

## JKAACL - vacancies, promotions, accountability

Arts and culture bring different people together, to appreciate each other with their diversity and language is one of the most important part of any culture as it is the way by which people communicate with one another, build relationships and create a sense of community. There are roughly 6,500 spoken languages in the world today and Jammu and Kashmir is no different than rest of the world. List of languages of J&K include Kashmiri, Shina/Khowar (Dardic group), dialects of Shina being -Gilgiti, Kohistani Shina, Guresi, Drassi and Broksat, Burushaski is used in Hunza/Nagar areas of Gilgit-Baltistan, with a few in Botraj Mohalla of the Hari Parbat in Srinagar, distinct Pahari languages used are Bhaderwahi, Padri, Poonchi, Mirpuri, Parmi or Pahari (Karnah), Ladakhi or Bhoti or Bodhi in Leh district, Balti in Baltistan and Kargil/Leh district, Purgi language used in Kargil and Leh, Zangskari in Zanskar area of Kargil, Dogri being main language in Jammu Division. Pashto/Wakhi (Gilgit-Baltistan) belonging to Iranian language family are also spoken and Gojri is primarily spoken by Gujjars and Bakerwals. Never to forget Urdu in addition to English, Hindi, Dogri and Kashmiri are official languages of J&K now. With these diverse languages/culture/arts in J&K focus should have been on Arts, Culture and Languages Department but the actual picture depicts totally sorry state of affairs. What can be more callous attitude of the concerned that in the last 13 years there is acute staff shortage of staff at Academy of Art, Culture and Languages as no new recruitment has been done since 2009. Each and every section of the department has been deprived of the sanctioned staff so much so that almost every officer is with additional charge to handle thereby unable to do justice to the work allocated. 26 vacant posts for Gazetted Officers, 72 non-Gazetted and 18 Class-IV employees, in total shortage of 116 as per two decade old staff requisition and the result is overburdened staff doing overtime to keep the department working. Though timely promotion is the fundamental right of employee and an opportunity for administration to reward the deserving employees but at JKAACL it's a distant dream as no Departmental Promotional Committee (DPC) constituted during this period with the result numerous deserving employees even retired without due promotions. A peek into the vacant Gazetted positions at the Academy which include one post each of Additional Secretary and Deputy Secretary, three Chief Editors (Dogri-Hindi Dictionary, Encyclopedia Kashmiriyana and Urdu), one post of Special Officer for Cultural Activities G-1, two of Editor-Hindi and Coordination(Kashmiri), nine of Cultural Officers, four posts of Assistant Editors (English, Gojri, Punjabi and Pahari), one of Exhibition Officer, one of Publication Officer, one of Administrative Officer, one post of Private Secretary and one of Publicity cum Public Relation Officer, speaks about the seriousness of administration towards this one of the most important department.

## Nyoma ALG - quantum leap for defence

India has no first attack policy, no nuclear first use doctrine, surrounded by ocean and Himalayas, yet we have faced hostilities right from independence, be it 1947 Kashmir Pakistan army backed attack on Kashmir, 1965 war, 1971 attack, 1999 Kargil war, almost four decades of razor cut bleeding by Pakistan backed terrorism and more recent Ladakh and North East hostilities from China. For a nation getting things right is literally a matter of life or death. Modern day military doctrine is all about power projection - engage the enemy far away from your own soil, a policy never to fight a defensive war in our own territory. In essence, to become a proactive force, not a reactionary one, fighting wars abroad to avoid conflicts in the homeland. In simple words, "In the absence of orders... Attack!". All said and done this is not an easy task as it requires real time quick mobilisation of troops and war equipment and here comes the role of Advanced Landing Ground(ALG). India has rightly started focusing on this aspect with options for developing airfields in Eastern Ladakh including Daulat Beg Oldi, Fukche and Nyoma. Nyoma ALG, less than 50 kms from LAC with China, being the first one to be developed. Nyoma has been used for the transportation of men and material during the ongoing stand-off with China with operations of Chinook heavy-lift choppers, C-130J special operations, Apache attack helicopters and the Garuda Special Forces operations from Mi-17 helicopters and is to be upgraded for fighter aircraft operations now. BRO has been assigned to develop airport and other military infrastructure and as such operating fighter aircraft from this area would strengthen the Air Force's ability to tackle any misadventures by the adversary at lightning speed. Air Force has also deployed the Russian Igla man-portable air defence missiles to tackle any aerial incursion and regular deployment of fighter aircraft including the Rafale and MiG-29s to carry out operations in Ladakh.

