



Issue of Reservation for Muslims in Andhra Pradesh

For Prelims: Reservation, [Indra Sawhney Judgment](#), [Article 16 \(4\)](#), [Article 16 \(4A\)](#), [Article 16\(4B\)](#), [Article 15\(4\)](#)

For Mains: [Reservation in Public Employment](#) and related Judgements, Reservation on Basis of Religion

Source: [IE](#)

Why in News?

Recently, the issue of the 5% quota given to Muslims in Andhra Pradesh in 2004 has resurfaced, reigniting the debate regarding the religion-based reservation.

What is the Background of the Reservation for Muslims in Andhra Pradesh?

▪ About:

- In Andhra Pradesh, where Muslims constitute about 9.5% of the population, certain Muslim groups are already included in the [state OBC lists](#), with quotas ranging from 7% to 10%.
 - However, there has been a push to include all Muslims in the OBC category, following the models of Karnataka and Kerala.

▪ Reservation in 2004:

- In June 2004, the government examined the **socio-economic and educational status** of Muslims in the state for inclusion in the OBC list, leading to a 5% reservation under [Articles 15\(4\) and 16\(4\)](#).
- However, the Andhra Pradesh [High Court](#) struck down the quota for being implemented without being referred to the [Backward Classes Commission](#) and for not excluding the [creamy layer](#).
 - Court held that the **muslim community cannot be considered as a homogenous group**.
 - One of the key questions before the court was whether Muslims, as a group, are **entitled to affirmative action** within the constitutional framework, which the **court ruled affirmatively**, stating that such reservations **do not violate secularism**.

▪ Reservation in 2005:

- The **Backward Classes Commission** recommended providing reservations to the **entire Muslim Community**, stating that they are socially, educationally, and economically backward.
- The state government again introduced an [Ordinance](#) granting a 5% quota to Muslims, which was subsequently replaced with legislation.
- The High Court once again **struck down the quota**, stating that the Commission did not rely on **objective criteria** ([M. Nagaraj v. Union Of India, 2006](#)) to conclude that Muslims as a group were backward in Andhra Pradesh.
- The ruling was challenged before the [Supreme Court](#), which in 2010 directed to **maintain the status quo** till the issue was heard.

▪ **Current Status:**

- The final hearing in the Supreme Court was scheduled for 2022. However, the SC decided to hear the case after the [Economically Weaker Section \(EWS\) quota issue](#) was decided.
- The EWS quota was cleared in November 2022, but the AP quota issue is **yet to be heard**.

▪ **Issues With Andhra Model of Reservation:**

- Considering Muslims as a homogenous group violates [principle of equality](#) in the [Constitution's Basic Structure](#).
- It also violates the **constitutional prohibition** on granting reservations based **solely on religion (Articles 15(1) and 16(2))**.
- The High Court observed that Andhra Pradesh's reservation quota, already at 46% under Articles 15(4) and 16(4), **breached the 50% limit** with the addition of a 5% quota for Muslims, questioning the lack of compelling reasons for this breach.

Similar Religion-based Reservation in Other States:

- **Kerala:** Provides an 8% Muslim quota within its 30% OBC quota.
- **Tamil Nadu and Bihar:** Also include Muslim caste groups in their OBC quota.
- **Karnataka:** Had a 4% sub-quota for Muslims within the 32% OBC quota.
 - State government in 2023 redistributed this sub-quota among [Vokkaligas and Lingayats](#).
- **Recent Issue of Karnataka:**
 - [National Commission for Backward Classes \(NCBC\)](#) has summoned the [Chief Secretary](#) of the Karnataka government regarding the categorisation of the Other Backward Classes (OBC) quota in Karnataka, specifically addressing the issue of **"blanket reservation" for Muslims under Category II-B**.
 - **Current Status:** Karnataka categorises Muslims under **Category II-B** of the OBC categorisation, in addition to 17 Muslim castes in **Category I** and 19 Muslim castes in **Category II-A**.
 - **NCBC's Concern:**
 - NCBC questions the need for a separate category for Muslims and doubts the **validity of reports** justifying their backward classification.
 - NCBC asserts that **Muslims in Karnataka are being over-represented** in postgraduate medical admissions due to their categorisation within the OBC quota.
 - NCBC is concerned that **allowing all Muslims to contest from any OBC or General category seat in local body elections** may deprive other deserving OBC communities of opportunities.
 - **Karnataka Government's Justification:**
 - The Karnataka government justified categorising Muslims under Category II-B by considering them as **neither caste nor religion** but as backward classes, as recommended by various State Commissions.

