



Supreme Court upholds EWS Quota

For Prelims: Reservation, Scheduled Castes, Scheduled Tribes, Other Backward Classes, affirmative action, Basic Structure Doctrine

For Mains: Implications of Economically weaker Section (EWS) Quota

Why in News?

Recently, the [Supreme Court](#) has upheld the validity of the **103rd Constitutional Amendment** which provides 10% reservation for the [Economically Weaker Sections \(EWS\)](#) among forward castes in government jobs and colleges across India.

What is the Verdict?

▪ Majority View:

- The 103rd constitutional amendment **cannot be said to breach the [basic structure of the Constitution](#).**
- The EWS quota **does not violate equality and the basic structure** of the constitution. Reservation in addition to existing reservation does not violate provisions of the Constitution.
- The reservation is an **instrument of affirmative action by the state for the inclusion of backward classes.**
- Basic structure can't be breached by enabling the state to **make provisions for education.**
- Reservation is instrumental not just for inclusion of socially and economically backward classes into the society **but also to class so disadvantaged.**
- Reservations for EWS does not violate basic structure on **account of 50% ceiling limit fixed by Mandal Commission** because **ceiling limit is not inflexible.**
 - 50% rule formed by the Supreme Court in the ***Indira Sawhney judgment in 1992*** was "not inflexible". Further, it had applied only to **SC/ST/SEBC/OBC communities** and not the general category.
- The Scheduled Castes, Scheduled Tribes and the backward class for whom the special provisions have already been provided in **Article 15(4), 15(5) and 16(4) form a separate category as distinguished from the general or unreserved category.**

▪ Minority View:

- Reservations were designed as a powerful tool to enable equal access. Introduction of economic criteria and excluding [SC \(Scheduled Castes\)](#), [ST \(Scheduled Tribe\)](#), OBC (Other Backward Classes), saying they had these pre-existing benefits is injustice.
- The EWS quota may have a reparative mechanism to have a level playing field and the exclusion of SC, ST, OBC discriminates against equality code and violates basic structure.
- Permitting the breach of **50% ceiling limit would become** "a gateway for further infractions and result in compartmentalization (division into sections).

What is the Economically Weaker Section (EWS) Quota?

▪ **About:**

- The 10% EWS quota was introduced under the 103rd Constitution (Amendment) Act, 2019 by amending [Articles 15 and 16](#).
 - It inserted Article 15 (6) and Article 16 (6).
- It is for economic reservation in jobs and admissions in educational institutes for Economically Weaker Sections (EWS).
- It was enacted to promote the welfare of the poor not covered by the 50% reservation policy for [Scheduled Castes \(SCs\)](#), [Scheduled Tribes \(STs\)](#) and [Socially and Educationally Backward Classes \(SEBC\)](#).
- It enables both the Centre and the States to provide reservations to the EWS of society.

▪ **Significance:**

◦ **Addresses Inequality:**

- The 10% quota is progressive and could address the issues of educational and income inequality in India since the economically weaker sections of citizens have remained excluded from attending higher educational institutions and public employment due to their financial incapacity.

◦ **Recognition of the Economic Backwards:**

- There are many people or classes other than backward classes who are living under hunger and poverty-stricken conditions.
- The proposed reservation through a constitutional amendment would give constitutional recognition to the poor from the upper castes.

◦ **Reduction of Caste-Based Discrimination:**

- Moreover, it will gradually remove the stigma associated with reservation because reservation has historically been related to caste and most often the upper caste looks down upon those who come through the reservation.

▪ **Concerns:**

◦ **Unavailability of Data:**

- The Union or state governments have no such data to prove that 'upper' caste individuals, who have less than Rs 8 lakh annual income, are not adequately represented in government jobs and higher educational institutions. There is a strong possibility that they are actually over-represented in these places.

◦ **Arbitrary Criteria:**

- The criteria used by the government to decide the eligibility for this reservation is vague and is not based on any data or study.
- Even the SC questioned the government whether they have checked the GDP per capita for every State while deciding the monetary limit for giving the EWS reservation.
 - Statistics show that the per capita income in states differs widely - Goa is the state having the highest per capita income of almost Rs. 4 lakhs whereas Bihar is at the bottom with Rs.40,000.

Way Forward

- It is high time now that the Indian political class overcame its tendency of continually expanding the scope of reservation in pursuit of electoral gains, **and realised that it is not the panacea for problems.**
- Instead of giving reservation based on different criteria, the government should focus on **quality of education and other effective social upliftment measures.** It should create a spirit of entrepreneurship and make them job-givers instead of a job seeker.

Infographic

UPSC Civil Services Examination Previous Year Question (PYQ)

Q. Consider the following statements: (2020)

1. The Constitution of India defines its 'basic structure' in terms of federalism, secularism,

fundamental rights and democracy.

2. The Constitution of India provides for 'judicial review' to safeguard the citizens' liberties and to preserve the ideals on which the Constitution is based.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (d)

Exp:

- The Constitution of India does not define the basic structure, it is a judicial innovation.
- In Kesavananda Bharati vs State of Kerala case (1973), the Supreme Court ruled that the **Parliament could amend any part of the Constitution** so long as it did not alter or amend the basic structure or essential features of the Constitution.
- However, the court did not define the term 'basic structure', and only listed a few principles — federalism, secularism, democracy — as being its part.
- The 'basic structure' doctrine has since been interpreted to include **the supremacy of the Constitution, the rule of law, Independence of the judiciary, doctrine of separation of powers, sovereign democratic republic, the parliamentary system of government, the principle of free and fair elections, welfare state, etc. Hence, statement 1 is not correct.**
- There is no direct and express provision in the constitution empowering the courts to invalidate laws, but the constitution has imposed definite limitations upon each of the organs, the transgression of which would make the law void. The court is entrusted with the task of deciding whether any of the constitutional limitations has been transgressed or not. **Hence, statement 2 is not correct.**
- **Therefore, option (d) is the correct answer.**

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