

A Tangled Web

Subdivision of SC Reservations in AP

The conflict between two dalit communities of Andhra Pradesh – the malas, who have had the lion's share of the scheduled caste quotas of jobs and educational opportunities and the madigas, who have agitated for castewise division of the quotas – could perhaps have been resolved socially. But thanks to the recourse taken to executive fiat and legislation a tangled web, involving not only the two communities and the state government but also the higher judiciary, the central government and the national commission for scheduled castes and scheduled tribes, has been woven.

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The mala-madiga conflict in Andhra Pradesh over the sharing of the reservation quota for scheduled castes is by now a classic case study of what happens when problems that are best resolved socially are thrown upon the shoulders of the law because of the intransigence of one side or the recklessness of both sides.

It is not that the law is irrelevant for a democratic resolution of social problems. After the social process of resolution has worked itself through to a broad consensus, the law can enter and consolidate what is already resolved and thereby give it permanence, continuity and the assurance of authority. This would ensure that each new generation need not struggle for it again until an alteration of the solution is desired. In a situation where there is as yet no consensus the law if used judiciously and to a strictly limited extent can also exert the pressure of authority and impel the social groups concerned to resolve the problem. If nothing else, it can make it an enforced habit to look the problem in the face.

These are two legitimate roles the law can play. But in the absence of a basic will in the social groups concerned to resolve the problem rather than fight it out, or in the face of the intransigence of one party to it, it would be ill advised to make the law a substitute for the lack of preparedness in the hope that it will somehow work magic. If it is, it is bound to lead to the

kind of convoluted tangle that the 'categorisation' issue is witnessing in Andhra Pradesh today. This would be so in the best of circumstances but particularly so when the law is an instrument in the hands of the kind of political executive we have today: opportunist, unprincipled and always on the lookout for the political mileage to be got from tackling social problems.

The limitations of purely legal solutions to social problems is illustrated in a different dimension by the statutory provisions pertaining to untouchability and violence on women. Perhaps there were many who honestly believed that the mere enactment of these laws would effectively change things. In any case, these laws were made on the basis of a seemingly progressive consensus in society. Unlike land reforms and caste-based reservations which were (and in the case of reservations, still are) challenged vehemently by the losers of the privileges taken away thereby, nobody opposed the legislation against untouchability and untouchability-related offences or the one that takes a penal view of domestic violence on women. At any rate, they did not do so vocally.

But the laws have never worked smoothly because there never was any real consensus behind them; there was only inability to oppose them with any legitimate argument. If the laws had been enacted today, perhaps the Sangh parivar ideology would have come in handy. But they were mercifully enacted well before the Babri masjid was pulled down.

In any case, the consequence of the lack of an honest consensus to the effect that untouchability and wife-beating are serious crimes has been that ensuring the implementation of these statutes is an uphill task for dalits and women. As all activists know, it frequently requires one agitation for a first information report (FIR) to be properly booked, another for the suspects to be arrested and yet another to ensure that a chargesheet is honestly drawn up. All this is provided that the victim is not in the meanwhile beaten down by social, and possibly physical pressure to give up and join the mainstream of pliant servitude. The plain fact is that the enforcers of the law have little enthusiasm for giving effect to these laws, and even the judiciary is not always an exception.

On the other hand, the very existence of these statutes has, if nothing else, forced society to constantly contemplate these crimes, make it a habit to see them and think of them as crimes, and act accordingly. This in itself can help wear down the resistance to change. The laws are therefore far from being useless or discardable: a constant pinprick has undoubted use, apart from an occasional success in prosecution. And the force of penal legislation was perhaps the least uncivilised force that could have been used against the holders of the inhuman privileges rendered culpable thereby.

The subdivision of dalit reservations is in a slightly different category. This is a matter not of oppression but of inequality between the oppressed – though structured in an oppressive manner, given the ladder-like structure of the caste system from the top to the bottom. What was needed was acceptance by the relatively well-placed among the dalits that the demand of the more disadvantaged was just. A law enforcing equality in the absence of such an acceptance would be tortuous in its making and lame in its working.

Without doubt it would have its efficacy, if nothing else, in making contemplation of the demand and some degree of concession to it a habit. In any case, those who are at the receiving end of inequality can never be convinced that what is usually called the majesty of the law must await the consent of the mortals

on the other side who have no reason for being in a hurry to yield. And yet the structuring of such a law is bound to be painfully protracted, and in its functioning the law is likely to be equally painfully hobbled.

