருந்த கலைக் கல்லூரிகள், அவரது ஆட்சிக் காலத்தில் 160-ஆக உயர்ந்தது.

முதல் தலைமுறை பட்டதாரிகளுக்கு இலவசக் கல்வியை உறுதி செய்தார். எஸ்சி/எஸ்டி, பிசி மற்றும் எம்பிசி மாணவர்களுக்கான கல்வி உதவித்தொகையை இரட்டிப்பாக்கி, பள்ளி செல்லும் மாணவர்களுக்கு இலவச பேருந்து அட்டைகளை அறிமுகப்படுத்தினார் மற்றும் படிப்படியாக பெண் மாணவிகளுக்கு விடுதிகளை கட்டினார்.

இன்று தமிழகம் உயர்கல்வியில் மாணவர் சேர்க்கை (GER) 52 விழுக்காடு இருப்பதற்கு கலைஞர் அன்று அடித்தளம் அமைத்ததுதான் காரணம் என்பதை எவர் மறுப்பர்.



அரசியல் சீர்திருத்தவாதி, சிறந்த நிர்வாகி, சமூகப் போராளி, திரைக்கதை எழுத்தாளர், கவிஞர், நாடக ஆசிரியர், பத்திரிக்கையாளர், எழுத்தாளர் என கலைஞரின் பன்முக ஆற்றலின் இடையே ஒரு பொதுவான இணைப்பு, சமூக சமத்துவமும், அனைவரையும் உள்ளடக்கிய வளர்ச்சியும் ஆகும். இதற்கு அடிப்படைக் காரணம், ஈரோட்டில் சமூகப் புரட்சியாளர் தந்தை பெரியாரின் குருகுலத்தில் வளர்ந்தவர்; வார்த்தெடுக்கப்பட்டவர் என்பதே.

நெருக்கடி காலத்தில் ஜனநாயகத்தைக் காத்திட கலைஞர் துணிந்து நின்று போராடினார். அதன் காரணமாகவே ஆட்சியையும் இழந்தார். ஒருமுறை அல்ல; இரு முறை. ஆனாலும் துவண்டு விழாமல், கட்சியை நிலை நிறுத்தி, மீண்டும் ஆட்சியைக் கைப்பற்றினார்.

'மாநில சுயாட்சி, மத்தியில் கூட்டாட்சி' எனும் அவரது முடிக்கம் இன்றைய நாளில் இந்தியா முழுவதும் பேசு பொருளாக உள்ளது. அவர் அமைத்த ராஜமன்னார்

குழு அறிக்கையின் முக்கியத்துவம் தற்போது தான் அனைவருக்கும் புரிகிறது.

சமூகத்தின் விளிம்பு நிலையிலிருந்து உயர்ந்து, பிற்படுத்தப்பட்ட, தாழ்த்தப்பட்ட, சிறுபான்மையோருக்காக அயராது உழைத்து, அயம்பது ஆண்டுக்கும் மேலாக பொது வாழ்வின் மய்யக் கட்டத்தை ஆக்கிரமித்த, கலைஞரின் பல பரிமாணப் பணிகள் தமிழகத்தின் சமூக-அரசியல் நிலப்பரப்பில் நீடித்த தாக்கத்தை ஏற்படுத்தியுள்ளன. அவர் விட்டுச் சென்ற ஒரு நீடித்த சமூக நீதி சார்ந்த அரசியல் பாரம்பரியத்தை இன்றைய தமிழ்நாட்டின் முதலமைச்சர், சமூக நீதிக்கான சரித்திர நாயகர் முத்துவேல் கருணாநிதி ஸ்டாலின் திராவிட மாடல் ஆட்சியாக தொடர்ந்து வழி நடத்திடுவார்.

கலைஞரின் நூற்றாண்டில் அவரது சமூக நீதி, மதசார்பின்மை கொள்கையை நெஞ்சில் ஏந்தி செயல்படுவோம்!

மானமிகு சுயமரியாதைக்காரர் கலைஞர் வாழ்க!! ■



## SIDDARAMAIAH

### VOTARY OF SOCIAL JUSTICE AND AHINDA CRUSADER

It is a coincidence that when the country and Tamil Nadu in particular is celebrating the centenary of Dr.Kalaingar Karunanidhi, the neighbouring State of Karnataka, Siddaramaiah, a staunch socialist and champion of AHINDA (an acronym for Backward classes, Dalits and Minorities) was sworn in as Chief Minister of Karnataka for the second term with a decisive mandate of the people.

A nine-term MLA, he had presented a record 13 budgets in his career spanning over four decades. He had the rich experience of managing the government as Chief Minister from 2013-2018 and was the only Chief Minister besides late Devaraj Urs to complete a full five-year term in the post.

During Siddaramaiah's previous term as Chief Minister, he implemented several significant initiatives, including Anna Bhagyawhich provided 10 kilograms of rice and subsidised oil, lentils, salt and sugar to families living below the poverty line; Ksheera Bhagya, and Indira Canteen. Additionally, he introduced the Anti-Superstition Bill to combat superstitious

practices. The government also took efforts to improve healthcare services in the state.

In 2014, the Siddaramaiah government ordered a Social and Educational Survey to be conducted for the Other Backward Classes (OBC) category. Karnataka stands out as the only state to have completed a comprehensive caste-based survey in decades. However, despite being conducted in 2015, the contents of the survey report are yet to be published. In their 2023 manifesto, the Congress party has promised to release the socio-economic caste census conducted by their government and ensure social justice.

Time has come for OBC leaders across the country to unite and lead the country with positive democratic welfarism without involving religion in politics which were the ideals of Phule, Periyar and Dr.Ambedkar.

