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**RESERVATION IN INDIA: WITH CRITICAL ANALYSIS IN RESPECT  
OF STATES**- Neeraj Kumar<sup>1</sup>**PRE-INDEPENDENCE**

British India was divided into areas directly under British control and those of princely states. Most of the later states used their good relation with British to develop their states by introducing various development projects. Princely States like Hyderabad, Travancore and Mysore flourished during this period. East India Company at first employed Indians from upper castes and wealthy families in administrative posts. Later they stopped recruiting Indians for higher academic posts saying that Indians are inefficient to cover their revenue losses. All these upper caste have taken new professions like law.

Charter acts made English compulsory in administrative works and preference in appointments were given to those familiar with English language. Upper caste Brahmins who worked with British before used this opportunity better and started to take appointments in the administration. Brahmins dominated most of the bureaucracy. Mysore state even reserved seats in administration posts for Brahmins, Vokkalings and Lingayats as they had administrative experience. On the other hand were reluctant to learn English but after efforts of Syed Ahmed Khan Muslims started to learn English. They had the feeling that they were not given much preference in administration like Hindus. Government of India acts of 1900 and 1919, provided reservation for Muslims.<sup>2</sup>

The case of untouchables or the depressed classes was unique. At first they were employed in most of the presidency army. Due to changes in political dynamics their recruitment in army has started to decline. Ibbetson a famous census commissioner once said that depressed classes couldn't form themselves into

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<sup>1</sup> Advocate

<sup>2</sup> Government of India Act 1909 and 1919

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combined political front. This had happened only after the arrival of B.R.Ambedkar, this is the reason why much benefits were not given to depressed classes.

After the roundtable conferences (1930-32) communal award were given to different communities.

Under this separate electorates will be made for people belonging to Sikhs, Muslims, Europeans, Anglo Indians and Parsis. In these constituencies only those belonging to that sect can contest. The communal award was also given to depressed classes but Gandhi had opposed to this move thinking that this will bring division among Hindus and went for a fast unto death. Which made Ambedkar to sign a pact with Gandhi, famously known as Poona pact where it's agreed that Instead of having separate seats for depressed Classes 148 seats out of general seats will be reserved for depressed classes. Elections for this seat will be through joint electorates and 18% of the seats allotted to general for central legislature will be reserved for depressed classes. This pact and various other decisions taken by British India to actually bring division among Indians had actually paved a way to provide special provisions for upliftment of depressed classes

### **POST INDEPENDENCE ( 1947-1951)**

The Indian Constitution came into effect from 26 January 1950 and the original part of Constitution doesn't contain anything about reservation. Although many states at that time were following reservation policy on their own through different Government orders, but there wasn't any clear and uniform guidelines throughout. Its this irregularity and no uniform provision has paved a way for the first amendment in our country.

It's mentioned in the constitution that all the citizens are treated equal. There will be no discrimination in enforcing law and protecting citizens. Which means that there will be a same law to everyone as long as they are in Indian jurisdiction. The Constitution also says that there shall be no discrimination on basis of caste, religion, gender and place of birth. Constitution also says that all the citizens of India will be treated equally and they will not be denied admission or job based on their caste, religion and sex in any public service or any institution run by government(29(2)).It also assures that there shall be equality of opportunity in terms of employment in public offices(16). It's important to note here that all the above mentioned articles are part of fundamental rights, which are guaranteed rights as part of the Constitution and nowhere there was mention of reservation of any form. It's believed that the idea of our Constitution makers was to have an inclusive form of development rather than exclusive.<sup>3</sup>

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<sup>3</sup> economic and political weekly 2000