There are 59 castes listed in the scheduled caste order pertaining to Andhra Pradesh. The mala and the madiga are by far the largest of these castes. Together these castes make up about 80 per cent of the scheduled caste population of the state. The problem of subdivision has therefore taken on the contours of a mala-madiga conflict. According to the 1981 census (no more recent break-up of the populations of individual scheduled castes seems to be available), the malas numbered 28.94 lakh, the madigas 35.72 lakh and the remaining 57 scheduled castes together about 15 lakh – the total dalit population being 79.61 lakh. Among these others, the relli community which is preponderant in the three northern coastal districts, is somewhat sizeable.

Though these figures are nearly 20 years old, there is no reason to believe that the relative proportions of the various communities within the dalit population has changed to any appreciable extent since then.

The malas and the madigas are both 'untouchable' and suffer equally all the indignities of outcastes. The 'savarna' Hindus have never differentiated between the malas and the madigas – or any of the dalit castes, for that matter – in the treatment meted out to them as outcastes. But there is not only difference in occupations but also a miniature hierarchy within the dalits that puts the malas on the upper rungs of the ladder (to use Ambedkar's felicitous metaphor) and the madigas down below. The madigas are outcastes for the malas, just as there are castes even lower than the madigas that are outcastes for the madigas.

Whatever be the historical origin of this ladder-like system of Hindu society, it has long been recognised that it has had the effect of ensuring that Hindu society reproduces itself stably. It has successfully legitimised subservience to superiors by placing somebody beneath all but the lowest rung. To rebel against one's caste superiors is to open the gates – at least the gates of moral sanction – for the rebellion of one's caste inferiors against oneself. Psychologically, the caste oppressor is not an unbridgeable alien – as he has to be to provoke outright rebellion – for he is a part of everybody's identity. To condemn oppression is to condemn at least a little bit of oneself.

This unwelcome burden, coupled with the arch-conservative notion of 'dharma' that sanctifies the ladder of Hindu society as definitive of divinely-ordained righteousness, has acted as a built-in deterrent against rebellion. The option of understanding these psychological barriers as merely an ideological reflection of the physical fear of the rebellion of those below may be left open to those who like to package social history in neat rationalisations.

'Merit' Argument

But no deterrent, physical or psychological, is ever perfect, and Hindu society has ever been buffeted by shocks of rebellion from those down below on the caste ladder. What is remarkable is that whenever caste domination has been questioned it has been justified by the notion that the holders of privilege have some quality called merit that justifies the privilege. In the old days it was the merit of past deeds translated into a nobler birth and ritual purity in this life; today it is the merit of hard work, intelligence and efficiency. It is always something with them that justifies the privilege; it is never the pre-existing social-structure of differential privilege in which all are placed by virtue of the accident of birth.

The modern argument of selfless hard work and consequent capability and efficiency was first discovered by the brahmins in answer to non-brahmin rebels (or interrogators, to use currently fashionable language) in the Tamil society of the early 20th century. It has ever since been the answer of holders of privilege at each rung of the ladder. The upper sudras joined the brahmins in hurling this argument at the 'other backward classes' (OBCs), the most recent instance in memory being the campaign in the northern states against the Mandal Commission's recommendations – by far the ugliest political movement of modern India.

Now some of the malas in Andhra Pradesh are using the same argument. Mala youths belonging to villages in east and west Godavari districts where the conflict took a physical form for a while were asked why they were not prepared to accept the madigas legitimate complaint that the malas availed themselves of an unduly large proportion quota. They replied that the madigas of the scheduled caste "eat beef, drink and loaf around, whereas we work hard".

It was in 1995 that the Madiga Reservation Porata Samiti (MRPS) came on the

scene. If declared that the scheduled caste quota of reservations was being availed of disproportionately by the mala community and demanded that the 15 per cent quota allotted to the SCs in the state be subdivided and fixed quotas allotted to properly-identified subgroups of the 59 dalit communities. The demand itself is not new. It appears to have first been placed before the then chief minister of the state as far back as in 1972. Subsequently, determined legislators and other public figures from the madiga community have been submitting representations to each successive chief minister. But this is the first time it took the form of a mass movement. And what a remarkable effort it was while it lasted!