What are Various Legal Provisions Related to Reservation?

▪ **Constitutional Provision:**

- **Article 16(4)** of the Constitution allows for reservation for "backward class of citizens." **States have the discretion** to determine which communities qualify as backward.
 - To qualify for reservations in educational institutions under **Article 15**, a group must **first demonstrate its social and educational backwardness**, and for reservations in public employment under **Article 16(4)**, the authorities must establish both the backwardness of the group and its inadequate representation in government employment.

▪ **Major Supreme Court's Judgements:**

- [The State of Madras v. Smt. Champakam Dorairajan Case, 1951:](#)
 - Struck down reservations in educational institutions based solely on caste.
 - Led to 1st Amendment of the constitution.
- [Indra Sawhney v. Union of India Case, 1992:](#)
 - Defined limitations on reservations:
 - Creamy layer exclusion

- 50% quota limit
- No reservations in promotions (except SC/ST).
- **M. Nagaraj v. Union Of India Case, 2006:**
 - Upheld Art. 16 (4A allowing reservations for SC/ST in promotions)
 - Established 3 conditions for such policies:
 - Social and Educational Backwardness
 - Inadequate Representation
 - Maintaining Efficiency
- **Jarnail Singh vs Lachhmi Narain Gupta Case, 2018:**
 - Creamy layer exclusion applies to SC/ST in promotions
 - No need for quantifiable data on backwardness for SC/ST promotions
- **Janhit Abhiyan vs. Union of India, 2022:**
 - **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 are the Arguments Related to Religion-based Reservation in India?

- **Arguments in Favour of Religion-Based Reservations in India:**
 - **Socio-Economic Backwardness:** According to the **Sachar Committee Report**, Muslims in India lag behind other communities in terms of **socio-economic indicators** such as education, employment, and income.
 - Reservations can help in bridging this gap.
 - **Constitutional Mandate:** The Indian Constitution provides for affirmative action for socially and educationally backward classes irrespective of the **religious** and **cultural** denomination.
 - **Ensuring Adequate Representation:** Reservations can ensure **adequate representation of** underrepresented religious groups in employment, **education**, and other fields.
- **Arguments Against Religion-Based Reservations in India:**
 - **Secularism:** Critics argue that providing reservations based on religion goes **against the principle of secularism** enshrined in the Indian Constitution, which advocates **equal treatment** of all religions by the state.
 - **Undermining National Unity:** Religion-based reservations could undermine national unity as it could lead to **resentment and division** among different communities.
 - **Economic Criteria:** Reservations should be based solely on economic criteria rather than religion, to ensure that benefits reach those who are truly economically disadvantaged, irrespective of their religion.
 - **Administrative Challenges:** Implementing reservations based on religion could pose **administrative challenges**, such as determining the criteria for identifying beneficiaries and **preventing misuse** of the system.

Way Forward:

- **Socio-Economic Criteria:** Instead of religion, reservations could be based on **socio-economic criteria**, ensuring that benefits reach the most disadvantaged individuals regardless of their religion.
- **Empowerment Through Education:** Focus on improving **educational infrastructure** and **providing skill development programs** to empower the backward communities and enhance their socio-economic status.
- **Inclusive Policies:** Implement **inclusive policies** that address the specific needs of the backward religious communities in areas such as education, employment, and healthcare, without resorting to religious-based reservations.
- **Dialogue and Consensus:** Engage in a **dialogue involving all stakeholders** to arrive at a consensus to address the socio-economic challenges faced by the various communities, ensuring that any measures taken are in line with constitutional values and principles.

Drishti Mains Question:

Q. Discuss the constitutional validity and socio-political implications of providing reservation based on religion in India. How does it impact the principles of secularism, equality, and social justice?

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims

Q. With reference to the period of Indian freedom struggle, which of the following was/were recommended by the Nehru report? (2011)

1. Complete Independence for India.
2. Joint electorates for reservation of seats for minorities.
3. Provision of Fundamental Rights for the people of India in the Constitution.

Select the correct answer using the codes given below:

- (a) 1 only
- (b) 2 and 3 only
- (c) 1 and 3 only
- (d) 1, 2 and 3

Ans: (b)

Mains:

Q. Whether National Commission for Scheduled Castes (NCSC) can enforce the implementation of constitutional reservation for the Scheduled Castes in the religious minority institutions? Examine. (2018)