

# Indra Sawhney Judgement

March 25, 2021

**In news :** While considering the validity of the reservation for the Maratha community in Maharashtra on March 8 the Supreme Court has decided that it will hear all the States on the 50% limit on total reservation imposed by the court in the Indra Sawhney case (1992)

## **What did the Court say?**

- Supreme Court of India's five-member Constitution Bench headed by Justice Ashok Bhushan wants to decide whether the judgment in Indra Sawhney vs Union of India, known as the Mandal verdict, needs to be referred to a larger Bench or "requires a relook in the light of subsequent Constitutional amendments, judgments and changed social dynamics of society, etc."
- This is because the earlier judgment had declared that reservation cannot exceed 50% in total. As Indra Sawhney was a decision by a nine-member Bench, a Bench of at least 11 judges will be needed to reconsider the question.
- The Supreme Court also wants to consider whether the reservation for Marathas effected through a 2018 Act (the Socially Economically Backward Class Act), and amended in 2019, **is covered by the "exceptional circumstances" mentioned in the Indra Sawhney judgment, which had said the 50% limit can be exceeded in "certain extraordinary situations" as a special case.**
- The Court said this relaxation was meant for people inhabiting remote and far-flung areas who are away from the mainstream of national life and who may have "conditions peculiar to and characteristic to them".
- Therefore, any judgment on the Maratha reservation issue would inevitably have to deal with three issues the 50% ceiling on total reservation, the power of States to

determine who its backward classes are and confer benefits on them, and the legislative competence of State legislatures regarding backward classes after the introduction of the 102nd Amendment

## **Supreme Court judgement in Indra Sawhney case**

### **Background of the case**

The Second Backward Classes Commission (Mandal Commission) was set up in 1979 to determine the criteria for defining the socially and educationally backward classes. The Mandal report identified 52% of the population at that time as "Socially and Economically Backward Classes" (SEBCs) and recommended 27% reservation for SEBCs in addition to the previously existing 22.5% reservation for SC/STs.

In 1990, when the V P Singh led-government set out to implement the Mandal report, it was challenged in court amidst widespread protests against the move. The case came up before a nine-judge Bench and a 6:3 verdict was delivered in 1992.

### **Key highlights of the verdict**

- It said that just as every power must be exercised reasonably and fairly, the power conferred by Clause (4) of Article 16 should also be exercised in a fair manner and within reasonable limit – and what is more reasonable than to say that reservation ... shall not exceed 50% of the appointments or posts...?"
- Citing Dr. B.R. Ambedkar's opinion in the Constituent Assembly that reservation should be "confined to a minority of seats", the Bench fixed the maximum permissible quota at 50%.
- While committing to the constitutional position that reservations are not an 'exception' but a 'facet' of equality, the majority in Indra Sawhney also invokes the idea of balancing the equality of opportunity of backward classes 'against' the right to equality of

everyone else.

## **The landmark Indra Sawhney ruling set two important precedents.**

- First, the Court said that the criteria for a group to qualify for reservation is “social and educational backwardness”.
- Additionally, the court also reiterated the 50% limit to vertical quotas it had set out in earlier judgements in 1963 (M R Balaji v State of Mysore) and in 1964 (Devadasan v Union of India), reasoning that it was needed to ensure “efficiency” in administration.
- The court said this 50% limit will apply unless in “exceptional circumstances”.
- While the social and educational backwardness criteria stemmed from interpretation of various constitutional provisions, the 50% limit is often criticised as being an arbitrary limit.

## **Other cases related to reservation**

- **M.R. Balaji vs State of Mysore (1962):** It was in this case that the Supreme Court had first ruled that reservation, being a special provision for backward classes, should not normally exceed 50%.

**State of Kerala vs N.M Thomas case:** The majority of the Bench disagreed with the proposition. It said the special measures in favour of backward classes in Articles 15 and 16 were not exceptions to the rule. It was held that the 50% norm in Balaji was only a rule of caution and does not exhaust all categories.