The movement began with some advantages. Like the malas, the madigas are spread across the state. If not every village, then certainly every second or third village in every corner of the state would have at least a few madiga families. Secondly, though the reality of a hierarchy within the outcastes and unequal access to reservations was known, felt and even mildly articulated for a long time, it was being expressed as a mass upsurge for the first time. It is a matter of common experience that a mass expression of a genuine public grievance for the first time attracts the most innocent and purest following, and also the most disinterested sympathy from the rest of society. It is in the course of the second or third round that the expression and the sympathy are contaminated by what passes in the meantime and by self-serving afterthoughts.

Thirdly, the demand the madigas raised was plain, simple and easily understood: divide up the SC reservation quota and give us our due. It was moreover felt to be unproblematic since the backward class reservation in the state has long since been subdivided into four subgroups, which subdivision has been upheld by the Supreme Court. Fourthly, the madigas found a dynamic a charismatic leader in Manda Krishna.

A former radical from Warangal who was later suspected and shunned by the radicals and who thought it safer as a consequence to leave the district and settle down at Ongole, Krishna rose very fast as the founder and enviably popular leader of the MRPS. His lieutenant was Krupakar – also a former activist of a pro-naxalite student organisation – a less charismatic and less dynamic young man but a capable and dedicated organiser nevertheless.

The movement took the state by storm in a matter of months. The first and most audacious thing the madigas did was to suffix the caste tag to their names. Krishna became Krishna Madiga, Krupakar became Krupakar Madiga and so on down the line. In a society that addresses any number of Krishna Shastris and Krishna Reddys respectfully the discomfort this caused was most amusing to watch. As 'madiga' has served as term of abuse, whether directed against a madiga or otherwise, it was most discomfiting to be confronted by someone who wanted you to address him as 'Krishna Madiga'. And when people confessed to themselves that they found it embarrassingly absurd to think of someone as Krishna Madiga, they were forced to ask themselves why they did not find it absurd to think of some one as Krishna Shastri, Krishna Reddy or Krishna Naidu.

Since true victory over an oppressor lies not in putting a bullet through his head but in making him turn a self-critical eye towards his own pretensions to superiority, it must be said that this deliberately chosen tactic of the madiga movement did as much as anything has ever done to puncture upper caste arrogance.

On the other hand there was a false note from the very beginning, though being at the beginning it was felt to be understandable. All movements, it appears, require a suitable image of an evil enemy to sustain themselves. The madiga movement conjured up the image of the oppressive, cunning and selfish mala who by craft and deceit took away all the benefits given by the state to the scheduled castes. It is a fact that the madigas, apart from not being able to avail themselves of reservations in proportion to their numbers among the SCs, also suffered the indignity of being looked down upon by the malas. This 'local' hierarchy, which may legitimately be treated as a micro-level inequality by those looking at the caste system as a whole, would not necessarily be perceived as merely 'local' or 'micro' by those who belong to that level.

This much is understandable. So not the rhetoric that isolates the malas from the caste system as a whole and makes them out to be the principal enemies of the madigas. It was even said by the madiga leaders that the neo-brahmin is more dangerous than the brahmin, and that is why the mala is a bigger enemy. Whether or not the neo-brahmin is truly more dangerous than the original article, applying that appellation to the malas was absurd.

The madiga demand, so far as reservations were concerned, could well have been expressed by saying that the differential social positions of the various dalit communities made it impossible for all of them to have equal access to reservations and that it was therefore necessary to divide up the reservation quota and give to each properly constituted subgroup its due. It could have been justified through an appeal to the same logic that motivated the provision of reservations in the first place.

But would such a sanitised and merely rational expression of the demand, apart from not adequately expressing the madigas' long-standing resentment at being looked down upon by their fellow outcastes, evoke the mass emotional response necessary to create and sustain a mass movement? Perhaps the movement would be possible without a tangible image of a personalised enemy and based on a purely rational motivation. But would it not then be difficult to paper over internal difference or tide over inconvenient organisational crises?

