
EXPANSION OF THE RESERVATION SYSTEM IN INDIA AND THE CONSTITUTIONAL FRAMEWORK

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Introduction

Reservation is a good idea that our Constitution's Framers introduced. Dr. Bhimrao Ramji Ambedkar, esteemed Chairman of The Constituent Assembly, claims "Slavery is more than just a sanctioned kind of servitude. It refers to a state of society where some men are compelled to accept the motives that guide their behaviour from others ". In addition to fundamental rights, democracy, equality, socialism, and secularism are prioritised in our constitution of India, which also values the human dignity of its citizens. For the benefit of the economically, socially, and monetarily underprivileged in our Indian society, this also includes the reservation. A reservation policy has been put in place to give particular classes of people preference by reserving a set amount of seats, up to a maximum of 50%, in government employment and educational institutions. Our forebears once adhered to the "untouchability" custom that predominated our community. In our Hindu culture, there existed a hierarchy where the Brahmans were at the top, followed by the kshatriyas, the vaisyas, and the shudras. The avarna, also known as untouchables, were another class that formerly existed. They were considered unclean and were denied the right to dwell in the village; instead, they were forced to live outside the community, distant from the rest of society, and they were not given any social rights. They were not permitted to touch any members of the upper caste, and even their shadow was seen as dirty. They received extremely heavy punishment, even death. Even though they may have had abilities, these lower class individuals were assessed and expelled due to their caste as a result of this practise, which had a negative impact on their growth and development. This unfair treatment of the lower classes led to the growth of the reservation policy in India so that they may be given the same chances and status that the higher classes do in our society and be able to mature as individuals.

Historical Background of India's Reservation Policy

The caste system in Hindu civilization greatly contributed to the socioeconomic backwardness

of Indian society. All of the lower class jobs in society, such those of teachers, priests, rulers, dealers, and farmers, were supplied for and permitted to be done by the upper class individuals. As time went on, this practise persisted, giving rise to reservation policy. Originally, William Hunter and Jyotirao Phule established the concept of reservation policy in the year 1882. But British Prime Minister Ramsay MacDonald introduced the current reservation system in 1933. He introduced it as a way to reward the Indian society on a communal level. When the Poona Pact was signed, it was determined that Hindus would have a single electorate with some reservations for persons from poor and lower-middle classes.

After the Independence, our nation was split into Pakistan and India, with Hinduism remaining as a dominant religion in India. The goal of the constituent assembly while drafting the Indian Constitution was to provide equality to each and every person, but caste prejudice posed a significant obstacle to achieving that goal in a caste-based society. Therefore, they devised the reserving clause for members of socially underprivileged classes in the Indian Constitution. This provision was initially only in place for 10 years, but as time went on, it continued to be extended to reflect the changes that society demanded. OBCs were not included in this area of reservation up until 1991, but on the Mandal Commission's proposal, they were added to it. This quota was implemented in 2007 for seats from the All India Quota, 15% of which were reserved for SCs and 5% for STs. And recently in 2019, in addition to the already-existing 50% reserve offered for SCs, STs, and OBCs, the general category of our society's economically poorer members received 10% reservation as well. For UG and PG medical/dental courses in 2021, the Government of India implemented an All India Quota Scheme that gave OBCs a 27% reservation and EWS a 10% reservation.

Articles and clauses relating to reservation policy in The Indian Constitution-

Every person is guaranteed the right to equality by our constitution, which forbids discrimination on the grounds of caste, sex, race, religion, or place of birth. Additionally, it guarantees protection for the less advantaged and socially backward members of our society.

Article 15(4) –

The Constitutional (1st Amendment) Act of 1951 amended the Constitution by adding this article in response to the Supreme Court's ruling in the case of State of Madras v. Champakam

Doairajan¹. Nothing in this clause shall preclude the State from adopting any special provisions for the schedule castes or schedule tribes, or for other socially or educationally disadvantaged sections of people, in order to enhance their status. According to this Article, the state is permitted to establish special arrangements to ensure that disadvantaged groups have equal opportunities and positions in the political, legislative, and economic spheres. According to Article 14 of the Indian Constitution, the state is required to treat everyone equally, regardless of their caste, ethnicity, sex, religion, or place of birth.

Article 15(5)-

This amendment has been made to overturn the Supreme Court's earlier ruling in the case of *T.M. Pai Foundation v. State of Karnataka*², which held that the state cannot impose admission requirements on private educational institutions. In *Islamic Academy v. State of Karnataka*³, it was decided that colleges may set admissions quotas for these institutions, but they may not set tuition. The amendment was designed to allow the state to set rules for residences at private educational institutions.

Nothing in Article 15 or sub clause (g) of clause 1 of Article 19 prohibits the state from enacting special laws for the progress of people from socially and educationally disadvantaged groups, according to Article 15(5), as it relates to admission to educational institutions, including private colleges, whether state-aided or unaided, except from the minority educational institutions mentioned in Article 30 Clause (1).

