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Sub-Classification of Reserved Classes

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Why in News

A five-judge Bench of the **Supreme Court** held that States can sub-classify the list of Scheduled Castes (SCs), Scheduled Tribes (STs), and Socially and Educationally Backward Classes (SEBCs) to provide preferential treatment to the “**weakest out of the weak**”.

Key Points

- The decision **overruled** a previous 2005 decision in **E V Chinnaiah v State of Andhra Pradesh and Others**, also by a five-judge Bench, that **state governments had no power to create sub-categories of SCs** for the purpose of reservation.
- Since a Bench of equal strength cannot overrule a previous decision, the court also **referred it to a 7-judge Bench**.
- The judgment was on the constitutional validity of Section 4(5) of the **Punjab Scheduled Caste and Backward Classes (Reservation in Services) Act, 2006**.

The act allows 50% of the reserved Scheduled Castes seats in the State to be allotted to Balmikis and Mazhabi Sikhs.

- **Judgment:**
 - **Reservation system** has created **inequalities within the reserved castes** itself. There is a “**caste struggle**” within the reserved class as benefits of reservation are being usurped by a few.
 - Reservation **was not contemplated for all the time** by the framers of the Constitution.

Article 334 of the Constitution had originally required the reservation of **elected seats** to cease in **1960**, but it was extended by various amendments. The latest one being the 104th Amendment extending it to 2030.

- If sub-classification is denied, it would **defeat the right to equality** by treating unequal as equal.
 - Article 14** guarantees everyone “**equality before law**” and “**equal protection of law**”. Equal protection of the laws means that amongst equals the law should be equal and treating unequals as equals will be violation of law.
- Among the SCs, there are some that remain grossly under-represented despite reservation in comparison to other SCs. This **inequality within the Scheduled Castes** is underlined in several reports, and special quotas have been framed to address it.
 - **Justice Ramachandra Raju Commission, 1997** recommended subdividing the SCs into four groups and apportioning reservations separately for each. It also recommended that **Creamy layer of Scheduled Castes be excluded** from receiving any reservation benefits in public appointments and admission to educational institutions.
 - In Andhra Pradesh, Punjab, Tamil Nadu and Bihar, **special quotas** were introduced for the **most vulnerable Dalits**. In 2007, Bihar set up the **Mahadalit Commission** to identify the castes within SCs that were left behind. In Tamil Nadu, a 3% quota within the SC quota is accorded to the **Arundhatiyar caste**.
- **States have the competence** to grant reservation benefits to SCs and STs in terms of Articles 15(4) and 16(4), and Articles 341(1) and 342(1).
 - **Article 16 (4)** provides that the State can make any provision for the reservation of **appointments or posts and in matters of promotion** in favour of any backward class of citizens who, in the opinion of the state, are not adequately represented in the services under the State.
 - **Article 15(4)** empowers the state to **create special arrangements** for promoting the interests and welfare of socially and educationally backward classes of the society such as SC and STs.
 - As per the Articles **341(1) and 342(1)**, the President of India, after consultation with the Governor, may specify, the castes, races, tribes or parts of groups within castes or races, which shall be deemed to be Scheduled Castes and Scheduled tribes.

Background

- In the **Indra Sawhney v. Union of India 1992** case, the Supreme Court held that it would be **perfectly legal for the state to categorise backward classes as backward and more backward.**

It also upheld the concept of ‘creamy layer’ within OBC to those who have overcome their backwardness. However, the concept of creamy layer in SCs and STs has been in debate since then.

- In the **E V Chinnaiah v State of Andhra Pradesh and Others 2005** case, the Supreme Court ruled that only the **President has the power to notify the inclusion or exclusion of a caste** as a Scheduled Caste, and states cannot tinker with the list.
- In the **M.Nagaraj & Others vs Union Of India, 2006** case, the Supreme Court said that the government **had to collect quantifiable data** showing backwardness of the class and inadequacy of representation of that class in public employment.
- However, in **Jarnail Singh vs Lachhmi Narain Gupta, 2018** Supreme Court held that the government **need not collect quantifiable data** to demonstrate backwardness of public employees belonging to the SC/STs to provide reservations for them in **promotions.**

It also observed that certain caste groups or subgroups have “**come out of untouchability or backwardness** by virtue of belonging to the creamy layer”.

- Recently, the Supreme Court has ruled that reservation in the matter of promotions in public posts is **not a fundamental right**, and a state cannot be compelled to offer the quota if it chooses not to.

Way Forward

Dr B.R. Ambedkar described the Indian society as a gradation of castes forming an **ascending scale of reverence and a descending scale of contempt.** As is the nature of any hierarchical structure, no two castes are equal. The ones at the bottom of the ladder, those who have been most severely ostracised and subjugated, have not yet received the benefits of reservations as a tool to ensure their representation in society and government. This judgement will help **trickle down the benefits of reservation to the most needy** and establishment of an equal society.

Source: IE