



drishti

Reservation Applicable in Either of States after Division: SC

 [drishtias.com/printpdf/reservation-applicable-in-either-of-states-after-division-sc](https://www.drishtias.com/printpdf/reservation-applicable-in-either-of-states-after-division-sc)

Why in News

Recently, the **Supreme Court (SC)** has ruled that a **person belonging to a reserved category in an undivided state** is entitled to **claim benefit of reservation in either of the successor States**.

- The ruling came after a resident (**Scheduled Caste**) of Jharkhand, filed an **appeal against the High Court order denying him appointment** in state civil service examination of 2007 on the ground that his address proof showed that he was a permanent resident of Patna, Bihar.
- Under the **Bihar Reorganisation Act, 2000** passed by the parliament a new state, Jharkhand was created from a portion of Bihar.

Article 3 empowers the Parliament to make law relating to the formation of new states and alteration of existing states.

Key Points

- **Reservation:**
 - The SC has ruled that a **person belonging to a reserved category is entitled to claim benefit of reservation in either of the successor States** of Bihar or Jharkhand.
 - However he/she **cannot claim benefit of the quota simultaneously in both the successor States** upon their reorganisation in November, 2000. As it will defeat the mandate of Articles 341(1) and 342(1) of the Constitution.
 - **Article 341:** The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification, **specify the castes, races or tribes or parts of or groups within castes, races or tribes** which shall for the purposes of this Constitution be **deemed to be Scheduled Castes in relation to that State or Union territory**, as the case may be.
 - **Article 342:** The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, **specify the tribes or tribal communities or parts of or groups within tribes or tribal communities** which shall for the purposes of this Constitution be deemed to be **Scheduled Tribes(ST) in relation to that State or Union territory**, as the case may be
- **Other State Migrants:**

Members of the reserved category, who are **residents of the successor State of Bihar**, while participating in open selection **in Jharkhand shall be treated to be migrants** and they can participate in the general category without claiming the benefit of reservation and vice-versa.

Constitutional Provisions Governing Reservation in India

- **Part XVI** deals with reservation of SC and ST in Central and State legislatures.
- **Article 15(4) and 16(4)** of the Constitution enabled the State and Central Governments to reserve seats in government services for the members of the SC and ST.
- The Constitution was amended by the **Constitution (77th Amendment) Act, 1995** and a new clause (4A) was inserted in **Article 16** to enable the government to provide reservation in promotion.
- Later, **clause (4A)** was modified by the **Constitution (85th Amendment) Act, 2001** to provide consequential seniority to SC and ST candidates promoted by giving reservation.
- **Constitutional 81st Amendment Act, 2000** inserted **Article 16 (4 B)** which enables the state to fill the unfilled vacancies of a year which are reserved for SCs/STs in the succeeding year, thereby nullifying the ceiling of fifty percent reservation on total number of vacancies of that year.
- **Article 330 and 332** provides for specific representation through reservation of seats for SCs and STs in the Parliament and in the State Legislative Assemblies respectively.
- **Article 243D** provides reservation of seats for SCs and STs in every **Panchayat**.

- **Article 233T** provides reservation of seats for SCs and STs in every **Municipality**.
- **Article 335** of the constitution says that the claims of **STs and STs shall be taken into consideration constitutently** with the maintenance of efficacy of the administration.
- The **103rd Constitution Amendment Act, 2019**, empowered both Centre and the states to provide **10% reservation to the EWS (Economically Weaker Section) category of society** in government jobs and education institutions.

Source: IE