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However even after its coming into effect many states still followed reservation pattern as per previous practice. The state of madras followed the pattern of providing reservation for students in educational institutes. Out of 333 seats from 4 medical colleges 14 seats were reserved for students belonging to the State of madras. Through a GO issued by madras State government it divides these 14 seats as 6 for non-bhraman, 2 each for bhramans, BC and harijans and 1 each for Anglo Indians and Muslims. In the year 1951 Champakam Dorairajan, an aspirant of a medical seat in Madras was denied admission into institute since seats reserved for brahmans were filled and she can't take admission in the vacant non bhraman seats. She filed a writ petition in Madras High court saying that her rights, article 15 and 29(2) guaranteed by the constitution were violated by the state of Madras. What followed was a landmark judgement in Dorairajan vs State of Madras case. High court questioned Madras state government on what basis reservations are provided. State of Madras said that they were following what that was mentioned in DPSPs article 46. However High court observed that the fundamental rights are the guaranteed rights and are above DPSPs and gave judgement in favor of Dorairajan and ordered Madras state government to start the whole process again.<sup>4</sup>

Both govt. and the Constitutional makers were of the opinion to give boost to socially educationally backward classes so that they can come to a position of fare competition and in the first amendment in 1951 article 15 and 29 empowered state to provide reservation per SC/ST for upliftment. This amendment allowed states to provide reservations based on caste and religion which is actually against to article 15.

### **CONSTITUTIONAL PROVISIONS**

The Indian Constitution through article 46 from DPSP directs govt. that it's their duty to take uplift weaker sections of the society especially scheduled castes and scheduled tribes, so that they develop educationally and economically. It's also the responsibility of the state to protect these castes from social injustice and exploitation. Article 341 and article 342 defines who comes under Schedule Castes and Schedule Tribes respectively and also mentions list of it. Initially only those from Hinduism and 4 castes from Sikhism (later extended to all SC's following Sikhism) were considered as SC's. Many people belonging to Sc converted themselves to budhism following Ambedkar and all of them were denied reservation. However these started getting reservation again from 1990 onwards as restricting them their reservation solely because they don't follow Hinduism or Sikkhism is a clear violation or article 14 and 15.

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<sup>4</sup> Champakam Dorairajan vs State of Madras 1951

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Article 15 says that the state will not discriminate citizens it treats all citizens equally. First amendment of the Indian Constitution after Champakam Dorairajan case, article 15(3), 15(4) and 29(2) were added which empowers state to provide special provisions for scheduled castes, scheduled tribes, backward castes and women in education and public services.

Article 16 says that appointments to office will be based on merit and there will be no discrimination of any kind in terms of appointment. Later article 16 was amended, which gave state special power to give special benefits to SC's and ST's terms of appointment.

## JUDICIAL CHALLENGES

It's been around 70 years since reservation was implemented in India and the decision of providing reservation was continuously challenged in courts and sought judicial intervention. First ever case against reservation was of Dorairajan vs State of Madras which was discussed in the previous chapter. Many other landmark judgemental were given by supreme court various high courts. This section deals with some landmark judgements related to reservations.

### 1. Balaji vs State of Mysore 1962<sup>5</sup>

In the year 1962, erstwhile state of Mysore had taken decision to provide reservation to identified "Backward classes" solely based on their caste. Mysore was already implementing the reservation of SC's and ST', with the addition of backward classes the total percentage of reservation had gone to 68%. This decision of Mysore government was challenged in SC, petitioner argued that caste can't be the only indicator to measure backwardness and eligible candidates should also needs to be considered. Supreme court delivering it's verdict said that reservation can't exceed more than 50% and caste can't be the only indicator on which reservations should be provided and struck off this reservation. It's in this judgement for the first time 50% cap has been used. The same decision was taken exactly after 30 years.<sup>6</sup>

### 2. Kumari K.S.Jayasree and ANR vs. State of Kerala and ANR<sup>7</sup>

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<sup>5</sup> Mr. Balaji vs State of Mysore 1963 AIR 649 supreme court

<sup>6</sup><https://indiankanoon.org/doc/599701/>

<sup>7</sup> Kumari K.S.Jayasree and ANR vs. State of Kerala and ANR 28 Aug 1976 Supreme Court of India 1977 SCR(1) 194

<sup>8</sup>M Nagaraj and Others vs Union of India and Others 19 october 2006 supreme court