But from where does this realisation of the functional utility of such an image spring before any troubles have been sighted? Or is it the leader or leaders that need a tangible enemy to project themselves as indispensable, as valiant fighters around whom all should rally? Perhaps the image helps discredit all challenge to their leadership as a conspiracy of the enemy? Or are we talking of a purely human trait which has nothing to do with the possibility or otherwise of a mass movement – the inability easily to conceive of injustice done to oneself without seeing behind it the sinister machinations of an evil one?

These are interesting questions to ponder, though the tradition of Indian intellectuals who consider themselves close to popular movements is to look only at their political aspect. Subjecting movements to social-psychological critique, much less moral critique or analysis, is foreign to that tradition. The more is the pity, since such a critique would serve a very educational purpose.

Even more disturbing than the way the madigas articulated their demand was the response of the malas to the movement. There were a few honourable exceptions, especially among the activists of left, democratic and dalit organisations who belonged to that caste. But those whose stand could well have made a substantial difference to the trajectory of the agitation were the top leaders of the vibrant dalit

movement of the state. Almost all these top leaders are from the mala community – which fact again reflects the dominant position in which that community is placed among the dalits of Andhra Pradesh. A positive response from them in keeping with the principle of social justice would have initiated a process that may well have structured a consensus among the dalits on the madiga demand. The social resolution spoken of in the beginning could have come only through them, if at all. But they did not rise to the occasion.

Granting these leaders their bona fides, one can well understand their predicament. The unemployed youth of their community, dependent almost exclusively on reservations for their employment prospects, would certainly not have taken kindly to any concession to the demand of the MRPS. That meant the leaders' standing was at stake if they took a stand sympathetic to the madigas. But, as the experience of the less highly placed in the dalit movement and mala activists in other democratic movements who did take a positive stand has shown, the difficulty was not really insuperable. After some initial hostility and even ostracism, their stand was accepted by their caste people. In any case, the consequence of the silence of the dalit leadership has been such that one can only wish that some of them at least had had the courage to speak out.

One answer frequently given to this complaint is that if they had indeed taken a stand they would have lost their relevance as leaders of their community and events would have taken no different course. But one is not talking of merely declaring a stand in support of a genuine demand. If a concerted effort had been made on that basis to begin a process of reconciliation guided by the larger need of unity of the dalit communities to face the discrimination and physical atrocities that are their common lot, perhaps events would have taken a smoother course.

Counter-Campaign

In the event, almost all of the important dalit leaders of the state remained mute spectators, and the gap was filled by one P V Rao, a government servant, who certainly did not have the kind of experience organising a mass dalit movement that the others had, such experience as would have helped temper any tendency to extremism. He formed the Mala Mahanadu and went about organising a

'no holds barred' campaign against the demands of the MRPS.

The campaign was based on a mixture of partly reasonable but mostly imagined or invented arguments. Strong objection was taken to the picture created of the cunning and scheming mala as the root of the unequal access to reservations, and rightly so. It was also argued plausibly that what is seen as a mala-madiga difference is in fact a regional difference that cannot be cured by a horizontal subdivision of the SC reservation quota. It is a fact that there is a relative preponderance of the mala community among dalits in the coastal districts that are economically and educationally more developed, and one of the madigas in backward Telangana and Rayalaseema. And the scavenging caste of rellis, who lag behind even the madigas is confined to the three north-coastal districts, which are extremely backward socially notwithstanding the presence of a sizeable industrial city in Visakhapatnam.

But this plausible argument turns out to be of no consequence when it is seen that even within a given region, there is not only social inequality among the dalit castes but also inequality in the relative proportions of members of each community availing themselves of reservations.

The rest of the Mahanadu's arguments have little persuasive value. It was said that whereas the madigas had a vocation (leather work) of their own wherein they could receive further aid from the government if their advancement was desired, the malas had no caste vocation and have to compete with others as agricultural labourers. That the madigas are leather workers by caste is true, but then the leather work – skinning dead cattle, tanning hides and making and repairing chappals by hand – has hardly been a propellant of social advance even aided (as has occasionally been the case) by government loans.

Reservations in education and employment have been sought and justified on both social and economic grounds. They have been viewed as an instrument for helping toiling castes to move out of the confines of inherited modes of low-paying toil based largely on traditional technology and commanding, within Hindu society, little social regard or opportunity of wider knowledge or social advancement. They have been regarded as a passport to a mode of life that is more productive and hence more remunerative, and one which carries greater status as well as opportunities for expansion of knowledge and skills and further social advance.