Siddaramaiah represents this ideology and leaders of similar ideologies - M.K.Stalin, Akhilesh, Tejashwi, Nitish Kumar, Bhupesh Bhagel, and Ashok Gehlot have to work unitedly to forge a social justice front. ■

# Why is Public Sector Employment Declining?



**B**y 1989, there were 22 lakh permanent employees in India's public sector. Today, that number has shrunk to less than half. Sector-wise, the banking, insurance, and finance sectors had 10.83 lakh permanent employees as of December 31, 2015, which decreased to 9.68 lakh as of December 31, 2020. Similarly, the number of permanent employees in the railways has declined from 16.51 lakh in 1990 to 12.12 lakh in 2021-22. Finally, the number of permanent employees in the public sector has shrunk to 8.41 lakh as of today.

The total number of central government employees is 34 lakh; out of these, there are 9.75 lakh vacancies. Almost 20 lakh permanent jobs have been lost. A growing number of those permanent jobs have disappeared. Good placement, which includes job security, better wages, regular working hours, bonuses, holidays, medical facilities, school facilities, maternity leave, contributory pensions, social security and labour welfare laws, rarely takes place.

## Profitable Sectors:

Profits are earned in the public sector, the government finance sector, and the government sector in general. For example, 177 out of 254 PSUs in operation made a profit of Rs 2.63 lakh crore in 2021-22. This includes ONGC, IOCL,



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“ Due to the loss of 20 lakh posts, 3 lakh permanent jobs of Scheduled Castes, 1.5 lakh tribals, 5.4 lakh jobs of OBCs, women, and differently-abled persons have been lost. ”



POWER GRID, NTPC, and SAIL. 77 companies suffered a loss of Rs. 14,588 crore. In this, only BSNL and MTNL have a loss of Rs. 9,500 crore. 5,000 crore loss has been faced by the remaining 75 companies. These were already nationalized from private individuals due to losses.

Public sector banks posted a profit of Rs 66,543 crore in 2021–22. The life insurance company made a profit of Rs 4,043 crore. The railways earned a revenue of Rs 2,547 crore in 2020–21. Profits will increase further if the government offsets the Rs 60,000 crore passenger subsidy.

It is in this pipeline that public sector companies are privatised.

### **Backlash for social justice**

Social justice is ensured because of reservation in these sectors. It also decreases as employment decreases. For example, in 1980, 3.40 lakh people from Scheduled castes were employed in the public sector. By 2022, it has come down to 1.45 lakh. The number of tribal employees decreased from 1.40 lakh to 85.45 thousand during the same period. Similarly, in 2022, the number of Other Backward in public sector employees is 1.89 lakh. The number of

women employees was 87.66 thousand in 2019 and decreased to 76.67 thousand in 2021–22.

Due to the loss of 20 lakh posts, 3 lakh permanent jobs of Scheduled Castes, 1.5 lakh tribals, 5.4 lakh jobs of OBCs, women, and differently-abled persons have been lost.

The list of statistics is long. In this way, the trend continues to affect social justice. These have become inevitable in the context of the Union government not paying due attention to the public sectors.

### **Contract Labour System:**

After reducing the permanent jobs, the Public Sector Undertaking hires some contract workers in that place. 6.21 lakh contract workers and temporary workers are now directly recruited in the public sector. Besides, 13.29 lakh people are employed as contract labourers through contractors. There were a total of 13.64 lakh contract employees in central departments as of 2019. As of September 2022, that number had doubled to 28.90 lakh. The 'hire and fire' policy now rules. It has low wages, no social security, and no regulation of working hours. Labour laws are also not enforced.



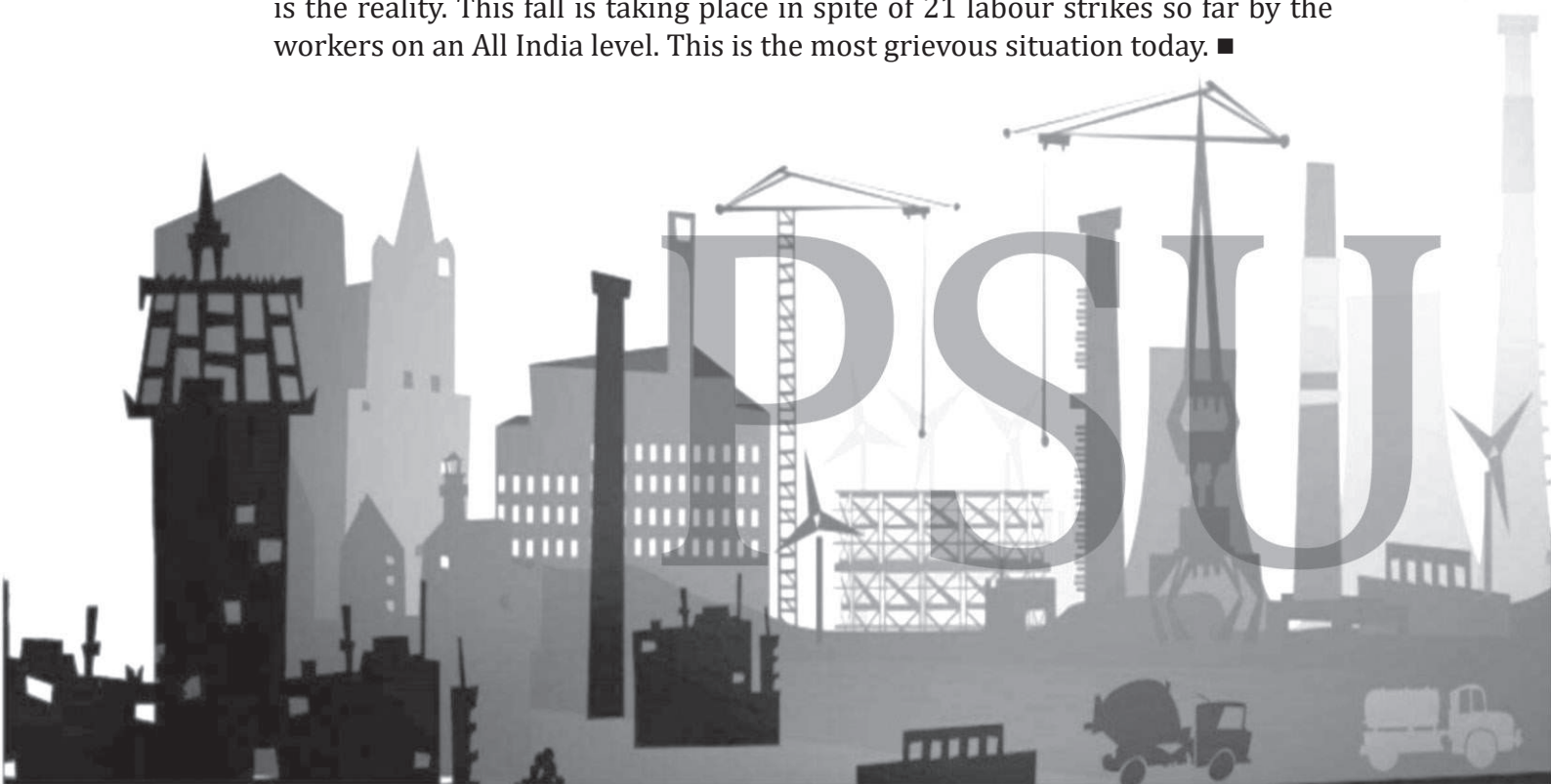
The Labour Code: Occupational Safety, Health, and Working Conditions Code, 2020, has been passed. However, this has not yet come into effect. When it arrives, it will overturn the existing legal status quo. As per the present law, any employment provided for 120 days in a year shall be classified as permanent employment; and should not be referred to as contract work. However, in the case of *Government of Karnataka v. Umadevi*, the Constitution bench of the Supreme Court ruled that the government can appoint contract employees but cannot make them permanent employees.