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Jayasree, an aspiring medical student from Kerala secured 372 marks in the year 1975 and applied for a medical College run by the state government. She belongs to a community called elzhava which comes under Scheduled Caste. Minimum marks required for candidates belonging to this caste was 363, but that year Jayasree was denied admission and those who had scored less than her were admitted. Jayasree was denied admission because of a GO issued by Kerala government in the year 1966 which says reservation benefits are given to those whose family income is less than ₹4400 which later was increased to ₹6000. Jayasree challenged this decision of government in a single judge bench district court which gave decision in favor of her. Kerala government took this case to high court and the Kerala High Court supported the state government's decision. According to govt., the term "backward class" is not synonymous with "backward caste" or "backward community" under Article 15(4) of the Constitution. A caste or group as a whole may be backward in terms of social, economic, and educational ideals at any particular period, and may be considered as a backward class as a result. They are socially and educationally backward not because they belong to a caste or community, but because they belong to a class"<sup>25</sup>. This decision was supported by a commission's report which found that people belonging to backward class without any higher education but rich were able to live in society without any discrimination but people who are poor of same class couldn't. It's also found that the reservation was mostly used by rich people from backward classes who no longer experience any social backwardness.

Court observed that the findings of commission's report are right and government order didn't breach article 15 (4) and govt. didn't exclude any castes mentioned in list. This judgement actually talks about providing reservation to the needy and s introducing creamy and non-creamy layer. Supreme court will face the similar case again after 30 years.

### **3. M Nagaraj and Others vs Union of India and Others\***

The constitutional legitimacy of the Indian Constitution's 77, 81, 82, and 85 amendments, which provide reservation in promotion, was questioned by petitioners. The Supreme Court upheld the changes, but set forth some rules for the state to follow if it wishes to give reservations in appointment. The state must demonstrate with sufficient data that sc and sts are underrepresented, and it must ensure that promotions do not disturb administrative efficiency. The Supreme Court further stated that the reservation quota should go to the poorest of the poor and that it cannot be taken away from a creamy layer of the same caste.

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#### 4. Jarnail Singh vs Lachhmi Narain Gupta case<sup>9</sup>

The Nagaraj case was mentioned in this decision, and the court refused to move it to a larger bench. Govt. can provide reservation in appointments, according to the court, but only if it is backed up by sufficient measurable data. The court further stated that the well-performing creamy layer of SC and ST should be excluded from the reservation advantage. The court stated that without a creamy layer system, it is impossible to raise the weaker sectors. However, Attorney General K. Venugopal, defending Govt., stated that the creamy layer cannot be included in the SC and ST reservations because these communities' reservations are based on their social backwardness rather than their economic condition. He further stated that, as stated in articles 341 and 342, only the Parliament has the authority to make modifications in determining who is SC and ST.

#### APPROACHES BY DIFFERENT STATES

India is a country of varieties and it's difficult to find uniformity throughout the country. This is same for reservations too. Reservation in India can be classified into two based on Govt.. Union government has its own list of communities eligible for reservation and the percentage which needs to be reserved, while state governments have their own list of communities to get reservation. It's needn't be necessary that community or a student say who is eligible for reservation in state government exam has to be eligible for reservation for any exam conducted by union government. This difference is because of the fact that Union Governments list and percentage of quota is based on the data available across the country not concentrated to any specific region. As per 2011 census population of SC's is 201,378,086 i.e., 16.6% while in the state of Punjab SC's constitute 31.94% of entire states population. Today 16.6% of seats are reserved for SC's in all union Government posts and institutions. But with a population of 31.94% In the state of Punjab 20% of seats are reserved for appointments in the state. This is just a small example of how reservations are different from states to states. In this chapter we will be discussing this in detail how state governments include or exclude certain communities for reservation and on what basis does this happen? Is reservation used for upliftment of is it only a political stunt?