This has nothing to do with acquiescence in the brahminical ideology of degradation of manual skill and the knowledge it carries. Resisting that degradation and asserting the self-respect of all toil and knowledge-based skill it involves does not, on the other hand, imply acceptance of stagnation at the level ordained by caste.

It is no answer therefore to say: give the madigas more loans to buy better implements and make more chappals per day. Those who continue to make chappals will certainly seek such assistance, and will demand respect from society for their skill and toil. But the community as a whole is entitled to ask for special provisions for sharing the wider province of knowledge and skills and partaking of the consequent economic and social advance.

In any case, the Mahanadu plea is the kind of argument made first by the brahmins and later by the other upper castes against reservations as such: give them help for economic upliftment, and we too will learn to honour the dignity of labour, but do not breach our preserve of expanding knowledge and the status and opportunities it carries. The argument as well as the answer to it will become clearer if one goes below the madigas to castes such as the rellis, who have as their exclusive vocation scavenging, in which they face no threat of competition. Nor do the rellis have any scope for advancement if they remain scavengers.

It was also argued that instead of fighting among themselves for subdividing their common quota, dalits should jointly fight for increasing the SC quota commensurate with the proportionate increase in dalit population and for a proper implementation of reservations, including the backlog of unfilled vacancies. There is no reason, however, why the desire for justice inter se should wait upon the latter task or tasks. The desire and the tasks can proceed together, provided both sides – particularly the more privileged side – make sure that the struggle for subdivision and the response to it do not vitiate the atmosphere to the extent of making the united struggle for the common goals impossible.

In any case, this is again no different in principle from the argument offered by the upper caste anti-reservationists: let us fight not over division of the existing job opportunities but for the creation of more. The two struggles can well go together, and the onus of making this possible lies on the more privileged and not the less privileged. To ask the disadvantaged to

give up their just demand of equal opportunity in order to pave the way for the unity required for a common fight for greater opportunities is plainly unethical.

But the most commonly heard and least justified argument was that the whole madiga movement was a creature of chief minister Chandrababu Naidu. It is true that the ruling Telegu Desam Party (TDP) has ever been on the lookout for the social gaps left by the Congress. The dalit support for the Congress since the days of Indira Gandhi was structured through the rural dalit leadership, which was mostly mala by caste. Hence there was ample opportunity for the TDP to attract the support of the madigas. For this reason Naidu, a politician as crafty as they come, responded sympathetically to the MRPS. To stand this on its head and damn the MRPS as a creature of his is without any justification.

The MRPS in the meantime went from strength to strength, quite successfully putting pressure on political parties and other organisations in the public arena to support its demands. Most parties and organisations extended verbal support, if only because they could find no argument to answer the demands. The state legislative assembly passed unanimously a resolution supporting the demand. The state government, which in any case saw political mileage to be derived from it, set up a judicial commission of enquiry, the Ramachandra Raju Commission, to enquire into the allegation of a few schedule castes securing disproportionate benefit from reservations to the detriment of the others.

Set up through a government order issued on September 10, 1996, the commission submitted its report, substantially agreeing with the complaint of the madigas, to the government in May 1997. On June 6, 1997, the government issued a GO subdividing the 15 per cent quota of reservations given to the scheduled castes into four categories. Group A was to consist of relli and related castes (12 in number), mostly scavengers by vocation, identified as the most disadvantaged, who would get 1 per cent and be placed in the first of the roster slots allotted to SCs; group B to consist of the madigas and related castes (18 in number), who would get 7 per cent; group C, consisting of malas and related castes (25 in number), who would get 6 per cent; and group D, consisting of adi andhras and related castes (four in number), identified as those who had benefited the most from reservations, who would get

1 per cent and the last of the roster points allotted to SCs. Groups A and B were identified as having got less than proportionate benefit from reservations and C and D as having got more than proportionate benefit.

The Mala Mahanadu predictably, then went to court. On September 18, 1997 a full bench of the Andhra Pradesh High Court delivered a judgment characterised by convoluted logic, holding the GO ultra vires the state government's powers and unconstitutional. The only reasonable point made by the court was that the state government should have consulted the National Commission for Scheduled Castes and Scheduled Tribes (the SC and ST Commission) before taking the decision to effect the categorisation. Article 338(9) of the Constitution says the government shall consult the commission on all major policy matters concerning SCs and STs. It was argued by the state government before the bench that the categorisation was not a major policy matter, and alternatively that the word 'shall' need not be interpreted as mandatory.