The new Labour Code classifies jobs into central work and non-central work and allows contract work to be included in non-central work. If a contract employee is added, he will not be considered an employee. Therefore, many of the laws would not apply. Fixed term contract employees are also allowed to be appointed under the collective bargaining laws. The government has refused to specify an upper limit for the number of times it can be done. All these will increase the number of contract workers and would also adversely affect the quality of work and productivity.

### **Status of Tamil Nadu:**

The Tamil Nadu government is also not interested in making contract employees permanent in government departments. Many permanent jobs have been ordered to be filled with contract employees. The cost of raw materials, fuel, and depreciation is deducted from the cost of the product, which is value added. The annual survey of factories tells how much of the nation's total value added goes to total wages and employers. In 1981–82, the share of wages was 30.3% and the share of profit going to the employer was 23.4%.

The share of wages in 2019–20 was 18.9%. Profit share is 38.6%. There is a rise in gross profit but a fall in gross wages, and a fall in working conditions—this is the reality. This fall is taking place in spite of 21 labour strikes so far by the workers on an All India level. This is the most grievous situation today. ■





# PRE-RECRUITMENT TRAINING TO OBC CANDIDATES

No.20/06/2021-Welfare  
Government of India  
Ministry of Finance  
Department of Financial Services  
\*\*\*

2<sup>nd</sup> Floor, Jeevan Deep Building,  
Sansad Marg, New Delhi, the 07<sup>th</sup> October, 2022

To

1. Chairman, State Bank of India, H.O. Mumbai.
2. MD & CEOs of all Public Sector Banks.
3. Chairman, Public Financial Institutions/Public Sector Insurance Companies.
4. Chairman, LIC of India, Mumbai.
5. Chairman, Pension Fund Regulatory and Development Authority (PFRDA), H.O. New Delhi.
6. Chairman, Insurance Regulatory Development Authority of India (IRDAI), H.O., Hyderabad.
7. CEO, IBA, Mumbai.
8. Chief General Manager (HRDD), Reserve Bank of India (RBI), Mumbai.

**Subject: Pre-recruitment Training to OBC candidates – reg.**

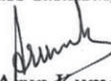
Madam/Sir,

I am directed to enclose herewith a copy of representation dated 05.10.2022 of All India Federation of Other Backward Classes Employees' Welfare Association, received from Hon'ble Finance Minister's Office, on the subject cited above.

2. In this regard, attention is invited to this Department's letters No. 2/02/2013-Welfare dated 06.11.2013 and No.20/06/2021-Welfare dated 19.07.2021 (copies enclosed) containing instructions regarding measures for welfare to the persons belonging to SCs/STs/OBCs and implementation of reservation policy in line with directions of Nodal Ministry/Department from time to time.

3. It is, therefore, requested to take appropriate necessary action to implement instructions on the welfare of OBCs including issues raised by All India Federation of Other Backward Classes Employees' Welfare Association for providing Pre-recruitment training to OBC candidates. The implementation of instructions forwarded vide letter dated 19.07.2021, may also be informed to this Department.

Yours faithfully,

  
(Arun Kumar)

Under Secretary to the Government of India  
Tele: 011- 23748725

Encls.: As above.

