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Mains Practice Questions

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Q. The Parliament recently passed The Constitution 103 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 the bill. (250 words)

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Approach:-

- Introduce the act
- Discuss its impacts
- Mention various Issues/challenges arising because of it.
- Suggest a Way forward

Introduction

103rd Constitutional Amendment Act reserves 10 per cent of jobs and places in educational institutions for citizens who fall into the 'general' category — those not specifically included in other categories such as SC, ST or OBC.

It amends Article 15 to additionally permit the government to provide for the advancement of “economically weaker sections”.

It also amends Article 16 to permit the government to reserve up to 10% of all posts for the “economically weaker sections” of citizens.

The 10 per cent reservation will be in addition to the existing cap of 50 per cent reservation for the Scheduled Castes, Scheduled Tribes and the Other Backward Classes, taking the total reservation to 60 per cent.

The quota is targeted at economically weaker sections among the upper castes, with a family income ceiling of Rs 8 lakh per annum and who have less than five acres of agricultural land.

Impacts

- At present large number of people remain under abject poverty, devoid of any source of income and education. The decision to bring in the 10% reservation is a welcome move which will address the issues of educational and income inequality in India.
- The proposed quota and the consequent constitutional amendment would give a constitutional recognition to the poor from the upper castes.
- Reservation has historically been associated with caste and generally the upper caste looks down upon those who come through reservation. The move will help in removing the stigma associated with earlier reserved classes.
- The act will however also open the Pandora box of state legislations seeking to go beyond the permissible threshold currently pegged at 50%.
- This will also intensify the various ongoing demands by various groups like Jats, Marathas, Patidars for reservation.

- It may become a political tool in the hands of political parties to canvass for votes, rather than truly seeking its objective of socio-economic equality and will impinge on already strained public resources.

Issues/Challenges

- The act contravenes both a **Supreme Court ruling (Indira Sawhney case 1992)** that reservation cannot exceed 50 per cent and the **principle** that backwardness for the purposes of reservation cannot be defined on economic status alone but must be rooted in social exclusion.
- The impugned amendment fails to consider that **Articles 14** (equality before law) and **16** (equality of opportunity in public employment) forms the basic feature of equality, and that they have been violated with the doing away of the restraints that were imposed on the reservation policy.
- Income threshold is too high to be limited to poverty.
- A formidable challenge is determining economic backwardness as current threshold is adopted without considering any report.
- With government already reeling under burden due to scarce public resources, more reservation will only aggravate the existing problem.
- Even after years of reservation policy, there are no substantial evidences to support the achievements of the original intent of affirmative action, as the benefits haven't filtered down to the last person covered under it.

Way forward

Providing reservation in a huge nation like India can never be a long term solution, instead greater emphasis should be laid upon creating jobs and educational infrastructure which is more sustainable measure of addressing poverty, income inequality and dignity of life to all.