

Reservation for Economically weaker section or Upper caste

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Manifest Pedagogy

Reservation as topic can be placed both in Social Justice (Polity) and Indian Society. Social Empowerment (Indian Society) and Social Justice should not be studied separately. Hence, MANIFEST 11 clubs these 2 sections under Indian Society only to give an integrated picture of the topic. But care must be taken while writing answers wherein if a topic is asked in Polity, constitutional aspects of the topics should be written 1st and social aspects later. Whereas, if the same topic is asked in Indian Society, social aspects should be written 1st and then the constitutional aspects. It is all a matter of perspectives and priorities.

In news

President clears 10% reservation for economically weaker section

Placing it in syllabus

1. India Polity : Mechanisms, laws, institutions and Bodies constituted for the protection and betterment of the vulnerable sections.
2. Indian Society : Social Empowerment

Static dimensions

1. Doctrine of Affirmative Action
2. Articles 14, 15 and 16
3. Reservation – Policy and its aims
4. Efficacy and criterion of Reservation policy

Current dimensions

1. Reservation movement by upper classes like Jats, Patidars
2. 124th Constitutional Amendment Bill, provisions and its constitutionality

Content

The Constitution (One Hundred and Twenty-Fourth Amendment) Bill, 2019 provisions

- Article 15 of the Constitution prohibits discrimination against any citizen on the grounds of race, religion, caste, sex, or place of birth. However, the government may make special provisions for the advancement of socially and educationally backward classes, or for Scheduled Castes and Scheduled Tribes.
- The Bill seeks to amend Article 15 to additionally permit the government to provide for the advancement of “economically weaker sections”. Further, up to 10% of seats may be reserved for such sections for admission in educational institutions. Such reservation will not apply to minority educational institutions.
- Article 16 of the Constitution prohibits discrimination in employment in any government office. However, the government can allow reservation for any “backward class of citizens”, if they are not adequately represented in the services under the state.
- The Bill seeks to amend Article 16 to permit the government to reserve up to 10% of all posts for the “economically weaker sections” of citizens.
- The reservation of up to 10% for “economically weaker sections” in educational institutions and public employment will be in addition to the existing reservation.
- The central government will notify the “economically

weaker sections” of citizens on the basis of family income and other indicators of economic disadvantage.

- The bill states that it is drafted with a will to mandate Article 46 of the Constitution of India, a Directive Principle that urges the government to protect the educational and economic interests of the weaker sections of society. While socially disadvantaged sections have enjoyed participation in the employment in the services of the state, no such benefit was provided to the economically weaker sections.

Amended Articles

- Article 15 (6) is added to provide reservations to economically weaker sections for admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30. The amendment aims to provide reservation to those who do not fall in 15 (5) and 15(4) (effectively, SCs, STs and OBCs).
- Article 16 (6) is added to provide reservations to people from economically weaker sections in government posts.

Eligibility criteria

- Family income should be less than Rs 8 lakh per annum
- Farm land should be less than that of 5 acres
- Residential house should be less than 1,000 sq ft
- Residential plot should be below 100 yards in a notified municipality
- In case of a non-notified municipality area, the residential plot should be below 200 yards

Hurdles it may face

1. The 10% quota for economically weaker sections faces a challenge in the Supreme Court on the grounds of

violating the 'basic structure' of constitution. So far, it has become an established principle that reservation shall have a cap of 50%. These stipulations first arose in *M.R Balaji v. State of Mysore* when court stated that reservation above 50% would imply dominance over section 16(1).

2. In the landmark verdict of Supreme Court in the **Mandal case**, the Supreme Court had held that the proposal to provide 10% Reservation for Other economically backward sections of the people who are not covered by any of the existing schemes of Reservation as constitutionally invalid.
3. The Supreme Court had held that mere economic backwardness or mere educational backwardness which is not the result of social backwardness, it cannot be the criterion of backwardness in Article 16 (4).
4. The Supreme Court has even ruled in the **Indra Sawhney case** that the share of jobs or educational or legislative seats reserved for different communities cannot together exceed 50%.
5. So the present order of the government to provide reservations violates some of the observations made by the Supreme Court in its previous judgments.

Effects

- Nobel laureate and economist Amartya Sen described the proposed 10% reservation for economically backward people in the general category as a "muddled thinking" that raises serious question about its political and economic impact. He told that "If the whole of the population is covered by reservation then that would be removal of reservation"
- With respect to reservation in education – If the government extends the 10% quota to private colleges, it is likely to face pressure from Other Backward Classes groups to implement quotas for them as well.