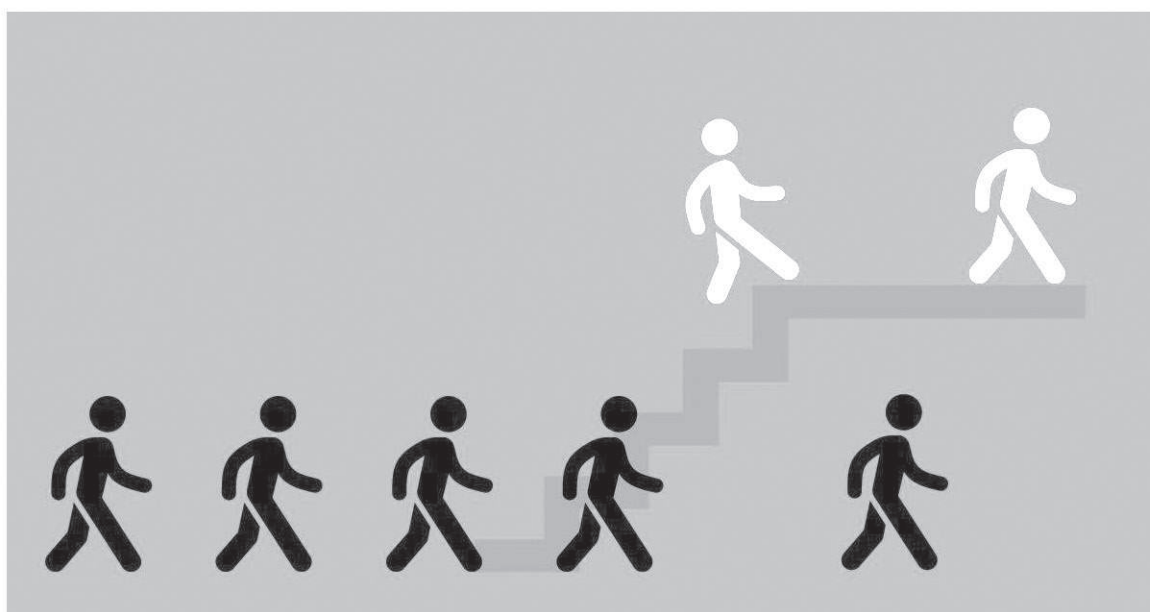
Copy to :

1. The CLOs of all PSBs/FIs/PSICs with the request to compliance of implementation of reservation policy and welfare measures to SCs/STs/OBCs.
2. Shri G. Karunanidhy, General Secretary, All India Federation of Other Backward Classes Employees' Welfare Association, 139, Broadway, Chennai – 600 018.

  
(Arun Kumar)

Under Secretary to the Government of India

# CREAMY LAYER FOR OBC, NO LONGER VALID?



**T**he Constitution (One Hundred and Second Amendment) Act, 2018 has inserted three new articles, that is, 342A, 366(26C) and 338B in the Constitution:

*Whereas article 338B has constituted the National Commission for Backward Classes, article 342A has dealt with the Central List of the socially and educationally backward classes (commonly known as the Other Backward Classes) and article 366 (26C) has defined the socially and educationally backward classes.*

## **Article 342-A:**

(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the socially and educationally backward classes in the Central List which shall for the purposes of the Central Government be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.



(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

**Explanation:** For the purposes of clauses (1) and (2), the expression “Central List” means the list of socially and educationally backward classes prepared and maintained by and for the Central Government.

(3) Notwithstanding anything contained in clauses (1) and (2), **every State or Union territory may, by law, prepare and maintain, for its own purposes, a list of socially and educationally backward classes, entries in which may be different from the Central List.**

#### **Amendment of article 366:**

In article 366 of the Constitution, for clause (26C), the following clause shall be substituted, namely:—‘(26C) **“socially and educationally backward classes” means such backward classes as are so deemed under article 342A for the purposes of the Central Government or the State or Union territory, as the case may be.**’

In view of the Constitutional Amendment (105) Act passed in both Houses of Parliament, the list of socially and educationally backwards listed both at Centre and in States/Union Territories are defined as SEBCs as a whole. Hence, there cannot be any further segregation among these lists by secluding them in the name of ‘creamy layer’.

**Therefore, it is not permissible to, or there is no scope for, or compulsion for, excluding creamy layer from such backward classes as are deemed so under Article 342A, as opined by Justice A.K.Rajan.**

**This General Council of the AIOBC Employees Federation demands the Union Government to issue fresh order defining the SEBCs as per Article 366 (26C) so that all SEBCs/OBCs can avail the reservation policy prescribed to them.**

**(G. Karunanidhy)**  
General Secretary

(Adopted at the General Council Meeting of the All India Federation of OBC Employees Welfare Associations held on 20.12.2022 at Dy. Speaker Hall, Constitution Club, New Delhi)

# ओबीसी के लिए क्रीमी लेयर, अब मान्य नहीं?



संविधान के 102 और 103 संशोधन ने क्रीमी लेयर की अवधारणा को समाप्त कर दिया है, इसे ओबीसी/एसइबीसी की सूची से भी बाहर होना है।

अनुच्छेद 16(4) और अनुच्छेद 15(4) के अंतर्गत ओबीसी को प्रदत्त आरक्षण से सम्बद्ध इन्दरा साहनी मामले के समय एसइबीसी संविधान या अन्य किसी कानून के अंतर्गत परिभाषित नहीं था। अब यह संविधान के 102 और 105 संशोधन के द्वारा स्पष्टतः परिभाषित हो गया है।

**संविधान में अब एसइबीसी परिभाषित है:**

संशोधनों के पश्चात संविधान के अनुच्छेद 366(26सी) में ओबीसी/एसइबीसी परिभाषित हो गया है। यह एससी-एसटी से संबंधित राष्ट्रपति के आदेश से भी अधिक परिभाषित है। अनुच्छेद 342ए (अनुच्छेद 366-26-सी के साथ पढ़ा जाए) के समावेश के बाद इसके परिभाषा की कमी ठीक हो गई है।

इस प्रकार से इन्दरा साहनी मामले से आई क्रीमी लेयर का आधार एसइबीसी के लिए समाप्त हो गया है, इस तरह का विचार न्यायमूर्ति डा. ए के राजन ने भी प्रकट किया है।

संविधान (एक सौ दूसरा संशोधन) कानून 2018 ने संविधान में तीन नये अनुच्छेदों का समावेश कर दिया है जो 342ए, 366(26सी) और 338बी हैं।