Last few years, under dynamic leadership of PM Modi, has seen quantum leap in self reliance of military requirements, be it Light Combat Aircraft Tejas or the indigenous Light Combat Helicopter Prachand, nuclear capable missiles or road and airport infra. To make skies and borders impregnable our Government is leaving no stone unturned and Nyoma ALG is a big proactive step in that direction.

# Openness for good governance

Baldev Singh Chib

Openness means sharing information in easily understandable form and acting in an open manner. It also means that information is freely available and directly accessible to the citizens. Governance is normally described as managing and running the affairs of a nation involving government, civil society and private sector.

Free access to information which must be timely, relevant, accurate and complete is a key element in promoting transparency. Transparency is widely recognized as a core principle of good governance and is considered essential for controlling corruption in Government offices. Though certain actions of the Government do require secrecy, yet this must not be made a general rule nor should politicians and bureaucrats use this as a cover for their covert acts of corruption. Openness provides information to the citizens about what their Government is doing which empowers them, strengthens democracy and promotes answerability, accountability, efficiency and effectiveness in governance. The Government should put information about its policies, decisions and operations online to make it readily available to the public. Information maintained by the Government is a national asset. All Government departments should solicit public feedback to know whether the benefits of Government policies, programs and operations are accruing to the intended population. It could enable the Government departments/agencies to identify the areas of default and apply correctives, wherever required, and also convince the citizens that government departments are interested in listening to their views and responding to their priorities and concerns. This in turn enhances the legitimacy of the decision making process and strengthens democratic principles. It could also transform the Government bureaucracy known for patronage, corruption and inefficiency into the one that is viewed as a model of innovation, reform, accountable, responsive and user-friendly.

The responsibility for managing the affairs of a nation is not limited to Government alone, but includes a wide variety of stakeholders including: State Governments, local self governments, the private sector, non-Governmental and community-based organizations (NGOs/CBOs), the media, professional associations and other members of civil society. And each stakeholder has a specific role to play. The role of the private sector is very important as it is an important means of creating jobs and employment that in turn generates revenue through taxes. These taxes are used by the Government to formulate programmes that benefit citizens.

Here, we have an opaque administration emanated in part as a consequence of colonial legacy that remains distanced from its people. India's public administration framework is a classic example of complete failure. The state and its apparatus, including the bureaucracy are not generating public good but continue to function as a tool generating benefits for the particular group that controls the state.

The civil services, particularly at the higher echelons of administration hierarchy play the key role in determining policies and programs as well as their implementation without knowing citizens' actual needs and preferences. The result is that such policies and programs do not bear any reflection with peoples' real and basic needs and preferences. For example: citizens of Jammu needed Housing Colonies which have not been built for the last 30 years, quality education, robust health system, uninterrupted power supply, drinking water of acceptable quality, maintenance of canals which is the life line of rural population, public transport system, removal of road

encroachments, proper maintenance of Government schools, regulating the functioning and fee structure of private schools, speedy and fast disposal of court cases etc. But, instead the Government constructed golf ground, rope ways, artificial lake, beautification of columns of flyovers, painting of breast walls of roads which were not the basic needs of the citizens of Jammu. If we describe the condition of education and health care systems in Jammu even in the mildest terms, it can only be said as 'horrible'. The J&K Housing Board and Jammu Development Authority created for catering to the housing needs of the people have not developed any housing colony for the last more than 30 years. Both these bodies have become almost non-performing but still exist. The staff of these bodies get salaries and promotions without doing any work. Transparency and public feedback are necessary in the formulation and implementation of policies and programs of government so that the priorities are assigned to the basic and actual needs of the public. Across the world, governments are experimenting with new ways of strengthening citizens' engagement in policy making and administration.

