

SECRET

Secret

No. 12018/4/2005-SCD (R.L.C.)
Ministry of Social Justice and Empowerment

- 3 -

conditions of their social and economic servitude. Dr. J.H. Hulton, a Census Commissioner of India, framed a list of the depressed classes systematically, and that list was made the basis of an order promulgated by the British Government in India called the Government of India (Scheduled Castes) Order, 1936. The Constitution (Scheduled Castes) Order, 1950 is substantially modelled on the Order of 1936. The Order of 1936 enumerated several castes, races or tribes in an attached Schedule and they were, by paragraph 2 of the Order, deemed to be Scheduled Castes. Paragraph 3 of the same Order declared that the Indian Christians would not be deemed to be members of the Scheduled Castes.

During the framing of the Constitution, the Constituent Assembly recognised that the Scheduled Castes were a backward section of the Hindu community who were handicapped by the practice of untouchability, and that "this evil practice of untouchability was not recognised by any other religion and the question of any Scheduled Caste belonging to a religion other than Hinduism did not therefore arise. The Sikhs however, demanded that some of their backward sections, the Mazhabis, Ramdasias, Kabirpanthis and Sikligars, should be included in the list of Scheduled Castes. The demand was accepted on the basis that these sects were originally Scheduled Caste Hindus who had only recently been converted to the Sikh faith and had the same disabilities as the Hindu Scheduled Castes. The depressed classes within the fold of Hindu society and the four classes of the Sikh community were therefore made the subject of the original Constitution (Scheduled Castes) Order, 1950. Subsequently in 1956 the Constitution (Scheduled Castes) Order, 1950 was amended and it was broadened to include all Sikh untouchables.

It is quite evident that the President had before him all this material indicating that the depressed classes of the Hindu and the Sikh community suffered from economic and social disabilities and cultural and educational backwardness so gross in character and degree that the members of those caste in the two communities called for the protection of Constitutional provisions relating to the Scheduled Castes.

It was evident that in order to provide for their amelioration and advancement it was necessary to conceive of intervention by the State through its legislative and executive powers. It must be remembered that the declaration incorporated in paragraph 3 deeming them to be members of the Scheduled Castes was a declaration made for the purposes of the Constitution. It was a declaration enjoined by clause (1) of Article 341 of the Constitution. To establish that paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 discriminates against Christian members