अनुच्छेद 338बी पिछड़ा वर्ग राष्ट्रीय आयोग का गठन करता है, अनुच्छेद 342ए सामाजिक और शैक्षिक रूप से पिछड़े वर्ग (अन्य पिछड़ा वर्ग के रूप में लोकप्रिय) की केन्द्रीय सूची के बारे में है और अनुच्छेद 366(26सी) सामाजिक और शैक्षिक पिछड़ा वर्ग को परिभाषित करता है।

#### **अनुच्छेद 342-ए:**

- राष्ट्रपति किसी राज्य या केन्द्रशासित प्रदेश के संबंध में और जहाँ राज्य है वहाँ राज्यपाल से परामर्श करने के पश्चात् लोक अधिसूचना द्वारा केन्द्रीय सूची हेतु सामाजिक और शैक्षिक रूप से पिछड़े वर्ग को केन्द्र सरकार के उद्देश्य के लिए विनिर्दिष्ट कर सकता है।
- संसद निर्दिष्ट अध्यादेश के धारा 1 में वर्णित विधि के अनुसार केन्द्रीय सूची में किसी सामाजिक और शैक्षिक रूप से पिछड़े वर्ग को शामिल कर सकता है या सूची से बाहर कर सकता है। किन्तु इसका ध्यान रखना है कि पूर्वोक्त अध्यादेश में बाद वाले अध्यादेश से कोई भिन्नता न आ जाए।

**स्पष्टीकरण:** धारा (1) और धारा(2) के उद्देश्य के हेतु “केन्द्रीय सूची” का आशय केन्द्र सरकार के लिए और उसके द्वारा बनाये गये सामाजिक और शैक्षिक रूप से पिछड़े वर्ग की सूची से है।

- तथापि धारा (1) और धारा (2) में उल्लिखित विवरण को छोड़कर प्रत्येक राज्य या केन्द्रशासित राज्य अपने उद्देश्य के लिए विधि द्वारा सामाजिक और शैक्षिक रूप से पिछड़े वर्ग की सूची बना सकता है जिसकी प्रविष्टि केन्द्रीय सूची से भिन्न हो सकती है।

#### **अनुच्छेद 366 का संशोधन:**

संविधान के अनुच्छेद 366 में धारा (26सी) के लिए निम्न परिवर्तन आ गया है, जैसे: (26सी) “सामाजिक और शैक्षिक रूप से पिछड़े वर्ग” का अर्थ ऐसा पिछड़ा वर्ग जो अनुच्छेद 342ए के अंतर्गत केन्द्र सरकार, राज्य सरकार या केन्द्रशासित राज्य सरकार के उद्देश्य के लिए स्थिति अनुसार आवश्यक हो।

संसद के दोनों सदनों में पारित संविधान संशोधन (102 एवं 105) कानून को दृष्टि में रखते हुए सामाजिक और शैक्षिक रूप से पिछड़े वर्ग की सूची केन्द्र और राज्य/केन्द्रशासित राज्य दोनों के लिए समान रूप से परिभाषित हो गया है। इस प्रकार से क्रीमी लेयर के नाम पर इनसे पृथक कोई सूची नहीं हो सकती।

यह उचित नहीं है, इसकी संभावना नहीं है, बाध्यता है, क्रीमी लेयर को छोड़कर पिछड़ा वर्ग - अनुच्छेद 342ए के अंतर्गत ऐसा कुछ भी कहना अब उचित नहीं है।

इस प्रकार से यह बिल्कुल स्पष्ट है कि ओबीसी/एसडब्ल्यू के किसी भी हिस्से को क्रीमीलेयर के रूप में बाहर नहीं रखा जा सकता। और ऐसा करना संविधान का उल्लंघन होगा। अखिल भारतीय ओबीसी कर्मचारी महासंघ की जनरल कौंसिल माँग करती है कि केन्द्र सरकार समुचित आदेश जारी करे ताकि विना किसी निषेध के सभी ओबीसी/एसडब्ल्यू को आरक्षण मिल सके।

**जी.करुणानिधि**

महासचिव

(AIOBC कर्मचारी महासंघ की सामान्य परिषद द्वारा अपनाया गया  
नई दिल्ली - दिनांक: 20.12.2022)



# Proportionate Representation in Higher Judiciary:

A fundamental human right of the STs, SCs and OBCs!

**Vaeyuru Tholibangan**

All the ills afflicting a nation, any nation for that matter, can be solved through **peaceful** means in a **lawful** manner, only when the judiciary is made to be really and inherently sincere, impartial and transparent besides being seen to be so. If a firm decision is taken to evolve a civilised society by cleansing it of corruption, the first step required to be taken should start only from the Judiciary. Socrates equated the cleaning of the society of corruption with the cleaning the staircase; one should start from the top. This applies more with plural societies in which racial, caste, linguistic and religious conflicts could arise. Throughout the world, such plural societies assure the populace of justice and fair play through judiciary, by ensuring appointments to higher Judiciary in proportion to the various sections of the population.

## Switzerland

Switzerland, a polyglot nation, ranks first in the United Nations Development Programme (UNDP) Human Development Index of 2021.

This nation comprises four linguistic groups with the German-speaking people constituting 70%. All the four languages do have their status as national languages. Italian, French and German are the three official languages at the Federal level. German has not been made official language even though 70% of the population constitutes Germans. The Non-German Swiss society has not been bulldozed by German speaking majority. Power centres, including the Judiciary, reflect the diversity. In its 2006 report, the Judiciary Committee informed about the criteria applied in appointing the Federal Administrative Court judges. It explained that one of the three essential criteria was the **adequate representation** of the official languages in the judiciary (*Benjamin Suter – Page 283 - (2015) 46 VUWLR - Victoria University of Wellington Law Review*). The proportionate representation given to all the people in higher judiciary, in the posts of Permanent Judges, in the Federal Supreme Court, would become evident from the table given:



Language	Percentage of people in the population	No. of Permanent judges in the Supreme Courta
Italian	6	3
French	23	12
German	70	23
Romansh	0.7	Nil. (**)
Total	99.3	38

(\*\*) So far, two Federal Supreme Court judges have been Romansh-speaking and one decision of the Federal Supreme Court has been rendered in Romansh”

But the composition of higher judiciary in India does not represent the diversity in the demography of India, whether in languages or in religions or in varna-structure within the Hindu religion. It is dominated mostly by Brahmins and to some extent by the other higher castes. **It is essential that the situation should change, to ensure better justice delivery system.** Non-Brahmins and other religious minorities should, necessarily, have proportionate share in appointment to the higher judiciary, to which they are entitled to as a matter of right, their fundamental human right.