There is a huge backlog of 47 million court cases across the country. Our justice delivery system is unable to provide timely justice to the citizens. Litigations linger on for decades, wasting the time, energy and money of the people, particularly of the poor and the common man who cannot engage experienced and expensive lawyers. A legal maxim "Justice delayed is justice denied" means that a legal remedy is available, but actually not forthcoming promptly. The longest court case in the history of India is that of "Doshipura Graveyard" which was started in the year 1878 and is continuing till now. In USA, the longest trial was McMartin preschool abuse case which continued for 7 years and the lengthiest trial in the United Kingdom was the Jubilee line corruption case which continued for 21 months.

In 1950, the strength of Supreme Court judges was eight and the pendency of cases was just around one hundred. Currently the strength of judges of Hon'ble Supreme Court is 34 (including Chief Justice of India) and the pendency of court cases is around 70,000. This is in spite of the increased strength of judges, new technologies and improved infrastructure. Of the 47 million cases pending in courts across India, around 70,000 are in the Supreme Court, 58,94,060 are in 25 High Courts and the remaining in the Districts and subordinate judiciary. In order to hear the cases of heinous crimes against women, children and senior citizens, there are 896 fast-track courts functional and the pendency in these courts is of more than 13.18 lakh cases. Apart from fast track courts, there are 731 Fast-Track Special Courts set up under centrally sponsored scheme for hearing rape and protection of children from Sexual Offences cases and the current pendency in these courts is 3.28 lakh cases, thus defeating the very purpose of setting up of the so-called fast track courts. It is worth mentioning that the current strength of judges of the Hon'ble High Court of Jammu and Kashmir/Ladakh UTs is 17 (including 4 additional), the total number of cases filed for appointment of Arbitrators during the last 5 years was just 175, of which 24 were dismissed and in 61 cases the Arbitrators were appointed. The remaining 90 cases are languishing at different stages for the last 5 years. These figures speak for themselves and tell us the plight of the justice delivery system in our Union Territory. In a period of 5 years, the Hon'ble High Court comprising of 17 judges has not been able to dispose of 175 applications for

appointment of Arbitrators. Such an abnormal delay in disposal of arbitration applications defeats the very purpose of the provision of Arbitration Law. The purpose of arbitration is to resolve the cases faster than normal litigation. But the actual position is reverse. This affects the poor and marginalized.

### Way forward :

\* Strengthening of Right to Information Act. The information should be timely, relevant, accurate and complete. Penalties should be made more stringent.

\* For easy access of the Government functionaries to the public, contact numbers, emails and other details of senior officers including ministers should be made available to the public by uploading the same on departmental websites.

\* The annual Activity and Performance Reports of all the departments should be put in the public domain on the departmental Websites.

\* Publication of white papers on all important Government matters concerning the public.

\* Measurement Books (MBs), contract allotments and purchase orders of all the departments are put in the public domain on departmental websites so as to know where the funds have actually been spent.

\* Tour and inspection notes of the Ministers, Administrative Secretaries and Heads of the Departments, and also the Audit findings should be put in the public domain on departmental websites. The parliamentary procedure requires that all audit reports be tabled in parliament and the state legislature concerned. The Public Accounts Committees examine these reports and recommend action to be taken. Action taken on each audit finding should be put on the websites of the Parliament, Legislative Assembly and the Comptroller and Auditor General.

\* Every public undertaking/agency receiving money from the Government should produce and place in the public domain annual report containing the structure of the entity, vision, mission, functions, how worked in what capacities, what works were undertaken, how expenditures were made and achievements and failure, details of independent scrutiny made on use of fund, and outstanding results, if any.

\* With the current speed of disposal, it will take centuries to clear the pendency of 47 million court cases across India. There is a need to take proactive steps to clear the huge backlog of cases in Indian courts. Government and the judiciary should chalk out a clear strategy to improve the court efficiency by simplifying the procedure, making the judicial process transparent, increasing the number of judges and ending post retirement jobs for the judges. The Government and the judiciary should expand and strengthen on-line courts to clear the huge pendency of court cases. In the Supreme Court and the high courts, the respondents are mostly the government departments who delay the cases due to their callous attitude in completing the procedures. To activate and make the courts well functioning, the Government should provide sufficient funds for improving the infrastructure of courts and also increasing the number of judges. It is worth mentioning that during the year 2019-20 INR 15.00 crores were provided under Centrally Sponsored Scheme for development of infrastructure for the District and subordinate courts in J&K UT of which only NR 8.30 crores only were spent, thus revealing that the judiciary itself is not keen to improve the infrastructure.