#### **HOW COMMUNITIES ARE IDENTIFIED?**

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<sup>9</sup> Jarnail Singh vs Lachhmi Narain Gupta case 26 September 2018

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Article 342 empowers the president of India to recognize a certain community eligible for reservation after consulting with the governor of state and then include such communities in the Sc or St list in Constitution. President includes the list in Constitution and any further inclusion or exclusion from the Constitution can only be made by the parliament. Any inclusion of a community into this list has to follow some qualifications. "Extreme social, educational, and economic backwardness deriving from the practise of untouchability" is a criterion for SC's inclusion. "Indications of primitive features, peculiar culture, geographical isolation, shyness of engagement with the larger population, and backwardness" for St's. State government should appeal for inclusion of any community for reservation to National commission for SC's in case of SC's or national commission for st's in case of St's and register general of India in both the cases. The proposal should be approved by both only then these communities are included in the list. In case if any discrepancy minister of social welfare and development recognizes this proposal as fail.

Mandal commission's report observed 51% of population as backward based on various social and education indicators. Commission suggested a reservation of 27% for such communities. Indicators which were used in Mandal commission are still used to identify a community as backward. Following are the indicators which are used by the commission

### **Social**

- Castes which are treated socially backward by others
- Castes which follow traditional vocational work or manual work for income
- Classes with at least marriages of female and male under 17 years with 25%,10% respectively in rural areas and 10%,5% in urban areas respectively
- Classes where female work is at least 25% above state average

### **Education indicators**

1. Classes where the percentage of children aged 5-15 years has never attended school is more than 25% in state
2. Classes where school dropout in children aged 5-15 is more than 25%

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3. Classes where the percentage of children who are matriculates is less than 25%

### **Economic**

- Classes with average family Income is at least 25% below states average
- Percentage of families living in kuccha houses is more than 25% of states average
- Families with a source of drinking water is beyond half a kilometer
- Classes who have taken consumption loan is at least 25% more than states average.

National Commission for Backward Castes(NCBC) decides which communities are to be included into the list or excluded based on the data available on the 11 indicators. Apart from this various states provide reservations for backward castes based on their identification of backward castes. In States like Telangana and Andhra Pradesh, Backward Castes are further classified into BC-A, BC-B, BC-C and BC-D. Percentage of seats reserved also changes from state to state based on the data available.

However an important point which needs to be noted here is reservation for appointments in union services and education institutions is given to only those who come under what is called as Non Creamy Layer (NCL). Supreme Court in its judgement in **Indira Sawhney vs union of India(1992)** case said that the quota of reservation must be excluded for OBCs who are educationally and economically affluent and asked govt. to fix an income limit for such identification. In 1993, maximum income to be in non-creamy layer was one lakh rupees which in 2004 increased to two lakh fifty thousand rupees, four lakh fifty thousand rupees in 2008 and eight lakh rupees at present.

### **4.2 MARATHA RESERVATION**

Maratha reservation issue has been in news lately and it's the latest of all the reservation cases heard in supreme court. Marathas constitute about 30% of Maharashtra population. These are traditionally into peasantry and hold large areas of land in rural areas. With the advent of Maratha empire they held many positions from soldier to ministers and became influential and dominant. Post independence Marathas continue to dominate state politics and still held many positions in govt.. Marathas are divided into further clans and some clans of Marathas like

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kundili Maratha were given reservation under OBC category but most of the other clans still come under unreserved category. Land acquisition reforms taken by government saw land being taken away from these clans and most of them now hold land less than 5 acres, however those who were involved in politics and other influential positions still continue to be the major land holders in countryside. In

1997 5 years after supreme court's judgement on Mandal Commission saw the first ever Maratha agitation demanding for inclusion of Marathas in OBC category. Ever since then Maratha reservation has always been a tool used by every politics party in the state to lure voters. By 2008 NCP, INC have promised to implement Maratha reservation if voted to power. In the year 2014 with onset of state assembly polls Prithviraj Chavan led Congress government issued an ordinance reserving 16% of reservation for Marathas and 5% for Muslims, starting what's going to be a long battle in judiciary for reservation.[8]

#### 4.3 JUDICIAL INTERVENTION

After the issue of ordinance, hearing a petition on the Constitutional validity of the ordinance Bombay High Court in the year 2014 passed an interim order which halted the ordinance. BJP-SENA government made enacted Socially Educationally Backward Classes Act 2014 providing

