

Reservation for Other Backward Classes (OBCs) in India

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In news- Supreme Court(SC) in its latest order in **Rahul Ramesh Wagh v. State of Maharashtra** made it mandatory that the principles laid down by the Supreme Court for providing reservation to OBCs in local bodies shall be followed across the country.

More information on the issue-

- The **latest order arises out of the challenge made to the ordinance promulgated** by the Governor of Maharashtra to conduct the local body elections by providing 27% reservation to OBCs.
- This present political quandary is related to the **five-judge Constitution Bench decision in K. Krishnamurthy (Dr.) v. Union of India (2010)**.
- In this case, the **Supreme Court had interpreted Article 243D(6) and Article 243T(6)**, which **permit reservation by enactment of law for backward classes in panchayat and municipal bodies respectively**, to hold that barriers to political participation are not the same as that of the barriers that limit access to education and employment.
- However, for creating a level playing field, **reservation may be desirable as mandated by the aforementioned Articles which provide a separate constitutional basis for reservation, as distinct from what are conceived under Article 15 (4) and Article 16 (4)** which form the basis for reservation in education and employment.
- Though reservation to local bodies is permissible, the top court declared that the same is **subject to empirical finding of backwardness in relation to local bodies as fulfilled through the three tests as follows:**

1. To set up a **dedicated Commission to conduct contemporaneous rigorous empirical inquiry** into the nature and implications of the backwardness qua local bodies, within the State.
2. To **specify the proportion of reservation required to be provisioned local body-wise** in light of recommendations of the Commission, so as not to fall foul of overbreadth.
3. In any case such **reservation shall not exceed an aggregate of 50% of the total seats reserved** in favour of SCs/STs/OBCs taken together.
 - The 50% ceiling specifically relied on the ratio of the historic **Indra Sawhney judgment(1992)**.
 - The 2010 judgment was not acted upon and the constitutionality of the enacted reservation was challenged.
 - This resulted in the 2021 judgment of a three-judge Bench of the Supreme Court.
 - In **Vikas Krishnarao Gawali v. State of Maharashtra &Ors. (2021)**, the court observed that the reservation for OBCs was just a “statutory dispensation to be provided by the State legislations” and is different from the “constitutional” provisions which mandate reservation to the Scheduled Castes and Tribes (SC/ST).
 - While insisting on the triple test, the court observed that the reservation in favour of OBCs in the concerned local bodies can be notified to the extent that it does not exceed 50% of the total seats reserved in favour of SCs/STs/OBCs taken together.
 - The Supreme Court quashed notifications issued by the Maharashtra Election Commission, which provided more than 50% reservation to OBCs and SC/STs in some local bodies.

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- **Under Article 340** of the Indian Constitution, it is

obligatory for the government to **promote the welfare of the OBCs.**

- OBCs are described as socially and educationally backward classes (SEBC), and the Government of India is enjoined to ensure their social and educational development – for example, the OBCs are entitled to 27% reservations in public sector employment and higher education.
- **The First Backward Commission** to investigate the possibility and details of providing reservations to OBCs was **set up in 1953.**
- Under Art 340, the **Kaka Kalelkar Commission** was appointed to identify the OBCs which submitted the report in 1955 but was not implemented.
- The first Backward Classes Commission in Tamil Nadu was formed on November 13, 1969 and was known as Sattanathan Commission.
- **Sattanathan Commission recommended the introduction of “Creamy Layer” among the OBC** in the state.
- **The Second Backward commission (Mandal Commission)** was set up in **1978** which recommended 27 percent reservations for OBCs which were implemented in 1990.
- A **1992 decision of the Supreme Court of India (Indra Sawhney case)** resulted in a requirement that 27% of civil service positions be reserved for members of OBCs.
- The list of OBCs maintained by the Central **Ministry of Social Justice and Empowerment** is dynamic, with castes and communities being added or removed depending on social, educational and economic factors.
- In order to administer issues related to OBCs, **National Commission for Backward Classes (NCBC)** was initially constituted by the Central Govt under The National Commission for Backward Classes Act, 1993 and it was repealed in 2018.
- The commission was accorded **Constitutional Status** and constituted through **“The Constitution (One Hundred and Second Amendment (102nd)) Act, 2018** whereby **Article 338B**

has been inserted, forming a Commission for the socially and educationally backward classes to be known as NCBC.