### Anirudh Parihar

Born on 6th Nov, 1965 in Parihar family of then Kishtwar Tehsil younger among siblings of five, Anil Parihar got his all education in Kishtwar Town, as his father was a Manager in Forest Lesse Firm extracting timber in hinter areas of Tehsil Kishtwar. Soon after dissolution of Private Firms, Anil Parihar concentrated on the situation arising out of financial crunch, he established a Stationery and News Shop in the name and style of M/s Ajeet News Agency in 1983 and this shop soon became a business hub of the area and helped the whole family of Anil Parihar to come out of the financial crunch. Since he was socially active from his early childhood, he started taking part in various social activities. Since Hindus of Kishtwar had major inclination towards Right Wing Political parties and Uncle of Anil Parihar Ex. M.L.C. Thakur Sewa Ram Parihar was also active leader of then Bhartiya Jansangh, it naturally attracted Mr Parihar towards the Shakhhs of R.S.S. active in Kishtwar. Mr Parihar also took part in Kishtwar College Agitation in a very tender age and got arrested for 15 days and was lodged in District Jail Baderwah. This encouraged him to have more participation in social and political activities of Kishtwar. As a result, the political stalwarts of Kishtwar namely, Sewa Ram Parihar, Man Mohan Gupta and

## Homage to a martyr

Chander Ji Gupta acknowledged his political acumen and started grooming him in their political guidance to become a leader of the B.J.P. in coming days.

After the advent of terrorism in District



Kishtwar in 1990, Anil Parihar became more active in political arena and started open oppo-

sition of militancy related activities in Kishtwar which later turned into ethnic killings of minorities in Kishtwar. Killings of Santosh Thakur, Satish Bhandari, Ruchir Kumar Koul, Swami Raj Katal, Mohan Singh Thakur, put Anil Parihar on the target list of terrorists, as every opposing voice against terrorism was to be silenced by the terrorists. Anil Parihar along with Daya Krishan Kotwal and other prominent nationalists launched 'Doda Bachao Andolan' in which the demands for establishment of VDCs, DDCs was raised in State as well as at National platforms. The whole Doda Bachao Andolan was patronized by Prof. Chaman Lal Gupta Ji, who was also the President of BJP State Unit. Various massacres by terrorists took place in erstwhile District Doda viz, Chappnari, Barshalla, Cherzi, Kulhand led to more active participation of Anil Parihar to console the affected families and persuade them not to migrate from their respective areas, which oth-

erwise would lead to mass migration of minority people on the lines of Kashmiri migrants. These activities of Anil Parihar opposing the terrorism openly were becoming an irritant for the sympathizers of militancy in the area, as such, life threats were openly hurled on him. Whereas, at political front, Anil Parihar was in limelight of BJP State Unit, he was elected as President of State BJYM in the year 2003 and more and more important positions in State Unit of BJP. Anil Parihar, who owing to his assignments in State and National politics was out of Kishtwar town for some years and when he again came back to his native place at Kishtwar to serve his people and continued his endeavor for betterment of downtrodden people of society, he was in the hit-list of terrorists and the sympathizers of terrorism. They were of firm belief that his existence in the political arena of State BJP is always obstacle in their anti-national designs. As such, raising of his voice in favour of abrogation of Art. 370 and Art. 35A and against the anti-social and anti-national elements, who misbehaved with Mata Machail Yatris, the clips of which became viral on social media gave a revision to the previous hit-list of terrorists and led to his killing on 01st Nov, 2018 along with his elder brother, who was accompanying him that night. Truly, it was a great loss not only to Doda region but to the country as well.