16% reservation to Marathas. This act was stayed by Bombay High Court as it's resembling to the previous ordinance. This decision of the High Court was challenged in Supreme Court on December 18, 2014 by new BJP-SENA led government where it was dismissed. Government decided to provide more additional information to Bombay High Court to support reservation. The Maharashtra government formed a committee to investigate the Marathas' social, educational, and economic problems. The commission, chaired by Justice Gaikwad, recommended 13 percent and 12 percent reservation for Marathas in appointment and education institutions, respectively. Based on the commission's recommendations, the Maharashtra government enacted the Socially and Educationally Backward Classes Act 2018, which grants Marathas 16 percent reservation. What he observed was that although percentage of Marathas holding land is much greater than OBCs and SC's but in terms of education their plight remains similar to others. It's found that OBCs had better profits in comparison to Marathas with small

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land areas. Moreover due to agrarian crisis things have become even harder. As per the survey conducted in 2007 more than 40% of the Maratha households were below the poverty line. It's based on indicators like these and others Gaikwad commission suggested

Reservation for Maratha community. In 2017 EPW published a report conducted by Ashwini Deshpande and Rajesh Ramachandran in 2011 which concluded that Marathas are actually better off than many castes excluding bhramans in many indicators like access to education and jobs. Author has to say that the rising discontent is due to the shift of economic power from rural, where these used to be dominant to new urban centers. Due to large population and adequate representation in government actually backed the demand for reservation.

### **CONSTITUTIONAL VALIDITY:**

After SEBC act 2018, many PIL's were filed in Bombay High court questioning it's validation , how it encroached the previous judgement of Bombay High court in 2014? Wether it followed reasonable classification of article 14 and 102 amendment of the Constitution.

On 27 June 2019 Bombay High Court upheld the SEBC act 2018 and drew following conclusions:

- State government have the power to implement reservation beyond 50% in extraordinary circumstances if data is available to support it
- State government didn't encroach any judicial power as it repealed the previous decisions
- It also meets the reasonable classification of article 14 as it provides quantifiable data of how Marathas are historically denied affirmative action without including in obc
- High Court also said that the Gaikwad commission report was based on scientific data which supports inclusion of Marathas as an SEBC
- High court also said that the 102 amendment doesn't prevent state government from including a class in OBCs.

This decision of HC was challenged in Supreme court and supreme court giving it's judgement on May 5 2021 rejected Maratha reservation. It framed 6 issues based on which this decision has been given.

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One of the key aspect of this case is about the Indira Sawhney case judgement. In its 1992 judgement SC fixed the ceiling for reservation at 50% excluding any exception cases and a class has to be socially and educationally backward to be granted reservation. Maharashtra government had asked SC to refer Mandal commission judgement to a 11 judge bench which supreme court observed is not necessary and the ceiling of 50% which was arbitrary is now Constitutionally valid. Maharashtra government said that since the percentage of backward including Marathas is 85% an extraordinary case can be taken and ceiling of 50% can be increased. Supreme court after observing the Gaikwad commission said that Maratha community have been a dominant forward class and also are in national main stream can't be considered as an extraordinary.

102 amendment had given Constitutional validity for NCBC under article 332b and also introduced article 342a which gave the president power to specify a caste as socially and economically backward class. Supreme court interpreted this by observing that the parliament can only include a community in SEBC list and only president can make changes in central list of SEBC based on suggestions from parliament and NCBC. State governments can only suggest changes in the list.

It's based on these SC of India has declared the reservation of Marathas as unConstitutional and rejected it.

### **JAT RESERVATION CASE**

Jat is a community of farmers native to rural parts of northern India and Pakistan. In India they live in the states of Punjab, Haryana, Rajasthan and Uttar Pradesh. Jat is a title given to a wide range of population ranging from land owning peasants to rich and influential zamindars.

Population percentage in states

Haryana 20-25

Punjab 20-35

Rajasthan 9

Delhi 5

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Uttar Pradesh 1.2

Apart from economic differentiation, they are an influential class in the society (by their huge participation in politics and large-scale businesses).