Article 16(3)⁴-

Although discrimination on the basis of residency is prohibited by Article 16(2), this Article is an exception to that rule. It discusses the reserve of positions in the public sector based on place of residence. It gives Parliament the authority to set legal restrictions on how far a state may stray from this principle.

¹ AIR 1951 SC 226

² AIR 2003 SC 355

³ AIR 2003 SC 3724

⁴ THE CONSTITUTION OF INDIA BY JN PANDEY, PAGE 155.

Article 16 (4)⁵-

The state is given the authority to make reservations for members of underprivileged groups in public employment under Article 16(4). It allows for the appointment of lower-class citizens to any position that the state deems appropriate since they are not adequately represented in the state's services.

Other provisions relating to Reservation policies include *Article 39 A*, which discusses the state's duty to ensure that economically backward classes receive justice and free legal assistance, *Articles 342 and 342 A*, which require the president to announce which castes will be considered Scheduled Tribes in the nation and Backward classes, respectively, *Articles 338, 338 A, and 338 B*, which mandate the establishment of a National Commission for these classes, and *Articles 330 and 332* which provide reservations in parliament and State Assembly respectively.

Article 335-

The reservation policy is significantly influenced by this article. The 82nd Amendment Act of 2000 added it. This article addresses the argument that applicants for jobs and positions connected to union or state affairs should take into account SC and ST members while maintaining administrative effectiveness. The court has frequently ruled that the reservation policy set forth in Article 16(4) is constrained by Article 335, which expressly states that "Maintenance of efficiency of Administration" must be understood to mean that various social groups find representation as a true model of government by and for the people.

Reservation in Promotion:

In the case of *Indra Sawhney v. Union of India*, where there was a disagreement over whether to include reservations for SCs and STs in promotions, the Supreme Court upheld the Parliament's decision. It was decided that Article 16(4) prohibits and discusses everything linked to reservations in advertisements.

In addition to this, however, and in defiance of the Court's ruling, parliament chose to include a provision addressing the reservation in promotion, and by inserting Article 16 (4A) into the

⁵ THE CONSTITUTION OF INDIA BY JN PANDEY< PAGE 155-156

77th Constitutional Amendment, 1995, the state was given the authority to do so.

This clause is not mandatory; it is entirely up to the state whether or not it wants to provide SCs and STs a reserve for promotion.

Some of the Important Decisions Regarding Reservation

□ *Indra Sawhney V. Union of India*⁶

The Mandal case is another name for this case that is widely used. In the area of reservations, this is a very significant instance. This clarified a lot of questions about reservation policies. The 9-judge court ruled in this case that the Union Government's 27% reservation of government positions for members of the underclass, excluding those from the creamy layer, was constitutionally lawful. Policy applied exclusively to appointments; it did not apply to promotions. No more than 50% of the entire reservation should be made. Due to this lawsuit, Articles 16(4-A) and 16 were amended (4-B)

□ *State of Madras v. Smt. Champakan Dorairajan*

The Madras court made an order addressing the provision of reserved seats in medical colleges according to the individual's Caste in this case.

The Madras Government nonetheless sought to assist and uplift the backward class, but the court ruled that this was unconstitutional since it violated Articles 15(1) and 29. (2).

□ *M.R. Balaji and Ors. V. State of Mysore*⁷

Every year, the state of Mysore issues an order designating all community members, with the exception of Brahmins, as members of the socially and educationally backward classes under Article 15(4) and granting reservations of up to 75% in educational institutions to SEBC, SC, and ST individuals. It was deemed repetitious in nature for this kind of order to exist. When the Supreme Court threw it down, it was decided that caste in connection to Hindus could not be used as the exclusive factor in deciding whether a class of persons was socially backward.

⁶ AIR 1993 SC 477

⁷ AIR 1963 SC 649

a minimum of 50% of the total is required since in this circumstance, providing 75% of the reserve was illegal and improper in the eyes of the law.

□ ***State of UP v. Pradeep Tandon***

In this instance, the state government issued a decree reserving seats in educational medical facilities for residents of Uttarakhand, rural areas, and hilly regions. The categorization of applicants based on the geographical area's reputation for having socially and culturally backward strata was contested. The court ruled that the reservation for Uttarakhand and the hill areas was lawful since the people who live there lack sufficient facilities for transportation, communication, etc., which prevents them from receiving a quality education because they reside in a very distant place. However, the rural region is not eligible for reservation under this, as it was invalid to distinguish between persons in rural and urban areas only on the basis of whether or not they are impoverished.