## Reviewing the Reservation policy

### Prof. Rasal Singh

A five-judge bench of the Supreme Court led by Chief Justice of India (CJI); Uday Umesh Lalit has decided last month to examine the constitutionality of the law through which the center sought to provide a 10 percent quota for the economically weaker sections (EWS) of the society. It is noteworthy that the parliament, through the 103rd Constitutional Amendment Act, 2019, introduced the provision for EWS reservation in admissions and government jobs. Since then, several petitions including one by Janhit Abhiyan, were filed in the apex court challenging the validity of the Constitutional amendment which allegedly is flouting the basic structure and spirit of the Constitution.

The bench, which included justices Dinesh Maheshwari, S Ravindra Bhat, Bela M Trivedi, and JB Pardiwala approved the legal issues framed by Attorney General (AG) KK Venugopal, noting they broadly cover the spectrum of questions raised against the law through multiple petitions. "Whether the 103rd Constitution amendment Act can be said to breach the basic structure of the Constitution by permitting the State to make special provisions, including reservation, based on economic criteria," read the first issue. The second legal question was whether the constitutional amendment violates the basic spirit of the constitution by making provisions for reservation in admission to private unaided educational institutions. The Third issue to be adjudicated upon by the bench - is it unconstitutional to exclude the SEBCs/OBCs, and SCs/STs from the scope of EWS reservation? The Court together with the parties involved agreed that these three questions cover all the pending petitions and address the concerns of all. The regular hearing of the matter commenced on September 13 and the judgement is keenly awaited.

Although it's a welcome move by the Hon'ble Supreme Court, there are many issues on reservations that need immediate redressal. The questions that need to be addressed are as follows: First, while on one hand the annual parental income has been made the sole basis in ascertaining the eligibility of other backward classes (creamy layer) for reservation, then why do both individual income and family income has been deciding factor for defining the eligibility of a candidate for reservation as economically weaker section? Second, why income from service groups other than Group A and Group B, should not be considered while assessing creamy layer for determining eligibility as OBCs? Third, why should the creamy layer be

benefited by repeatedly raising the income limits for them? Fourth, by raising the income limit and letting the creamers be a part of the non-creamy layer doesn't it deprive the real underprivileged of the benefits? Fifth, why agricultural income should not be included in the eligibility determination for reservation of Other Backward Classes? Sixth, why creamy layer norm is not extended to reservations, particularly to, Scheduled Castes and Scheduled Tribes like the Other Backward Classes? Why is the benefits of reservation for other backward classes, scheduled castes, and scheduled tribes are confined to a few selected castes only? Eighth, why is sub-categorization of other backward classes, scheduled castes, and scheduled tribes not carried out based on social, educational, and economic backwardness as is proposed by Justice Rohini Commission? Ninth, has caste-based reservation, not further engraved caste consciousness in the society? Tenth, why the future generations of those who have already availed of the benefits of the reservation should not be excluded so that the benefits could reach those who are deprived till date? Eleventh, has the 'trickle-down theory' failed in the context of reservation? Twelfth, why is the participation and representation of underprivileged classes extremely low in the system, despite the reservation policy? Thirteenth, why all the posts of reserved categories are not filled till date? Fourteenth, Despite the water brimming in the river (reservation policies) why it is not reaching the fields (the less privileged)? Fifteenth, has the reservation system become synonymous to a blind person distributing 'a crisp sweetmeat' to his near and dear ones? Sixteenth, in this historic occasion of Azadi ka Amrit Mahotsav (75th year of independence), shouldn't the impact, reach and achievements of present reservation system be assessed and reviewed comprehensively? Lastly, how can the caste-sensitive reservation policies fight caste consciousness?

'Reservation' happen to be one such sensitive issue that indulging in it involves a high risk of getting your fingers burned. That is why all the think tanks and sociologists-economists generally shy away from talking about it freely. Whoever dares to speak or write about reservation is generally encountered by besieging and troubles. Instead of indulging in positive dialogue to resolve issues, all-out alienation begins. Those involved are immediately labelled as casteists or Manuvadi. However, intellectuals must come forward and discuss reservation without being weary of the fanatics and the repercussions involved. There are two major reasons for the present reservation system not being able to achieve its targeted results - first, reserva-

