



# 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 (77<sup>th</sup> 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 (85<sup>th</sup> Amendment) Act, 2001** to provide consequential seniority to SC and ST candidates promoted by giving reservation.
- **Constitutional 81<sup>st</sup> 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 SCs shall be taken into consideration constituency** with the maintenance of efficacy of the administration.
- The **103<sup>rd</sup> 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**

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