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National Commission for Backward Classes (NCBC)

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What is NCBC?

- 102nd Constitution Amendment Act, 2018 provides constitutional status to the National Commission for Backward Classes (NCBC).
- It has the authority to examine complaints and welfare measures regarding socially and educationally backward classes.
- Previously NCBC was a statutory body under the Ministry of Social Justice and Empowerment.

Background

- Two Backward Class Commissions were appointed in 1950s and 1970s under Kaka Kalelkar and B.P. Mandal respectively.
- In Indra Sawhney case of 1992, Supreme Court had directed the government to create a permanent body to entertain, examine and recommend the inclusion and exclusion of various Backward Classes for the purpose of benefits and protection.
- In pursuant to these directions parliament passed National Commission for Backward Classes Act in 1993 and constituted the NCBC.
- 123rd Constitution Amendment bill of 2017 was introduced in Parliament to safeguard the interests of backward classes more effectively.
- Parliament has also passed a separate bill to repeal the National Commission for Backward Classes Act, 1993, thus 1993 act became irrelevant after passing the bill.
- The bill got the President assent in August 2018 and provided the constitutional status to NCBC.

Structure of NCBC

- The Commission consists of five members including a Chairperson, Vice-Chairperson and three other Members appointed by the President by warrant under his hand and seal.

- The conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members is determined by President.



Constitutional Provisions

- Article 340 deals with the need to, inter alia, identify those "socially and educationally backward classes", understand the conditions of their backwardness, and make recommendations to remove the difficulties they face.
- 102nd Constitution Amendment Act inserted new Articles 338 B and 342 A.
- The amendment also brings about changes in Article 366.
- Article 338B provides authority to NCBC to examine complaints and welfare measures regarding socially and educationally backward classes.
- Article 342 A empowers President to specify socially and educationally backward classes in various states and union territories. He can do this in consultation with Governor of concerned State. However, law enacted by Parliament will be required if list of backward classes is to be amended.

Powers and Functions

- The commission investigates and monitors all matters relating to the safeguards provided for the socially and educationally backward classes under the Constitution or under any other law to evaluate the working of such safeguards.
- It participates and advises on the socio-economic development of the socially and educationally backward classes and to evaluate the progress of their development under the Union and any State.
- It presents to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards. The President laid such reports before each House of Parliament.
- Where any such report or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the State Government.
- NCBC has to discharge such other functions in relation to the protection, welfare and development and advancement of the socially and educationally backward classes as the President may, subject to the provisions of any law made by Parliament, by rule specify.
- It has all the powers of a civil court while trying a suit.

How Does The New Commission Be Different From Its Earlier Version?

- The new act has recognized that BCs also need development in addition to reservations. There are provision in the act for development of Socially and Educationally Backward Classes (SEdBCs) and the new NCBC's role in the development process.
- The new NCBC is entrusted with the additional function of grievance redress of backward classes.
- Article 342(A) introduces greater transparency as its made mandatory to take the concurrence of Parliament for adding or deleting any community in the backward list.
- Apart from list-inclusion and reservation, it requires comprehensive and holistic development and advancement of each community towards equality in all parameters of development and welfare.

Issues

- It is apprehended that the new version of the National Commission for Backward Classes is unlikely to provide credible and effective social justice architecture.
- The recommendation of new NCBC is not binding on the government.
- Since it has no responsibility to define backwardness, it cannot address the current challenge of demands of various castes to be included as BCs.
- By retaining the old generic name of NCBC and delinking the body from its soul (Article 340), the government set the stage for the whole scheme of special

protections under the Constitution in danger.

- Features of expert body, as directed by the Supreme Court, are not provided in the composition of the new NCBC.
- Mere constitutional status and more acts will not solve the problem at grass root level as recent data revealed skewed representation of SC/ST and OBC categories.
- Article 338B (5) is silent on the SC mandate on periodic revision of the backward class list in consultation with the NCBC.

Suggestions

- The composition should reflect the feature of an expert body as mandated by the SC.
- The government must put information in public domain regarding the findings of the caste census and recommendations of commission.
- Composition of commission should reflect the gender sensitivity and representation of stakeholders.
- Vote bank politics should give way to value based politics so that only truly backward sections of society will get the benefit of reservation.