tion has become more a matter of politics and vote bank than becoming a tool for socio-economic empowerment. Secondly, it has fallen victim to the hands of the privileged mentality of those at the top of the social, economic, and political pyramid. On the lines of 'Brahmanism' of upper castes, the last few decades have witnessed the emergence of the 'Neo-Brahmanist' class among the Dalit-Backward castes. The Brahminists and the Neo-Brahminists, consider all resources and facilities as their 'privilege'. They do not want the oppressed class to rise in life, rather they consider them intruders encroaching upon their spaces. To have an axe to grind (selfish motive) under the guise of caste or category to which they belong, or of which they are the spokespersons, it has become their mindset to slay the rights of their 'own people' i.e. deprived and weaker sections. Thus, the expectation from a murderer to be a facilitator of justice is meaningless. It is also noteworthy that the 'Malaimaar' section of each class is the most vocal. This section alone controls the major forums, platforms, and bastions of expression. Whenever the discussion of including the poorest of poor and downtrodden in the purview of reservation starts, this section gives two arguments - first, 'Reservation is not a poverty eradication program', and second, getting a reservation for one generation cannot eradicate thousands of years of exploitation that these people have been subjected to. But it is worth mentioning here that if there is any socio-economic benefit due to reservation or the socio-economic hierarchy is improving owing to this, then even a small petty benefit should be allowed to reach the people who are deprived of it. Secondly, no one can deny the fact that poverty is not a lesser evil than caste stigma. Therefore, it is imperative to make provision for 'non-creamy layer' and 'first generation' in the reservation framework so that its benefits could reach the most oppressed and deprived sections, at the earliest. When candidates belonging to the first generation and non-creamy layer are not available, then the opportunity should be given to others in the same category (second generation and creamy layer). Also, if a single applicant fulfills the minimum qualifications, he or she should be appointed, and the game of None Found Suitable (NFS) should be banned.

The anomalies of the present reservation system are appalling. They should no longer be ignored; Otherwise, it would result in social unrest and disintegration. The biggest anomaly of the caste-based reservation is that it is empowering specific castes only. It's time that the recommendations of the Rohini Commission are implemented immediately so that the Maha Dalit and Most

Backward castes can also be empowered and brought into the mainstream. Along the same lines, the biggest inconsistency in the reservation for economically weaker sections (EWS) is that the entry level applicants are getting benefit of this provision (as the income and assets of the candidate are the basis of determining their eligibility); the vacancies at the higher level are lying vacant as experience is an essential requirement for filling them. For example, one can easily find applicants for the post of Assistant Professor in universities under EWS category; But applicants for the post of Associate Professor and Professor which requires a minimum experience of 8 and 10 years as Assistant Professor respectively, can not be found under the same category. Even if the candidate has the afore-mentioned experience, he/she will no longer be able to seek benefit under this category as his/her income would surpass the income limit mentioned under the EWS criteria. Thus, the provision of one's income limit and the prerequisite for experience are two contradicting conditions. Accordingly, all such experience-based seats (10 percent) have been lying vacant since the introduction of reservations for EWS. Due to this half-baked legislation, only 40 percent of the seats under the unreserved category are being filled for higher posts like that of Associate Professor and Professor. There is yet another incongruity in determining the eligibility for reservation of EWS, agricultural income has also been added to the gross income, and property (agricultural land, residential/commercial plots, etc.) has also been included, whereas neither agricultural income nor property is considered while ascertaining the eligibility of 'creamy layer' of Other Backward Classes.

In today's post-modern and consumerist society, the primary basis of an individual's respect and acceptability is his economic status. The market evaluates a person based on his purchasing power. Both society and the market are mostly money centric. Further, a just and reasonable initiative cannot be expected from political parties in this regard owing to their petty political calculations. Therefore, it's high time that the Supreme Court take suo Moto cognizance of all the discrepancies that exist in the prevailing reservation policy and review it thoroughly. Articles 330 and 332 of the constitution have the provision to assess the impact and outcome of the reservation. Undoubtedly, this will ensure social justice and economic equality as dreamt by Dr. Bhimrao Ambedkar and other constitution makers. This comprehensive review would ensure Antyodaya, the empowerment of even the last person in the row.

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(The views expressed by the authors are their personal)

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