Whatever the technicalities of interpretation, the court laid down a sound principle in insisting that 338(9) was a mandatory provision. But instead of holding the GO unconstitutional on the ground of non-consultation it could have upheld it prospectively subject to consultation within a reasonable time period, and directed the government to enforce it only thereafter, if it still wished to: Article 338 makes it clear that the opinion of the SC and ST Commission on matters pertaining to the safeguards provided for SCs and STs is not binding on the government. The latter may differ with the opinion, but it must explain the reasons therefore to the state assembly. But the high court found a very odd argument to hold that the GO was even otherwise ultra vires the powers of the state government.

Article 341 makes it clear that the list of scheduled castes, declared by the president, can be modified only by parliament. But that is not what the government sought to do. The list would not be altered in any way. Only the 15 per cent reservation of seats and jobs for the castes in the list would be apportioned among them in a more equitable manner by setting fixed proportions apart for subgroups of them that are distinguished by disparity in their ability to avail of reservations when bunched together. The legality of such subdivision of castes into backward and

more backward for the purpose of equitable subdivision of the reservation quota has been upheld on more than one occasion by the Supreme Court, the most recent judgment being that of the nine-judge Constitution bench in the Mandal Commission case.

The Andhra Pradesh High Court did not go against the Supreme Court's view. It was argued, however, that such a subdivision was permissible only in the case of backward castes and not in that of scheduled castes. The court held that the recognition of certain castes as scheduled castes by the president was tantamount to identifying them as the (absolutely) most backward among all the castes; and this being the defining characteristic of the scheduled castes any further identification of the more backward among them would amount to cutting down the list declared by the president, effectively putting the others outside the SC list. A more peculiar mode of judicial reasoning than this, which led to the conclusion that the state government had exercised a power that only parliament had, would be hard to come by.

As a matter of fact, there is nothing in the Constitution or administrative practice to support the view that scheduled castes are defined by degree of social/social-cum-educational backwardness along a scale applicable to all castes. The SCs have always been identified by untouchability, which is an absolute characteristic. It is arguable that there are some non-scheduled castes such as nomadic communities, plains tribes and denotified communities which are socially and educationally more backward than the SCs, but they have been included in the BC and not the SC list because they are not outcastes. In Hindu social practice there is, a clear and unambiguous distinction between savarna (however lowly) and 'panchama', and that is the basis on which the scheduled castes have been identified.

Physical Conflicts

In the whole literature on the administrative and judicial understanding of caste, it would be hard to come by the thesis that it is the degree of backwardness (howsoever defined and howsoever measured) along a scale applicable to all communities that defines a scheduled caste. The discussions in the constituent assembly show 'scheduled castes' was intended to be another name for what in those days were called the depressed classes – that is, the

outcastes. In any case, untouchability has always been regarded as the principal defining characteristic of scheduled castes. Being an outcaste is an absolute disability and not a question of degree along a universal scale.

Within this absolute category of untouchables, there may well be relative backwardness, as measured by relevant indices. The recognition of this reality does not by any means put the relatively more developed outside the list of panchamas. They continue to be untouchable despite there being more backward untouchables.

In fact the only support found by the high court for its opinion is the rhetorical description of the scheduled castes as the 'backward-most', the abysmally backward, the lowliest of castes, etc, by the Supreme Court in certain judgments. Most of these judgments were rendered by V R Krishna Iyer, a judge with his heart in the right place but notoriously given to rhetorical expression in the service of judicial sensitivity to the problems of the disadvantaged.

To say that the backward-most of the castes are designated scheduled castes by the president, as Krishna Iyer has said in the judgments relied upon by the high court can be taken as rhetorical acknowledgement of the unparalleled plight of the dalits, or, more literally, to mean that untouchability, the principal defining characteristic of the scheduled castes, makes them the lowliest, the backward-most, etc. It is a rather strange procedure of interpretation that performs a semantic reversal and turns this descriptive or rhetorical expression into a definitive characteristic and argues that there is some scale of backwardness on which the castes are placed, that those found in the bottom slot are declared scheduled castes, and that any further recognition of degrees of backwardness within that category amounts to putting some of the lowliest above the lowest and therefore outside the list of scheduled castes.

