



Reservation Quota Limit of States

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Why in News

Tamil Nadu told a Constitution Bench of the Supreme Court that the percentage of reservation should be left to the “**subjective satisfaction**” of individual States.

- **Subjective satisfaction** refers to the State’s discretion to identify its socially and educationally backward classes and fix the percentage of reservation for them in State government jobs and educational admissions.
- A nine-judge bench in the **Indra Sawhney case (famously known as the Mandal Commission case)** imposed the **ceiling of 50% on total reservation**.

Key Points

- **Indra Sawhney & Others vs Union of India, 1992:**
 - The Supreme Court while upholding the 27% quota for backward classes, struck down the government notification reserving 10% government jobs for economically backward classes among the higher castes.
 - SC in the same case also upheld the principle that the combined **reservation beneficiaries should not exceed 50%** of India’s population.
 - The concept of ‘**creamy layer**’ also gained currency through this judgment and provision that reservation for backward classes should be confined to initial appointments only and not extend to promotions.

- **Breach of the Limit by the States:**

- Notwithstanding the judgement passed by the Supreme Court, since **Indira Sawhney judgment 1992**, many states have passed laws **breaching the limit of 50%** such as Maharashtra, Telangana, Tamil Nadu, Haryana, Chhattisgarh, Rajasthan and Madhya Pradesh.
- Tamil Nadu Reservation Act, 1993 provides 69% reservation in **State government** jobs and educational institutions.
- In January 2000, the Governor of the erstwhile state of Andhra Pradesh declared **100% reservation to Scheduled Tribes (ST)** candidates in posts of school teachers in Scheduled Areas.

However, it was ruled as unconstitutional by the apex court.

- The **Maharashtra State Reservation for Socially and Educationally Backward Classes (SEBC) Act of 2018**, which provides 12% to 13% quota benefits for the Maratha community, takes the reservation percentage in the State across the 50% mark, was enacted.
- **States' Concern:**
 - Tamil Nadu and Karnataka agreed with Maharashtra that the 50% ceiling limit on reservation introduced in the **Indira Sawhney judgment** was **not “cast in stone** (Permanently fixed or firmly established)”.
 - The Indira Sawhney judgment **required a re-look**. The ground situation had changed a lot since that judgment in 1992.
 - Also, there is contention regarding the **Constitution (One Hundred and Second Amendment) Act of 2018**, which introduces the **National Commission for Backward Classes**, that it interferes with the authority of State Legislatures to provide benefit to the social and educationally backward communities (SEBCs) in their own jurisdiction.

However, in an affidavit, the Ministry of Social justice and Empowerment has said **the power to identify SEBCs lies with Parliament only with reference to the central list and states can have a separate list of SEBCs for reservation.**

Constitution and Reservation

- **77th Constitutional Amendment Act, 1995:** The Indra Sawhney verdict had held there would be reservation only in initial appointments and not promotions.
 - However, addition of the **article 16(4A)** to the Constitution, empowered the state to make provisions for reservation in matters of promotion to SC/ST employees, if the state feels they are not adequately represented.
- **81st Constitutional Amendment Act, 2000:** It introduced Article 16(4B), which says unfilled SC/ST quota of a particular year, when carried forward to the next year, will be treated separately and not clubbed with the regular vacancies of that year.

- **85th Constitutional Amendment Act, 2001:** It provided for the reservation in promotion can be applied with ‘consequential seniority’ for the government servants belonging to the SCs and STs with retrospective effect from June 1995.
- **103rd amendment to the Constitution (2019): 10% reservation for EWS (Economically Weaker Section).**
- **Article 335:** It says that the claims of SCs and STs shall be taken into consideration constitutently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

Way Forward

- **Reviewing the 1992 Judgement:** The Supreme Court should definitely review the 50% reservation quota limit need and issues arising out of that.
- **Maintaining the Federal Structure:** While deciding the reservation issue, it is also important to take into account whether the states providing reservations to different communities are maintaining the federal structure of the government or destroying it.
- **Balancing the Reservation and Merit:** While giving reservation to the communities, the efficiency of the administration has to be looked upon too.
Reservation beyond the limit will lead to the ignorance of the merit, which will disturb the entire administration.

Source:TH