Exclusion of Creamy layer from Reservation

Reservations were made in order to aid those who truly needed it for their own development and improvement on all fronts—socially, economically, and educationally. The OBCs in the creamy layer are the most advanced and have enough; they don't need a reservation because they are already in that position. This idea of barring creamy layers from reservations was originally raised by the Mandal Commission case, when it was decided that reservations would not be offered for creamy layers. The government had previously set a ceiling limit for creamy layers at 1 lakh, but that amount has now been raised to 8 lakh. This idea was essentially introduced because a certain class of advanced backward individuals received all the benefits intended for them, preventing the class's actually backward members from taking use of those benefits. It was claimed by CJI Justice K.G. Balakrishnan that this concept would not apply to the upper class of members of Scheduled Tribes and Schedule Castes, but it was decided in *M. Nagaraj v. Union of India* that this principle would apply to the upper class of SCs and STs as well.

It was discovered that those who are already socially, educationally, and economically advanced should not be included in the reservation programme since doing so will prevent members of that caste from receiving the benefits that are intended for them. They need to be encouraged since they are the weakest of the weak. If the creamy layer and advanced society

people take all the benefits which is provided for the one who needs them, the goal of reservations to give and unite the complete class of people of the country will never be attainable.

Why is it important to expand the reservation?

Since our country's adoption of this reservation policy, a sizable proportion of members of the underprivileged class has grown in number. Whereas in the past our ancestors wouldn't even let them touch themselves, in today's era this has completely changed and the class of underpopulated and backward people has been uplifted so much that in every field they are not only given a chance but are also doing excellent work and making our nation proud.

This strategy not only benefited SCs and STs, but also OBCs and EWS community members who were economically and educationally underprivileged despite not belonging to SCs or STs. The areas that lacked money and educational opportunities, but thanks to the reservation policy, they were also given an opportunity and assisted in rising. Without reservations, these group would not have been able to arrive where they are now and would never have been treated with respect in our culture.

The restoration programme is crucial for our country because of past injustice and carelessness. Having a fair opportunity to compete with upper class individuals who have access to all the facilities and are already well developed and well-off is made possible by this strategy, which aids those who have trouble obtaining education, skills, and economic mobility.

Reservation policy expansion is still crucial, but it must continue with certain modifications. This approach must focus on those who truly need to be uplifted regardless of the caste to which they belong, rather than being caste-based. Giving disadvantaged children the chance and privilege is what should be pursued in order to achieve equality. People with higher-ranking positions, high-class officials, and people from wealthy families shouldn't be given reservations. Those who need reservations should be allowed to make them. This will contribute to a more equitable and effective method of assisting those in need. Reservations shouldn't be made on the basis of caste.

Today, offering assistance is not dependent on a person's caste or religion; instead, those in need of assistance—those with less resources—should be given priority in the hiring and

admissions processes. It's crucial to group all the upper class affluent people together rather than dividing individuals based on caste, and to provide the economically disadvantaged people the opportunities and relief they truly need. It would be preferable if only two members of a family could receive emancipation from the backward family, since this would be sufficient to put the family in a position where they may live happily in society.

Conclusion

In order to unite everyone and aid those from economically disadvantaged classes in lifting up a particular caste of people—which was a big necessity in our society—our constitution's framers gave us the reservation policy.

Whatever the reason for the policy's introduction, it has been misused in the modern day. The benefits of this were also enjoyed by those who already had everything, while others who needed it and were the intended beneficiaries were not. This reservation strategy has evolved into a tactic used by our society's leaders to win over voters. Many classes, such as Gujarat Patels, who arguably don't even require reservations, are yet given them. The rural population serves as an example of backwardness rather than progress. Today, those who were formerly underprivileged have gained privileges, while those who were previously privileged have moved into the area where this lower caste previously resided. Due to the fact that privileged lower caste individuals steal the seats of these generally eligible applicants, many deserving candidates and people stay jobless and are unable to enrol in educational institutions. Despite being aware of everything, we continue to ignore this important fact. These days, caste-based discrimination has a very bad reputation. The necessity of our society is for everyone to be on an equal footing, not for lower caste individuals to be placed above those of higher rank. Regardless of caste, the goal should be to provide resources and opportunities to those who truly need them.

It is necessary to halt this practise and give aid to people who actually require it rather than to those who are merely receiving it because they are members of a lower caste. Just because they were not born into a lower caste household doesn't mean they should be denied the resources that the government should offer to them. There are many members of the general caste who are not financially stable and require assistance. If this conservation programme is implemented as intended, it might have a very beautiful and wonderful outcome. It's not a fruit that must be

given to them continuously because of their social status. The needs have evolved throughout time. Every action must continue to meet the needs of society and the populace. The necessity of the day is to give accommodations to people who need them, regardless of their class or caste, rather than reserving spaces based on caste. This reservation strategy will become significantly more important as soon as this nation begins to think about how to unite the nation.

Even while it doesn't mean to downplay the necessity of ending the caste system, it should be treated equally so that equality may be ensured in society and wrongdoings like untouchability don't resurface as a serious issue for our nation. If correctly implemented, this policy can have a positive impact on our society by providing fair and reasonable treatment to individuals who are extremely socially, educationally, and economically behind.