But perhaps this is what results from our kind of adjudicative machinery, which expects judges who decide legal issues arising from social problems to be sociologists, anthropologists, historians, economists and environmentalists in addition to being jurists – and all this with the sole help of lawyers whose principal talent lies in quibbling.

After the GO was struck down by the high court there were physical conflicts in the last week of September and the first week of October 1997 between the two principal dalit communities in East and

West Godavari districts. The trouble broke out when mala youths celebrating 'their victory in the high court made provocative comments or indulged in provocative modes of expression of glee, rubbing salt into the wounds of the vanquished. One madiga youth, Chelluru Mira Sayabu of Chintalacheruvu, in East Godavari district, was clubbed to death by some mala youths on October 6 and in some villages of neighbouring West Godavari district there were non-fatal attacks in reverse. It was basically a case of those who were numerically preponderant in the particular village taking it out on the other side in celebration or resentment, as the case may be.

Mercifully, this phase was short-lived. In much of the state, except a few of the coastal districts, higher education and government employment seem so remote to all but a small minority of youths of any of the 59 dalit castes that conflict going beyond mutual resentment was in any case unlikely. But this is not to say that resentment and some degree of bad blood have not come to stay as definitive components of the relation between the relatively well placed and the relatively disadvantaged of

the dalits, mainly the malas and the madigas.

Indeed, this is one of the unfortunate consequences of dependence for a solution to the problem on the law and administrative action unsupported by any effort to work out a social consensus. However, the blame for this is to be put not on those who pressed for an immediate administrative resolution but on those who made no effort to resolve it otherwise refusing to acknowledge the very existence of a problem.

The state government, which had sought for and obtained a certificate of appeal from the high court, filed an appeal in the Supreme Court. But it evidently realised that one of the objections taken by the high court – that the SC and ST commission should have been consulted before making the categorisation – would be upheld by the apex court. It therefore simultaneously sought the opinion of the commission. The commission refused to give its opinion when the matter was sub judice – before the Supreme Court. The government therefore withdrew the appeal in the Supreme Court on February 11, 1998 and pursued the matter with the commission. The com-

mission asked for more data, and it took the government some time to collect it.

Meanwhile the MRPS undertook further agitation to put pressure on the government to "somehow or the other get the categorisation approved". Chandrababu Naidu was called a liar and a cheat. He was said to have sold out the interests of the madigas after having taken the support of the MRPS in the mid-term parliamentary elections of 1998. Krishna Madiga staged a hunger strike in June 1998, and for the first time openly encouraged madiga youths to indulge in violence. A madiga youth, Tellabandla Ravi, immolated himself at Tadipatri, in Anantapur district.

Since the TDP has been in every non-Congress alliance at the centre since Naidu took over its reins, it was said by MRPS that the chief minister could have got central government approval for the categorisation had he been really sincere. While it is true that Naidu's original enthusiasm for the demand of the MRPS was opportunistic, it is probable that the MRPS leadership did not fully appreciate the tangle the state government had got caught in because of the high court judgment; nor did it seem

to realise that once the issue got stalled on legal considerations, whether of a procedural or a substantive nature, any attempt to hurry it by political pressure or manipulation could only boomerang. But perhaps any such considerations would have been regarded as unworthy of militant fighters, for competitive militancy is a compulsion that people's movements suffer from.

The end result of these events of June 1998 was that madiga youths across the state got arrested on charges of violence and the movement lost some public sympathy for its perceived unwillingness to comprehend the legal odds the state government was wrestling with. When the government, under pressure from Krishna Madiga's fast, declared that it would do its best to expedite the process at the SC and ST commission, the chairperson of the commission declared in a huff that he could not be pressured. The state government even took the avoidable step of moving the high court for a direction to the SC and ST commission to expedite its report.

Whether or not the commission had delayed matters needlessly, the pressure tactics of the MRPS has given the Mala Mahanadu, at the next round of litigation which is now on grounds for alleging lack of effective consultation with the SC and ST commission on account of pressure. The only positive outcome perhaps of the MRPS pressure was that the state government sent the data called for by the commission sooner than it might otherwise have done.