Rajasthan, Himachal Pradesh, Uttar Pradesh, Delhi, Uttarakhand, Madhya Pradesh, and Chhattisgarh are seven of India's thirty-six states and union territories that classify Jats as OBCs (OBCs). However, the central government only provides them with reservation advantages in Rajasthan (excluding Dholpur and Bharatpur). Massive protests erupted in 2016 in support of Jat reservation

### **The beginning of political struggle**

The crisis/struggle began after the 1991 Gurnam Singh commission report classified jats, along with seven other ethnic groups, as backward classes, and the Bhajan Lal government reversed the inclusion notification. They were removed from the category by two subsequent commissions in 1995 and 2011, respectively. When Bhupendra Singh Hooda came to power, he filed numerous applications with the national government, seeking that the jats be classified as backward. This was done because he told the Jats that he would be their representative in the polls before the elections.

Following the 2012 jat agitation, govt. formed the K C Gupta commission to look into the situation again. This commission approved the inclusion of jats and four other castes under the special backward classes category, namely jat Sikhs, Ror, Tyagi, and Bishnoi. The Hooda government agreed to the findings and set aside 10% of the total, but the decision was put on hold.

### **RECOMMENDATIONS OF K C GUPTA COMMISSION**

Consequently, it is recommended to include Jat, Jat Sikh, Bishnoi, Ror and Tyagi in the list of OBCs (or they may be called special backward classes). It is recommended that these citizen classes be treated as OBCs (special backward classes) to clearly identify the named classes and not to group them with the citizen classes that are considered backward. Since these classes cumulatively represent more than 30% of the total population of Haryana, that is, 31.39%, as such, they cover a large part of the population and cannot be merged with the backward classes

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already identified by the state. Now the question arises whether the reserve can exceed 50% or not. Although the Honorable Supreme Court had ruled in the Indira Sawhney et al. V. Union of India et al. Case, as AIR 1993 SC 457 reported that the reserve should normally be limited to 50 percent, the Honorable Supreme Court declares in paragraph 94A that while 50% should be the rule, certain exceptional situations inherent to the great diversity of this country and its people should not be ignored. It may happen that in remote and remote areas the population living there must be treated differently due to their demarcation from the mainstream of national life and due to their own characteristic conditions; some relaxation of this strict rule may become unavoidable. Extreme caution is required and a special case has been identified. Therefore, the Honorable Supreme Court has left the matter open and, in certain circumstances, the reserve can exceed 50% as soon as a special case is determined.. Since on recommendation for the above classes as OBCes (special backward classes) reservation and promotion protection is extended to additional 31.39% of the population, exceptional circumstances are established because the benefits have to be extended to a large part of the population . The reserve in the states of Karnataka and Andhra Pradesh is already over 50%. As the Commission does not wish to overburden the existing backward classes by adding such a large population that falls into the classes currently recommended for inclusion as OBCes (special backward classes), the Commission as such considers that the above communities the reserve shall be granted without affecting the reserve allocated to the communities already enjoying the protection of the law. The other reason for reaching said conclusion stems from the fact that the Commission has not recorded any findings regarding the excessive inclusion of a community in the list of backward classes already reported by govt. of Haryana. No study has been conducted to designate any of the communities on the already notified list of backward classes. It is therefore correct to assume that said communities will retain the character of social and educational disadvantage and have the right to continue to enjoy the advantage already granted to them. The recommended percentage reserve for said communities was based on facts that still exist and, as such, the inclusion of additional communities in said list would be tantamount to denying benefits to said communities. It should also be noted that the currently recommended communities make up 31.39% of the population of Haryana state. The inclusion of almost a third of the additional population in the existing population within the 27% quota would be tantamount to a denial of

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protection and nothing could justify the granting of a meager 27% reserve to an important part of the population. . The objectivity behind the reservation offering and the reservation rate cannot be superfluous and must be meaningful and based on an objective assessment of the overall scenario. Therefore, it is proposed that the aforementioned communities be notified as OBCes (Special Upstream Classes) and reserve 10% for said communities without disrupting existing booking plans. Currently, which provides Backward classes with 27% of bookings. Bookings for communities will be mutually exclusive and the proposed communities will now be unable to claim the benefit of booking in the 27% of bookings already issued to backward classes and vice versa. Therefore, there will be no constitutional embargo if the stockpiles exceed 50%. Therefore, the Commission recommends that 10% of the reservation in state services be provided to the five castes, namely Jat, Jat Sikh, Bishnoi, Ror and Tyagi, known as OBCes (backward special classes), above 27%.