### South Africa

Sec. 174 (2) of the Constitution of the post-apartheid era South Africa, reads thus: “The need for the judiciary to reflect broadly the racial and gender composition of South Africa must be considered when judicial officers are appointed”. The Constitution stresses unequivocally on appropriate demographic representation in the judiciary. But the Indian Constitution was made with a lot of loopholes and ambiguities on the issue of appointment to higher judiciary.



It is a fact on record that the persons in power chose to keep the posts in the higher judiciary vacant. They did not want to fill up the vacancies even when there were eligible persons from the suppressed classes and the under-representation of these suppressed classes

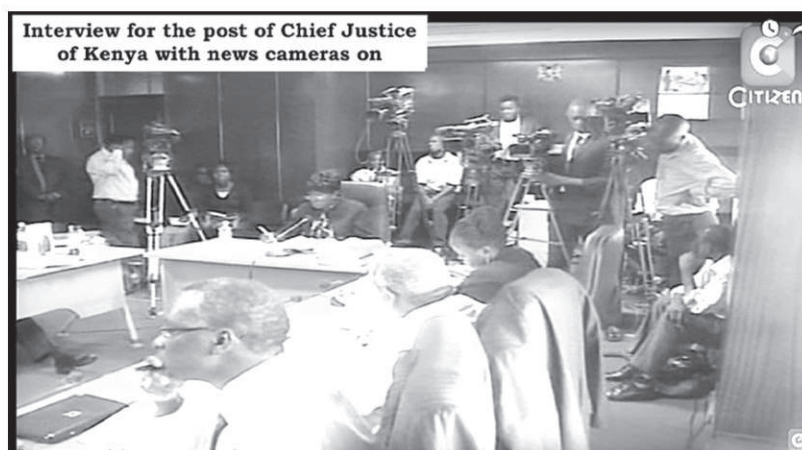
was palpably visible. When K.R. Narayanan, the then President of India, found out the activities behind the scenes, he raised a voice of concern and protest. But the vested interests pounced upon him. That episode was reminiscent of the scenes of villains in cinefilms overpowering the hero. “In strong criticism of the judiciary for an “unacceptably low” representation of women, Scheduled Castes and Tribes, President Ramnath Govind asked the higher judiciary to take long-term to remedy the lop-sided situation” (Times of India – 26.11.2017). Redemption of India lies in making the higher judiciary cosmopolitan without any scope for one-varna supremacy besides making it cosmopolitan language-wise and religion-wise too.

### African court on Equality Vs. the inequities in India

Equality must start from social sphere. If social equality is not achieved, there can be no equality of opportunity in political, economic or other spheres too. The Constitutional Court of South Africa while describing and defining the notion of equality held, “This substantive notion of equality recognises that besides uneven race, class and gender attributes of our society, there are **other levels and forms of social differentiation and systematic under-privilege, which still persist.** Constitution enjoins us **to dismantle them** and to **prevent** the creation of **new** patterns of disadvantage”. (Para 17 - *Minister of Finance Vs. Van Heerden* 2004 6 SA 121 (CC) 27).

The concept of Equality has been made a dynamic one by the African Court that whenever new problems arise which would deprive the people the opportunity of equality, solutions would be found in an equitable manner. In the Indian context, the introduction of NEET, converting regular government posts to be contractual posts to avoid reservation, introduction of reservation for the EWS, etc., are few such newly created patterns of disadvantage.

### Live telecast of interviews for higher judiciary



Appointment of judges in South Africa is not a matter confined only to a Collegium of Judges. It is not left to the politicians in power who want to exercise unaccountable veto, the way the BJP aims at. There **is public participation** in the judicial hearings of the Judicial Services Commission that appoints judges. "To satisfy the commitment to transparency, the JSC **invites comments** on the shortlisted candidates, before the interviews are conducted, from the various associations of the legal profession, such as the Law Society, the Bar Council, the National Democratic Lawyers' Association, or the Black Lawyers' Association." [Osgoode Hall Law Journal [Vol. 44, NO. 3 - Page 570].

Judges are supposed to render justice adhering to the maxim "Fiat Justitia Ruat Caelum" meaning "Let Justice be done, even if the heaven falls". The courage to render such justice **emanates only from the method of appointment of judges** and the manner of their transfers and postings. The appointments to judiciary in India should, therefore, be made in a transparent manner, taking cue from the methods adopted in the UK, USA, Kenya and South Africa.

In the UK, the government recognized the existence of different groups of people and prefers to have diversity in the cadre of judges. The Judicial Appointments Commission, therefore, puts up advertisements in its website stating that it encourages the people of different groups which are under-represented in the judiciary to apply for the posts

### Promise of 'fair share' in 1931 broken after 1947

The Congress had in its Bombay Working Committee Meeting held in July 1931 passed a resolution that "Appointments shall be made by non-party Public Service Commissions .... the principle of equal opportunity to all communities for a **fair share** in public services of the country" (Page 127 - A Collection of Congress Resolutions from 1885 - 1934 and Other Important Documents - D. Chakraborty & C. Bhattacharyya - The Book Company Ltd. College Square, Calcutta). But that resolution has been buried and forgotten by the post-Independent India. They are not talking of 'share' as promised but of 'reservation' which they want to dilute through the newly invented phrases like 'creamy layer' for OBCs as well as SCs and STs. The gullible Non-Brahmins continue to remain cheated till date.

