

# Mastering Mains Answer Writing (Ep-2)

## Indian Polity, GS Paper-II

### Question

The Parliament recently passed the Constitution 103rd Amendment Act, 2019 to provide reservation in education and public employment to economically disadvantaged sections of the society. Discuss the impact and various concerns related to it.

### Command Word

'Discuss' – A broadly covered and all encompassing answer, highlighting positive and negative aspects of the theme. Solutions and remedies can also be suggested.

### Answer Structure

- **Introduction** – Brief description of the 103rd Constitutional Amendment Act, 2019.
- **Body of the Answer** – It will have **two parts**:
  - **Impact** of this constitutional amendment, both positive and negative.
  - **Concerns related to it - political as well as socio-economic.**
- **Conclusion** – Sum up the answer by providing a way forward towards sustainability of this amendment.

### Representative Answer

The Constitution (103<sup>rd</sup> Amendment) Act, 2019 empowers the state to provide up to 10 per cent reservation in education and public employment for “economically weaker sections” (EWS) of citizens other than the Scheduled Castes (SC), Scheduled Tribes (ST), and the non-creamy layer of the Other Backward Classes (OBC-NCL). It inserted **clause 6** in **Article 15** (prohibiting discrimination) and **Article 16** (equality in public employment) to this effect.

- **Article 15 (6)** allows the state to take any “special provision” including reservation in admissions to educational institutions, whether aided or unaided, other than minority educational institutions under Article 30(1). and
- **Article 16 (6)** provides for reservations in appointments or posts under the state.

### Positive Impact

- At present, 21.92% (2011-12) of the Indian population is below poverty line. The 10% reservation seeks to promote “social equality” addressing the issue of educational and job inequality of the poor in India by giving them **constitutional recognition**.
- The amendment will benefit the economically weaker sections of the society who were not covered within the existing schemes of reservation.
- It will help in **removing the stigma of being looked down upon, for those** who come through reservation.
- It can dent the identity politics by providing reservation on the basis of economic criteria rather than taking caste as a prime factor in determining the social and economic backwardness.

### Negative Impact

- The act will open a Pandora's Box of state legislations seeking to go beyond the permissible threshold currently pegged at 50%. This will also intensify the ongoing demands for reservation by various groups. For example – Jats, Patidars, Marathas etc.
- It may become a new **political tool** in the hands of political parties to canvass for votes.
- It may lead to enhancing and cementing the representation of the forward castes, covered by the term “EWS other than SC, ST and OBC-NCL”, who are already over-represented in the public services relative to their population - violating the concept of equality.
- Reservations have the tendency of merit being superseded by birth or economic status - contravening the concept of equality.

### Issues & Concerns Related to the Act

- The act **contravenes** the Supreme Court ruling (**Indra Sawhney case 1992**) that backwardness cannot be defined on economic status alone but must be rooted in social and **educational backwardness**.

- Social and educational attributes are easily verifiable but economic backwardness is a fluctuating criterion that can be manipulated or falsified easily.
- Articles 15(6) and 16(6) may be interpreted as discriminatory in favour of the EWS because they make them eligible for reservations in education and public employment without the compelling reasons of “educational backwardness” or “inadequate representation in the services under the State” as prescribed in M. Nagaraj Case.
- The Supreme Court has consistently ruled that for reservation to be reasonable and in line with the right to equality which is part of the basic structure of the Constitution, the total reservations should not be greater than 50 per cent.
- The eligibility criteria for ‘economic weakness’ appears to cover almost 95% Indians - making it too broad-based and unfair to the poorest of the poor within the category.
- The target of covering those who have “largely remained excluded from attending the higher educational institutions and public employment on account of their financial incapacity” -is not backed by any empirical data or research study.
- With government already reeling under the burden of scarce public resources, more reservation will only aggravate the existing problem.
- Even after years of reservation policy, there is no substantial evidence to support the achievements, as the benefits have not filtered down to the last person covered under it.

### *Way Forward*

Even considering its benefits, reservation can never be a long term solution. Instead greater emphasis should be laid on creating jobs through flagship programmes such as **Make In India, Skill India** and creating educational infrastructure – to sustainably address poverty, income inequality and dignity of life to all.

Also, measures should be taken to improve effectiveness and impact of reservation. For example, National Commission of Backward Classes has recently been given constitutional mandate to streamline lists of communities notified as backward.

