



Reservation Issue in AP

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Why in News

The Supreme Court has questioned the **Andhra Pradesh government's decision in 1988 to provide a 100% reservation to Scheduled Tribes for teacher posts in Scheduled Areas.**

Key Points

- The Supreme Court has mentioned that the 100% reservation would deprive other backward communities (including SCs, OBCs) of availing reservation benefits.
- The notification to provide a 100% reservation to Scheduled Tribes (STs) for teacher posts in Scheduled Areas was **issued by then governor of the Andhra Pradesh.**
The **Fifth Schedule of the Indian Constitution** dealing with the administration of Scheduled Areas vests the Governor with legislative and administrative powers.
- The Supreme Court also **questioned the availability of data** based on which the Governor of the Andhra Pradesh decided that ST is the only deprived group in the area.
Article 16 (4) of the Constitution empowers the state to make any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the state, is not adequately represented in the services under the state.
- The Supreme Court ruled that the Governor's **decision can't be above the law** while referring to its **judgment in Indira Sawhney case of 1992** which mentioned that **the reservation limit should not exceed 50 % except in exceptional circumstances.**

Fifth Schedule of the Indian Constitution

- The Fifth Schedule of the Constitution deals with the **administration and control of scheduled areas and scheduled tribes in any state except** the four states of Assam, Meghalaya, Tripura and Mizoram.

- The scheduled areas are treated differently from the other areas in the country because they are inhabited by **'aboriginals' who are socially and economically rather backwards**, and special efforts need to be made to improve their condition. Therefore, the whole of the **normal administrative machinery operating in a state is not extended** to the scheduled areas.
- **Declaration of Scheduled Areas:** The **President is empowered** to declare an area to be a scheduled area. He can also increase or decrease its area, alter its boundary lines, rescind such designation or make fresh orders for such redesignation on an area in consultation with the governor of the state concerned.
- **Administration of Scheduled Areas:**
 - **Executive Power of State and Centre**
 - The executive power of a state extends to the scheduled areas therein. But the **governor has a special responsibility regarding such areas**. He has to submit a report to the President regarding the administration of such areas, annually or whenever so required by the President.
 - The executive power of the Centre extends to giving directions to the states regarding the administration of such areas.
 - **Tribes Advisory Council:** Each state having scheduled areas has to establish a tribes advisory council to advise on welfare and advancement of the scheduled tribes.
 - **Law applicable to Scheduled Areas**
 - The Governor is empowered to direct that any particular act of Parliament or the state legislature does not apply to a scheduled area or apply with specified modifications and exceptions.
 - He can also make regulations for the peace and good government of a scheduled area after consulting the tribes advisory council.
 - Also, a regulation may repeal or amend any act of Parliament or the state legislature, which is applicable to a scheduled area. But, all such regulations require the assent of the President.

Source: IE