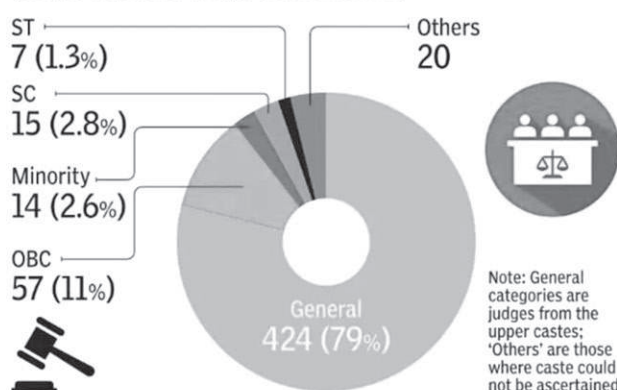
Chanakya had ordained, "Whoever is rising in power may break the agreement of peace". An entire chapter titled, "Making peace and Breaking it", has been devoted by him to teach various methods of such treachery. (Page 347 - Chapter XVII -- Book VII - Arthasastra - R. Shamasastry). His ardent followers act in accordance with those directions 2000 years later too and break the promise of 1931. It is for the Non-Brahmins to wake up to the reality and ensure that they get proportionate representation in services at the top level in all the departments and put a definite stop to the Brahmanical imperialism attempted to be ushered in once again. "He who possesses the power of making and interpreting the laws by which another person is bound to act, is by necessary consequence, the master of that person's actions. Possessing the legislative and judicative powers, the Brahmins were also masters of the executive power; to any extent whatsoever to which they wished to enjoy it. **Nor did this influence over the executive power content them.** They further secured to themselves a direct and not contemptible share of its immediate functions. **On all occasions, the King was bound to employ Brahmins as his counsellors and ministers; and, of course, to be governed by their judgment"** (Page 131 - The History of British India - Vol. I - James Mill - 1817)

The Brahmins made lofty promises in the meetings of the Congress in the pre-Independence era, on proper share to the Non-Brahmins, in public services but, coolly, broke all those promises after the independence was obtained in 1947 with the help of the Non-Brahmins. The STs, SCs and OBCs should, therefore, rise up and obtain their proportionate share of posts in the higher judiciary in India. It is their fundamental human right as citizens of this great nation. The original sons of the soil should not continue to be denied this paramount right! ■

### 2.6% JUDGES FROM MINORITY COMMUNITY

#### Upper castes dominate higher judiciary

(Judges appointed in high courts: 2018-22)



(Times of India 9.1.2023)





Greetings from  
**VAIKO**, M.P.,  
Gen. Secretary, MDMK



**மறுமலர்ச்சி திராவிட முன்னேற்றக் கழகம்**

"தாயகம்"

எண் : 12, ருக்மணி இலட்சுமிபதி சாலை, எழும்பூர், சென்னை - 600 008.

**வைகோ** எம்.பி.,  
மொகுச்செயலாளர்

16.05.2023

☎ 2851 65 65  
2851 65 66  
2854 98 84

**குரலற்றவர்களின் குரலாக**

**பிற்படுத்தப்பட்டோர் குரல் ஒலிக்கட்டும்!**

பிற்படுத்தப்பட்டோர் நலனுக்காக கடந்த 30 ஆண்டுகளாக தமிழ்நாட்டில் இயங்கி வரும் மூனியன் வங்கி, ஒ.பி.சி., நலச் சங்கத்தின் உள் அமைப்பான எம்பவர் அறக்கட்டளையின் முயற்சியில், ஒ.பி.சி., வாய்ஸ் (O.B.C. Voice) என்ற மாத இதழ் வெளிவந்துள்ளதைக் கண்டு மகிழ்ச்சி அடைகிறேன்.

மே மாதத்தின் முதல் இதழாக 16 பக்கங்களுடன் வெளிவந்துள்ள இந்த இதழின் அட்டைப் படத்தில், சமூகநீதி காக்கும் தலைவர்களின் உருவப் படங்களுடன் தமிழ்நாடு முதல்வர் மு.க.ஸ்டாலின் அவர்களின் முயற்சியோடு, 03.04.2023 அன்று இணையவழியில் நடைபெற்ற அகில இந்திய சமூகநீதி கூட்டமைப்பின் முதல் தேசிய மாநாட்டின் திகழ்ச்சிப் படங்களும் இணைந்து பொலிவோடு அமைந்துள்ளது.

நீதித் துறை, நிர்வாகத்துறை, வங்கித் துறை முதலான அரசு துறைகளில் இடம்பெற்றுள்ள பிற்படுத்தப்பட்ட, மிகவும் பிற்படுத்தப்பட்ட, தாழ்த்தப்பட்ட, பட்டியல் இன, சிறுபான்மை மக்களின் மிகக் குறைவான பங்களிப்பினை விளக்கும் புள்ளிவிவர அட்டவணைகள் இந்த இதழில் சிறப்பாக இடம்பெற்றுள்ளன.

சமூகநீதி காக்கும் தலைவர்களின் கருத்துகள், இயக்கச் செய்திகள், அரசின் கற்றறிக்கைகள், கட்டுரைகள், அறிக்கைகள் என பல்வேறு தகவல்களின் பெட்டகமாக இந்த இதழ் அமைந்துள்ளது.

ஒடுக்கப்பட்ட மக்களின் போர் வாளாகவும், கேடயமாகவும் இந்த இதழ் திகழ வேண்டும். குரலற்றவர்களின் குரலாக சமூகநீதி முழக்கத்தை இந்த இதழ் ஒங்கி ஒலிக்க வேண்டும். ஆல்போல் தழைத்து, அருகுபோல் வேரூன்றி இமயமாய் இந்த இதழ் எழுந்து நின்று சாதனைகளைக் குவித்திட வேண்டும் என்னும் விழைவோடு என் வாழ்த்துகளைத் தெரிவித்துக்கொள்கிறேன்.

