

Comments of the ORCI on the proposal of inclusion of 'Dalit Muslims' in the list of Scheduled Castes of Bihar as proposed in the Private Member Bill by Shri Raghuransh Prasad Singh, Member of Parliament (Lok Sabha)

The proposal of inclusion of 'Dalit Muslims' in the SCs list of Bihar and also the proposal of omission of para 3 of the Constitution (Scheduled Castes) Order, 1950 are examined and the comments thereon are given below:-

(i) Dalit Muslims: Is it a caste or generic term?

The term 'Dalit Muslims' used by the Ministry of SJ&E and also those of 'Dalits' or 'Muslim (Dalits)' as referred to in the Statement of Objects and Reasons of the proposed Bill are vague in nature. These are generic terms applied to a class or group of people or castes. According to Clause (2) of Article 341 of the Constitution, Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under Clause (1) any caste, race or tribe or part of or group within any caste, race or tribe. Therefore, the Ministry of SJ&E is required to see whether the proposal is regarding inclusion of 'Dalit Muslims' as an entry in the SCs list of Bihar or it relates to deletion of para 3 of 1950 Order and subsequently inclusion of 26 Muslim communities in SCs list of Bihar as referred to in the proposed Bill.

(ii) Para 3 of the Constitution (Scheduled Castes) Order, 1950: Its Constitutional Validity

Para 3 of the Constitution (Scheduled Castes) Order, 1950 is, in fact, the crux of the Constitutional provisions made under Article 341 of the Constitution because in drawing of list of the Scheduled Castes of any State or Union territory, the test applied was "extreme social, educational and economic backwardness arising out of the traditional practice of untouchability".

It is further to be pointed out that as it is well-known, the caste system and associated practice of untouchability was a feature of Hindu society and perhaps because of this reason the Constitution (Scheduled Castes) Order, 1950 stipulated as follow under para 3: