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Delimitation in Jammu and Kashmir

Beauty Singh^a

^aMaharaja Agrasen Institute of Management Studies, Delhi, India

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The story of Jammu and Kashmir has entered a new phase in August 2019, when it was given the status of Union Territory. But the struggle and misery of people have not stopped yet and the people of Jammu and Kashmir are still not finding the rules governing appropriate, whether it's an internet banning issue initially or now the issue of delimitation. Now the government must build a sense of trust among Jammu and Kashmir's people only then they will succeed in bringing progress and development to the region.

Keywords: *delimitation, boundary, re-organisation.*

INTRODUCTION

The new interim report from the Delimitation Commission states that Jammu will now have 43 seats and Kashmir 47. In August 2019, the state of Jammu and Kashmir was divided into two Union Territories and after more than two years of division, a recent Delimitation Commission proposal has revealed that six new legislative seats are added for Jammu and just one for Kashmir. Let's have a quick recap of what it's all about and in what ways is it wrong or right and if wrong then on what basis and if correct then why a certain group of people are protesting and are not happy.

WHAT IS DELIMITATION AND WHY IS IT NEEDED?

“Delimitation means the act or process of fixing limits or boundaries of territorial constituencies in a country or a province having a legislative body. The job of delimitation is assigned to a high-power body. Such a body is known as Delimitation Commission or a Boundary Commission”. This whole process is done by the Delimitation Commission and the court has no authority to interfere or impede the process. The main aim of delimitation is the process of redrawing boundaries (based on the most recent census) so that the population of all seats is equal throughout the state. This process entails altering the boundaries of a constituency’s dominion, which may eventually lead to a change in the number of representatives in the state.

IS THIS JAMMU AND KASHMIR’S FIRST DELIMITATION?

No, of course not. In 1963, 1973, and 1995, Jammu and Kashmir’s assembly seats were delineated. The last delimitation exercise was done under the supervision of Justice K Gupta and at that time Jammu and Kashmir were under the president’s rule. The last delimitation exercise was based on the census of 1981. Ideally, the census should have been conducted in 1991 which is after 10 years of the last census of 1981 but unfortunately, there was no census conducted in Jammu and Kashmir in the year 1991, and after the 2001 census, the state government did not appoint a Delimitation Commission. The reason for no formation of delimitation commission in the Jammu and Kashmir after the census of 2001 was the law passed by Jammu and Kashmir legislature that set a moratorium on new seat delimitation until 2026. The Supreme Court of India upheld this law. At the time, Jammu and Kashmir, with 46 in Kashmir, 37 in Jammu, and four in Ladakh. Twenty-four seats are reserved for Kashmir, which is occupied by Pakistan. The freeze created a source of inequity among Jammu people as according to them they were being represented by a smaller number of constituencies and wanted more.

But this will be the first delimitation exercise after a scrap of its special status by the Centre in 2019. Now the delimitation will be based on the Indian constitution. In contrast to the previous system, which was based on the Jammu and Kashmir constitution and the Jammu and

Kashmir Representation of the people act, 1957. *The government established the Delimitation Commission, led by retired Supreme Court judge Ranjana Prakash Desai, on March 6, 2020, with aim of concluding delimitation.* The basis of the present delimitation exercise will be the census of 2011 because of delay in conducting the next census due to pandemic prevailing in the country. The commission has stated that it will also evaluate the political aspirations of all parts of society in Jammu and Kashmir for a year, as evidenced by the first-ever reservation of seats for the Scheduled Tribe. The proposed population is distributed among the 90 Assembly seats by the Jammu and Kashmir Delimitation Commission -with the Kashmir division having a population of 68.88 lakh and the Jammu division 53.78 lakh has resulted in the average population size in Kashmir's Assembly segments being higher than those in the Jammu region. According to the 2011 census, the average population per seat in Jammu and Kashmir was roughly 1.3 lakh. The interim report contains 47 constituencies in Kashmir with an average population of 1.46 lakh, compared to 1.25 lakh in 43 constituencies in the Jammu province.

KEY FACTS FROM INTERIM REPORT

The total allocation of seats between Jammu and Kashmir is 90, wherein the seats allocated to Jammu as per the interim report is 43, unlike previously allocated seats which were 37. Similarly, the total seats allocated to Kashmir in the proposed report is 47 which is slightly different as the seat allocated previously was 46. Out of a total of 114 seats, 24 seats are reserved for Pakistan Occupied Kashmir. Special provision has been made for Scheduled Caste and Scheduled Tribe 16 seats reserved out of 90 seats where 9 seats are reserved for Scheduled tribe which is for the time and 7 seats are allocated for reservation of Scheduled Caste. In the Lok Sabha total seats allocated for Jammu and Kashmir is 5 of which 3 are for Kashmir and 2 for Jammu.

LEGAL ASPECTS

42nd Amendment of Indian Constitution: This amendment took place in 1946 .it had fixed that after the 1971 census the 2001 census will be taken into consideration.

84th Amendment of Indian Constitution (2002): Articles 82¹ and 170² of the constitution of India provide for readjustment and the division of each state into territorial constituencies (Parliamentary constituencies and Assembly constituencies) based on the 2001 census by such authority and in such a manner as parliament may, by law, determine. Further, Article 330³ and Article 332⁴ of the constitution of India provide for re-fixing the number of seats reserved for the Scheduled caste and Scheduled tribes in the house of the people and legislative assemblies of the state based on the 2001 census. In this amendment, it was fixed that after 2001 the next census which will be taken into consideration will be the first census after 2026 that is the 2031 census.

Article 82⁵ of the Indian Constitution: According to this article, a delimitation commission can be formed, and readjustment can be made after each census.

Article 170(2)⁶ of the Indian Constitution says that “each state shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, as far as practicable, be the same throughout the state.”

THE JAMMU AND KASHMIR REORGANISATION ACT, 2019⁷ (5th AUGUST 2019)

This act took away the statehood of Jammu and Kashmir and divided that entire area into two Union territories, one being Jammu and Kashmir and the Ladakh was the other one. Ladakh is being centrally administered whereas the union territory of Jammu and Kashmir is governed by a proper government like Delhi and Puducherry. And from here arises the need to set up delimitation commission as if the government will govern then there is a need to draw constituencies and eventually the need of setting up delimitation commission.

¹ Constitution of India, 1950, art. 82

² Constitution of India, 1950, art. 107

³ Constitution of India, 1950, art. 330

⁴ Constitution of India, 1950, art. 332

⁵ Constitution of India, 1950, art. 82

⁶ Constitution of India, 1950, art. 107(2)

⁷ Jammu and Kashmir Reorganisation Act, 2019

WELFARE OR POLITICAL AGENDA

What is the need for delimitation?

The main duty of the commission is to redraw the boundaries of the constituencies of various assemblies and Lok Sabha based on the recent census. The regional party is rejecting the proposed delimitation in Jammu and Kashmir as according to them this is done only to help BJP. But they should consider the fact that instead of pointing fingers at others now it is high time to do something for the people of Jammu and Kashmir as they have suffered a lot either due to political turmoil or because of local militia but now all should come on the same footing and decide only the good for people of Jammu and Kashmir.

This allegation of course holds some water because in the interim report the electoral representation of Muslims in Jammu has come down from 13 to 10 seats. But the number of total assembly seats in Jammu is up from 37 seats to 43 under the proposal. In the game of allegation ultimately difficulty is faced by common people, and it will be wise for everyone to first analyze the report and search by themselves that, how much is this allegation is true or is it just a political game of showing down. People should also consider the fact that for the first time the seats are reserved for ST which clearly shows the intention of the government in full representation from each class or sect. Every coin has two sides, and no one is perfect but instead of critiquing us as responsible citizens can use our fundamental right in making a change but that should be for good and not based on any kind of influence or personal bias.

Some vice regencies in the interim report can be seen as people are don't see themselves on equal footing of representation and because of which many people are protesting also. "As per the panel report, *"The Chenab valley, with Kishtwar (40.72% Hindus and 57.75% Muslims) and Doda (45.77% Hindus and 53.82% Muslims), has been granted two additional seats of Doda West and Padder. However, in Ramban (28.56% Hindus and 70.68% Muslims), no seat has been increased despite coming in the same tough topographical range. Similarly, in the Pir Panjal Valley, Rajouri (with 34.54 % Hindus and 62.71 % Muslims) will have an additional seat of Sunderbani-Kalakot (Rajouri) but no seat has been increased for Poonch (90.45% Muslims and 6.84% Hindus) despite being*

closer to the Line of Control and spread in a tough topography". Uttar Pradesh has the greatest number of constituencies because Uttar Pradesh has the highest population in the country. The government should consider their demand at least once and then only they should proceed. There are growing protests among the Muslim population in the Jammu province's Chenab and Pir Panjal. According to them, Muslim -majority Assembly segments in the province have decreased from 14 to 11. The Mughalmaidan constituency, which has a 25% Schedule Tribe (ST) population, has also been left off in the ST reservation list. The Chenab valley has a sizeable Gujjar and Bakerwal population, but then also no reservation of seats has been made by the government. Previously, the Inderwal constituency with over 60%our population has been split and divided into three constituencies.

CONCLUSION

When there isn't a fair playing field owing to discriminatory politics, the worst-affected region (Jammu) must be granted a greater room in order to establish political parity with the already dominant region (Kashmir). Furthermore, there should be a framework in place to ensure that diverse ethnicities in Jammu and Kashmir are represented in the new Assembly. For the time being, we'll have to wait for the delimitation commission's final findings. The addition of seats for the Jammu area is a positive step forward. However, history suggests that Kashmir's control over Jammu will continue in the future until Jammu achieves political parity with Kashmir. The increase or decrease in constituencies does not matter as long as it is not political personal agenda. But if it is used for the personal benefit then the problem lies over here and we need to work upon this.