These events also saw the internal crisis of the MRPS coming to a head. For some time by then Krishna Madiga was being perceived by his colleagues as a vain, autocratic and dictatorial person who never sought their views on anything. Nor, it was said, did he respect the decisions of the executive body of the organisation. More disreputable allegations were made of unnamed deals entered into by Krishna Madiga with Naidu in return for MRPS support during the parliament polls of 1998. Very soon thereafter the madiga movement split, one faction going with Krishna Madiga, another with Krupakar Madiga and many becoming inactive out of disgust.

More trouble was in store for the movement. The SC and ST commission invited opinions on the matter, and after giving a hearing to all parties advised the state government against the categorisation. It is true that Article 338(7) allows a state

government to reject a recommendation of the SC and ST commission provided the reasons for the same are explained to the legislative assembly. But there is no gain-saying that one more ground is now available with the Mala Mahanadu for questioning the bona fides of the government in a court of law. Whether or not such a challenge can succeed in stalling the measure, it can certainly succeed in delaying matters further.

To minimise the likely damage the state government this time round chose the legislative route: it drafted – and sent for the governor's assent – an ordinance instead of an executive order as in the first round: legislative satisfaction is not on the same footing as executive satisfaction in the matter of judicial review. If the governor had signed it, the matter would no doubt have again gone to court, for only one of the grounds on which the previous GO was struck down had been taken care of by the consultation made with the SC and ST commission. The state government really had no option but to clear this one reasonable hurdle and then go through the high court-Supreme Court rigmarole to meet the other hurdle contrived by the full bench judgment.

But governor C Rangarajan decided to put one more spoke in the wheel. He referred the ordinance to the president for his assent. There is nothing in the law or the Constitution that says he should have done so, for the opinion expressed by the high court on the previous occasion is not law, however, weighty it may be as a judicial opinion. But the banker in the former governor of the Reserve Bank of India probably dictated that caution is the better part of constitutional valour.

Gloom descended on the already dispirited madiga movement. The madigas were afraid that the act of the governor spelt the end of the matter, for there was no way they could put pressure on the union government as they had done very effectively on the state government. It was also felt that presidential assent being in effect the assent of the central government would not be easily forthcoming. It was believed that the fear of likely repercussions on scheduled caste reservations all over the country would inhibit an early decision, especially in view of the unstable and perpetually crisis-ridden character of the governments in Delhi.

The MRPS splinters went into hibernation. Krishna Madiga turned to what one may call mainstream dalit politics: strike

up alliances with putative political representatives of various BC communities and form electoral fronts on the assumption that votes proportionate to the population of the said BC community would drop into the front's lap. The novelty he invented was to invite vaishyas into the front (he even considered brahmins for a while) on the theory that the reddyas and kammias had rendered everybody else politically backward. That absurd novelty apart, dalit leaders apparently never tire of this political make-believe, and most of them are content to live off it for ever.

So too would Krishna Madiga have been perhaps, but after about a year's gap the president sprang a surprise by giving assent to the proposal of the state government. As the earlier ordinance drafted in September 1998 had in the meanwhile lapsed any way, the state government has made haste to redraft it and promulgate it on December 9, 1999.

But if parliament alone has the power to legislate categorisation of SC reservations, as held by the AP High Court in the earlier judgment, presidential assent cannot cure the state's lack of legislative power, and the Mala Mahanadu's ground for challenging the ordinance survives, however tenuous the logic. The Mahanadu has gone to court, and the matter is once again before the high court. Whatever be the outcome, it will certainly go to the Supreme Court. The whole process may take any amount of time. Given the prevalent state of judicial understanding of the matter, the madigas will in all probability succeed in the end, but theirs may well be an empty victory by the time it comes.

For reservations are available only in government (or government-financed) educational institutions and government jobs. This field is being shrunk as a matter of policy. And to the extent that these opportunities do survive after the few years more that the litigation is bound to take, by that time the state government would probably have fully entrenched the currently touted system of not making regular recruitments but giving jobs on contract. And while the courts till now have taken a more or less firm stand against regularisation of persons employed on ad hoc or contractual basis without following the reservation roster among other requirements of eligibility, what the fate of the rule of reservation will be when all employment is contractual, without guarantee of tenure and possibility of regularisation is a big question mark. **EPW**