அன்புடன்,

**மொகுச்செயலாளர்**

(வைகோ)

பெறுதல்:

திரு. கோ. கருணாநிதி அவர்கள்,  
ஆசிரியர்,  
ஒ.பி.சி. வாய்ஸ்,  
10/1040, ஜீவன் பீமா நகர்,  
அண்ணா நகர் மேற்கு விரிவு, சென்னை - 600 101

## A reader's voice:

As a journalist associated with the English monthly magazine 'The Modern Rationalist' published by Asiriyar Dr. K.Veeramani, the President of DravidarKazhagam (DK), I heartily congratulate the editorial board of 'OBC VOICE' upon the release of the maiden issue. I am sure, this periodical would be a great guardian of social justice and strive to get the grievances of the suppressed and oppressed people, redressed by the authorities concerned.

The editorial has briefly specified the objective, vision and mission of 'OBC VOICE'. Indeed, 'brevity is the soul of wit', to quote William Shakespeare. I have always observed the editor G.Karunanidhy actively working like a busy-bee, at a lightning speed, for OBC welfare. Under his editorship, 'OBC VOICE' is sure to reach a glorious pedestal.

The cover story on the growing demand for caste census was thought-provoking. Muralidharan of BBC News (Tamil) has stressed in a crystal-clear manner, the dire need of socio-economic caste census. The excerpts from 'The Telegraph' and 'Deccan Chronicle' have also laid emphasis on the significance of caste census.

Printing in Hindi all the twelve resolutions adopted by AIOBC Employees Federation would be helpful for North Indian readers to understand the contents. The statistics pertaining to the representation of employees in various sectors and services are informative and self-explanatory.

May the sonorous 'OBC VOICE' reverberate forever all over our country and also over all the countries abroad.

- **M.R.Manohar,**

Professor of English (Retd.)

## Contribute to OBC VOICE:

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### **LAUNCH OF MONTHLY MAGAZINE 'OBC VOICE' INDIAN OFFICERS' ASSOCIATION HALL, ROYAPETTAH, CHENNAI ON 1.5.2023**

OBC VOICE (multilingual) monthly magazine launch function was conducted on 1st May 2023 at 5.30 p.m. at Indian Officers Association Hall (4th floor), Royapettah, Chennai. The function was presided by G.Karunanidhy and S.Natarajan, General Secretary welcomed the dignitaries and members. Asiriyar K.Veeramani, President, Dravidar Kazhagam released the OBC VOICE magazine and spoke on the occasion. R.Viswesvaran, General Manager, Union Bank of India, Chennai Zone received the first magazine and spoke at the function. T.K.S.Elangovan, Ex.M.P., Dr.N.Ezhilan, M.L.A., Govi.Lenin, Sr.Journalist, VN.Purushothaman, Vice President, AIOBC Employees Federation addressed and greeted the function. M.Bagyaraj, Dy.Gen. Secretary rendered a vote of thanks. On this occasion, Executives and Staff Members of Union Bank of India, Leaders of fraternal OBC associations attended in good numbers.



### **INAUGURATION OF OBC CO-ORDINATION COMMITTEE AT CHENNAI ON 4.5.2023**

OBC members of Central Government Departments functioning in Rajaji Bhavan, Chennai – Census, Hindi Teaching Scheme, RODCH, Weaver's Service Centre, CPWD, NSI, IBM and CGWB formed a OBC co-ordination Committee. The inaugural function was conducted at Rajaji Bhavan, Chennai on 4.5.2023. T.K.S.Elangovan, Ex.M.P. addressed the function as Chief Guest. G.Karunanidhy Gen Secretary of AIOBC Employees Federation inaugurated the OBC Co-ordination Committee. G.Rajkumar, Gen Secretary of Census OBC Association and office bearers took the initiative in forming the Committee. Office bearers of Federation from IIT, ICF, IOB, CPCL, Union Bank, New India Assurance, Canara Bank attended the function. OBC members from Central govt departments in Rajaji Bhavan attended in good numbers.



### **AIOBC EMPLOYEES FEDERATION CONDUCTED DEMONSTRATION AT CHENNAI ON 13.5.2023**

The demonstration program organized by our AIOBC Employees Federation on 13.5.2023 at Chennai was presided by G.Karunanidhy, Gen Secretary of the Federation.S.S.Balaji, M.L.A. (VCK), A.Vanthiyathevan, (MDMK), Dr.G.R.Ravindranath (CPI) attended and addressed the program. They highlighted the issues that includes: Against Privatisation, Demanding Caste Census, Removal of Creamy layer and 50% ceiling on reservation, separate Ministry for OBC and SLP and budgetary allocation etc.

Leaders and Members from affiliated Units: Air India, Bank of Baroda, BHEL (Trichy), Canara Bank, Census, Chennai Petroleum Corporation Ltd (CPCL), ESIC, IIT-Madras, Integral Coach Factory (ICF) Chennai, HVF-Avadi, Indian Overseas Bank, Madras Fertilisers Ltd., Manali, Neyveli Lignite Corporation, (NLC) Neyveli, NIRT-ICMR, GIC – New India Assurance, GIC – United India Insurance, Salem Steel Plant (Salem), Union Bank of India, OBC Committee – Rajaji Bhavan addressed the demonstration and was well attended.

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Editor: **G.Karunanidhy**



## AIOBC EMPLOYEES FEDERATION CONDUCTED DEMONSTRATION AT CHENNAI ON 13.5.2023



S.S. BALAJI, MLA (VCK)



A. VANTHIYATHEVAN (MDMK)



DR. G. R. RAVINDRA NATH (CPI)

## INAUGURATION OF OBC CO-ORDINATION COMMITTEE AT CHENNAI ON 4.5.2023







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