### **Why supreme court ruled out the commission report?**

The evidence provided by govt. to evaluate the backwardness of the "politically organised" jats was insufficient, inconsistent, and out of date, according to Justices Ranjan Gogoi and Rohinton F. Nariman, who formed a bench. They further said that the union government should not have rejected the National Commission for Backward Classes' recommendation that the jats be denied OBC classification. According to the bench, the community was neither socially nor educationally backward, and they were well-represented in government jobs and educational institutions. The court discouraged caste-based reservations, stating that "which social groups deserve the most must necessarily be a matter of continuous evolution. New practices, methods and criteria must constantly evolve to move away from a caste-centered definition of disadvantage. This alone can enable the recognition of new emerging groups in society that require palliative action". The tribunal recalled the state of the "high degree of vigilance it must exercise to bring to light new forms of delay", it stated tribunal that "A policy of affirmative action that only bears in mind historical injustice would certainly under-protect the most deserving backward class of citizens. ”.

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## OTHER STATES

After Mandal commission judgement, ceiling for reservation was capped at 50% but many states later on Implemented reservation which increased reservation more than 50%. Most of these decisions are mostly struck off my supreme court while some have to prove it's Constitutional validity in supreme court

103 amendment act provided reservation of 10% for EWS to those who are not covered under SC, ST and OBCs. This act gave Power to implement this decision in appointment of jobs and Admissions to state governments.

### Andhra Pradesh

In 2000 a GO was passed reserving 100% of appointments for ST candidates in Scheduled areas. This decision was struck off by SC.

### Telangana

Telangana government in 2017 right before assembly polls took decision to increase reservation for Muslims from 4%-12% and for STS 6-10% taking the overall reservation percentage over 50%. This decision was challenged in HC and even govt. forgot it after polls.

After the implementation of 10% of reservation overall percentage of reservation has gone beyond 50% in following states:

1. Gujarat 59%
2. Kerala 60%
3. Haryana 60%
4. Bihar 60%

### Madhya Pradesh

In MP strangely the total percentage of reservation gone up to 73% after implantation of 10% quota. This decision of MP was stayed by HC

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## Chhattisgarh

Overall reservation percentage in Chhattisgarh increased to 83% after its decision to increase obc reservation to 28% and to implement EWS reservation. As expected this decision of govt. is also stayed by the HC.

## Rajasthan

Rajasthan government tried to implement 5% reservation for Gujar community which was struck down by HC showing that the overall percentage of reservation increased more than 50% and isn't supported by quantifiable data.

## CONCLUSION

Even after its implementation upliftment is hardly noticed, especially on economic front. Governments with time either focused on increasing the period of reservation or extending reservation to newer communities but never focused on how these policies are implemented, who's getting benefit? In most cases it's the wealthy and influential people of that community take advantage of reservation again and again in cases of SC and ST as there's no provision of creamy layer like in OBC. This is actually pushing many underprivileged more and more into backwardness. Every government and political parties use the demand of reservation as a political tool for their benefit instead of actually working on ground level. Maratha reservation is a classic example of how governments misuse reservation provisions for their benefits. Supreme Court dismissed the reservation provision because of 102 amendment now parliament recently passed 127 amendment to give powers to state for including a community in OBC which makes Maratha reservation now valid.

