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Department of Employment and Training

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Topic : **Reservation in India**

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RESERVATION IN INDIA

Introduction

The age-old caste system of India is responsible for the origination of the reservation system in the country.

In simple terms, it is about facilitating access to seats in the government jobs, educational institutions, and even legislatures to certain sections of the population.

These sections have faced historical injustice due to their caste identity.

As a quota based affirmative action, the reservation can also be seen as positive discrimination.

In India, it is governed by government policies backed by the Indian Constitution.

Historical Background

William Hunter and **Jyotirao Phule** in 1882 originally conceived the idea of cast-based reservation system.

The reservation system that exists today, in its true sense, was introduced in 1933 when British Prime-Minister Ramsay Macdonald presented the “**Communal Award**”.

After long negotiations, Gandhi and Dr. Ambedkar signed the “Poona Pact”, where it was decided that there would be a single Hindu electorate with certain reservations in it.

After independence, initially reservations were provided only for SCs and STs.

OBCs were included in the ambit of reservation in 1991 on the recommendations of the Mandal Commission.

Mandal Commission

- ❖ In exercise of the powers conferred by Article 340 of the Constitution, the President appointed a backward class commission in December 1978 under the chairmanship of B.P. Mandal.
- ❖ The commission was formed to determine the criteria for defining India’s “Socially and educationally backward classes” and to recommend steps to be taken for the advancement of those classes.
- ❖ The Mandal Commission concluded that India’s population consisted of approximately 52 percent OBCs, therefore 27% government jobs should be reserved for them. The commission has developed eleven indicators of social, educational, and economic backwardness.

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- ❖ Apart from identifying backward classes among Hindus, the Commission has also identified backward classes among non-Hindus (e.g., Muslims, Sikhs, Christians, and Buddhists).
 - ❖ It has generated an all-India other backward classes (OBC) list of 3,743 castes and a more underprivileged “depressed backward classes” list of 2,108 castes.

Indra Sawhney Case of 1992

In the Indra Sawhney Case of 1992, the Supreme Court while upholding the 27 percent quota for backward classes, struck down the government notification reserving 10% government jobs for economically backward classes among the higher castes.

Supreme court in the same case also upheld the principle that the combined reservation beneficiaries should not exceed 50 percent of India’s population.

The concept of “Creamy layer” also gained currency through this judgment and provision that reservation for backward classes should be confined to initial appointments only and not extend to promotions.

Recently, the ***Constitutional (103rd Amendment) Act of 2019 has provided 10% reservation in government jobs and educational institutions for the “Economically backward” in the unreserved category.***

The Act amends Articles 15 and 16 of the Constitution by adding clauses empowering the government to provide reservation on the basis of economic backwardness.

This 10% economic reservation is over and above the 50% reservation cap.

Reservation in India is a government policy, backed by the India Constitution (by means of various amendments)

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 (14A) was inserted in Article 16 to enable the government to provide reservation in promotion.

Later, clause (14A) was modified by the Constitution (85th amendment) Act, 2001 to provide consequential seniority to SC and ST candidates promoted by giving reservation.

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Constitutional 81st Amendment Act, 2000 inserted Article 16 (4B) 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 243T 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.

Reservation category	Reservation (%)	Quota
ST	7.5	
SC	15	
OBC	27	
EWS	10	
Total	59.50%	

SC/ST Reservation

The objective of providing reservations to the Scheduled Castes (SCs), Scheduled Tribes (STs) in services is not only to give jobs to some persons belonging to these communities.

It basically aims at empowering the man ensuring their participation in the decision-making process of the State.

Besides, the state is also keen to ***end practices such as untouchability.***

Scheduled Castes (SC) are given 15% quota in jobs/higher educational institutions while Schedule Tribes (ST) are given 7.5% quota in jobs/higher educational institutions.

Reservation is provided not only with respect to direct recruitment but also with respect to promotions for SC/ST category (**Article 16 (4A)**).

There is no concept of “Creamy layer” with respect to SC/ST reservation. This means that irrespective of the income status or the government posts held by the parents, children of SC/ST parents will get SC/ST Reservation.

◆.....◆ OBC Reservation

- ❖ Reservation for Other Backwards Classes (OBC) was introduced based on the Mandal Commission Report (1991).
- ❖ The quota for OBCs is 27% in government jobs and higher educational institutions.
- ❖ However, there is a **concept of “creamy layer”** with respect to the OBC reservation. Only those from OBC who comes under Non-Creamy Layer would get OBC reservation.
- ❖ The creamy layer concept brings income and social status as parameters to exclude some of the privileged members of OBC from the extent reservation.
- ❖ This concept also keeps a check to ensure that the benefit so reservation do not get extended to subsequent generations.

EWS Reservation (10%quota)

The Central Government to India recently introduced EWS Reservation. 10% quota is provided for the Economically Weaker Sections (EWS) among General Category candidates in government jobs and educational institutions.

This is done by adding clauses for the same in the Indian Constitution (**103rd Constitution Amendment Act, 2019**).

Definition of Economically Weaker Section:

- ❖ Annual household income below Rs 8 lakh
- ❖ Agriculture land below 5 acres
- ❖ Residential house below 1000 sqft
- ❖ Residential plot below 200 yards in non-notified municipality area

10 percent reservation for general category: Who all will benefit?

According to government sources, this 10 percent reservation will apply for all communities and caste is not going to be a criterion for eligibility.

The Narendra Modi government's decision to provide 10 percent reservation to economically backward' upper castes is for all those communities/classes that do not come under the 50 percent quota as mandated by the Supreme Court. The 50 percent cap was set up in a 1992 judgment of the Supreme Court in the Indira Sawhney case.

According to government sources, this 10 percent reservation will apply for all communities, and caste is not going to be a criterion for eligibility. The quota will be applicable to economically



backwards among Hindus, Muslims and Christians. This means that this new quota won't affect the reservation for SCs, STs and OBCs.

So far Scheduled castes, who constitute 20 percent of the entire population in India, corner 15 percent reservation in the government sector. Scheduled Tribes, who constitute 9 percent of the population, are provided with 7.5 percent reservation while communities in the Other Backward Caste corner the lion's share of 27 percent reservation.

Together, SCs, STs and OBCs, who constitute about 70 percent of the population, are provided with 49.5 percent reservation in the government sector. It is the rest 30 percent or 39 crore, who fall under the general category, which will be eligible to avail the 10 percent reservation announced by the Centre.

Maharashtra accounts for maximum OBCs with 261 communities, while Karnataka has the most number of SCs at 101. With 62 different Scheduled Tribe communities, Odisha has the maximum number of STs.

Gujarat becomes first state to implement 10 percent quota for EWS in general category.

Gujarat Chief Minister Vijay Rupani has announced that his government will implement the 10 percent reservation for economically weaker sections of the general category with immediate effect. The decision comes just a day after president Ram Nath Kovind gave his assent to the Constitutional amendment.