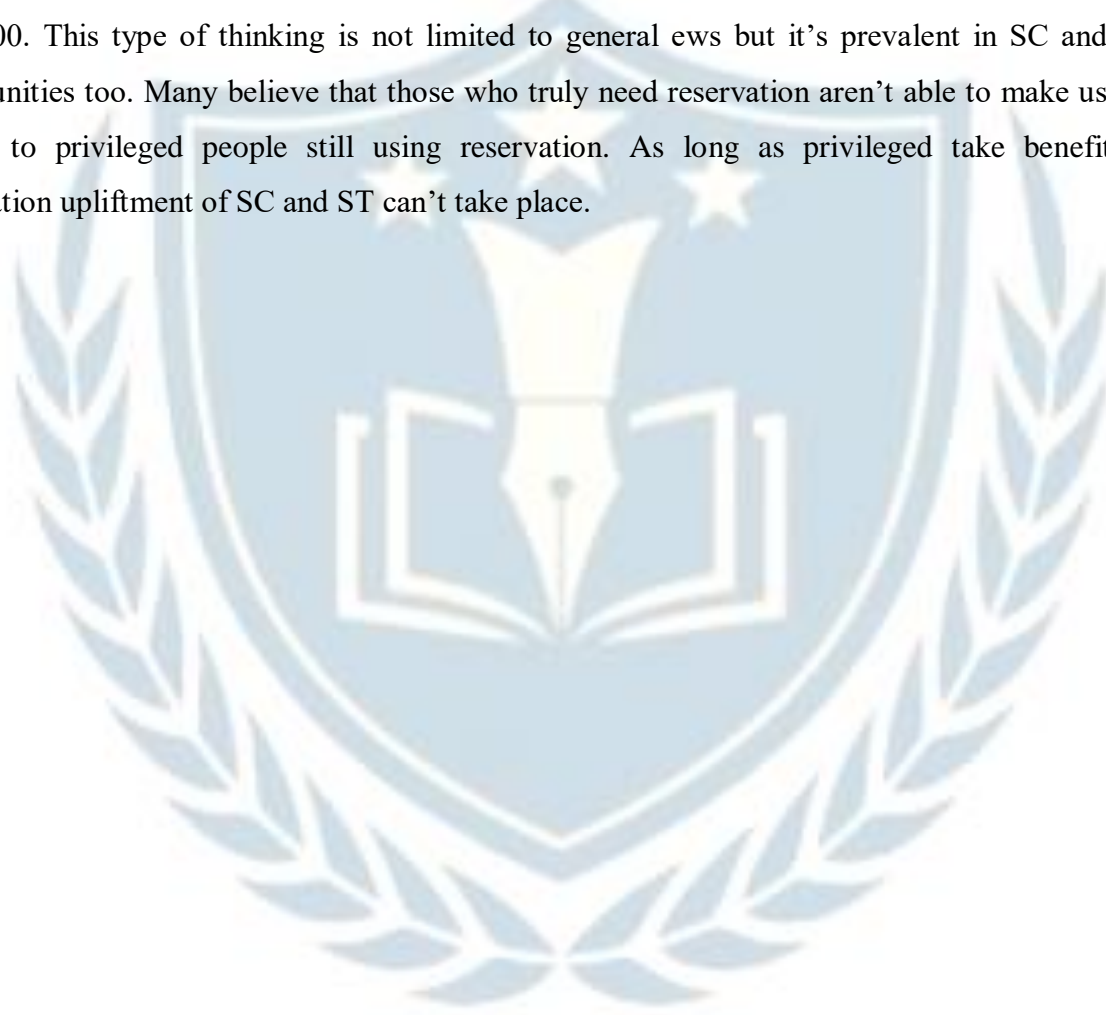
Reservation of backward classes, scheduled tribes and Scheduled Castes was essential to bring them equal to others. It was an attempt to create equality and equity in the educational, economic and social sectors. Article 15 in the Constitution has a clause 4 which provides state the legitimate power to provide reservation in order to uplift socially and Educationally Backward Classes.

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Central government recently passed a bill in parliament to provide reservation for economic backward people from unreserved communities. Even though it was passed in parliament at ground level many people who fall into this category are against to this reservation based on the eligibility conditions. As per the bill any person with property less than or equal to 5 acres and an annual income less than 8 lakhs per annum is eligible for reservation. Many still doubt how can a person with no land and an annual income less than ₹100000 be equal with someone earning ₹700000. This type of thinking is not limited to general eews but it's prevalent in SC and ST communities too. Many believe that those who truly need reservation aren't able to make use of it due to privileged people still using reservation. As long as privileged take benefit of reservation upliftment of SC and ST can't take place.



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