
INDIAN RESERVATION SYSTEM: AN ANALYSIS

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ABSTRACT:

Reservation policy was originally developed on the basis of the Caste System and the malpractice of untouchability in India. When the constituent assembly was framing the Constitution of India, social discrimination based on the caste system was a huge hindrance to equality in society. Hence, the provision of reservation for the socially backward classes was introduced in the Constitution of India. Reservations were initially introduced for a period of 10 years and only for SCs and STs, but it is extended with several changes. The period of reservation was further extended until 25, January 2030 (by the 104th Amendment in 2020).

Keywords: Reservation, special privileges and extra protection, untouchability, discrimination, socially and economically backwards classes, social equality & reserved quotas and seats, abolishment of the caste system, sorts of discrimination etc.

Key notes:

Reservation is a system of affirmative action in India that was established during the British. The Indian Constitution allows the Union Government and the States and Territories of India to allocate a specific percentage of *reserved quotas or seats*, in higher education admissions, employment, political bodies, etc., for "socially and economically backward citizens". Since its implementation, reservation has been a subject of massive debates and controversies over its impact, execution and effectiveness, significantly shaping the agendas of political parties and the actions of social groups. It is a form of preferential treatment designed to promote social justice, ensure representation, and provide equitable opportunities for communities such as Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC).

Is reservation policy Indispensable?

The question that whether the reservation policy is indispensable or it becomes part and parcel of Indian Society which cannot be eliminated, is a subject of on-going debate. Is there any other

way to uplift the downtrodden particularly SCs/STs/OBC.

“The worst form of inequality is to try to make unequal things equal.” The reservation policy was introduced as affirmative action, with an idea of ensuring the equality and adequate representation of SC/ST/OBC in every service under the state. The reservation policy in India was adopted with a reason to uplift certain castes who were subjugated to atrocities, socially and economically backwardness due to the prevalent dominance of caste system in Society.

Constitutional Provisions of Reservation for SC’s/ ST’s/OBC’s/EWS:

- i. Article 15(4) and 16(4)¹ of the Constitution enabled the Centre and State Governments to reserve seats in government services for the members of the SC’s and ST’s.
- ii. Constitutional (77th Amendment)² Act, 1995 and a new clause (4A) was inserted in Article 16 to enable the government to provide reservation in promotion.
- iii. Constitutional (81st Amendment) Act, 2000³, inserted Article 16(4B): which enables the state to fill the unfilled vacancies of a year which are reserved for SCs/STs in the succeeding year, thereby nullifying the ceiling of 50% reservation on total number of vacancies of that year.
- iv. Article 330 and 332⁴ which provides for specific representation through reservation of seats for SCs and STs in the Parliament and in the State Legislative Assemblies respectively.
- v. Article 243D⁵ provides reservation of seats for SCs and STs in Panchayat.
- vi. Article 233T provides reservation of seats for SCs and STs in every Municipality.
- vii. Article 335 of the constitution says that the claims of STs and STs shall be taken into consideration without compromising the maintenance of efficacy of the administration.

¹ Article 15(4) and 16(4)¹

² Constitutional (77th Amendment)² Act, 1995

³ Constitutional (81st Amendment) Act, 2000³

⁴ Article 330 and 332

⁵ Article 233T, 243D and 335

- viii. Part XVI of the constitution of India deals with reservation for SC's and ST's in Central and State legislatures.
- ix. 103rd Constitutional amendment provides 10% reservation for Economically Weaker Section (EWS) in the general category under articles 15(6) and 16(6)⁶.
- x. OBCs were also included in the ambit of the reservation and were given 27% of reservation, 15% seats are reserved for SC category and 7.5% for ST category (after the recommendation of Mandal Commission)⁷. As per 103rd (Constitutional amendment), enforced on 14 January 2019, 10% reservation was given to the Economically Weaker Section (EWS) in the general category under articles 15(6) and 16(6) of the Constitution of India. Reservation for the EWS category was given over and above the existing 50% reservation for SC/ST/OBC categories.

Landmark Judgments on Reservation in India

I. State of Madras v. Champakam Dorairajan [MANU/SC/0007/1951/ [1951] 2 SCR 525 / AIR 1951 SC 226⁸.

The Supreme Court in the case pointed out that while in the case of employment under the State, Article 16(4) provides for reservations in favour of backward classes of citizens, no such provision was made in Article 15. Pursuant to the Supreme Court's order, in this case, the Parliament amended Article 15 by inserting Clause (4). The apex court also held that caste-based reservations as per Communal Award violative of Article 15(1) of the constitution.

II. M. R. Balaji v. State of Mysore [MANU/SC/0080/1962 / AIR 1963 SC 649]⁹:

It was held that the government's 68% reservation on college admissions was deemed excessive and unreasonable, and was capped at 50%. Almost all states except Tamil Nadu (69%, under 9th schedule) and Rajasthan (68% quota including 14% for forward castes) have observed this 50% ceiling.

⁶ Articles 15(6) and 16(6).

⁷ Mandal Commission

⁸ *State of Madras v. Champakam Dorairajan* [MANU/SC/0007/1951/ [1951] 2 SCR 525 / AIR 1951 SC 226]

⁹ *M. R. Balaji v. State of Mysore* AIR 1963 SC 649 / MANU/SC/0080/1962

III. Indra Sawhney & Others v. Union of India [MANU/SC/0104/1993 / AIR 1993 SC 477/ 1992 Supp (3) SCC 217]¹⁰:

The Hon'ble Supreme Court upheld separate reservation for OBC in central government jobs, but excluded these to the "creamy layer" and also held that total reservation cannot exceed 50%. Judgement implemented, with 27% central government reservation for OBCs. The court examined the scope and extent of Article 16(4). Contrary to this Parliament enacting 77th Constitutional Amendment Act which introduced Article 16(4A). The article confers power on the state to reserve seats in favour of SC and ST in promotions in Public Services if the communities are not adequately represented in public employment.

IV. M. Nagaraj v. Union of India [MANU/SC/4560/2006 / AIR 2007 SC 71 / (2006) 8 SCC 212]¹¹:

The Supreme Court while upholding the constitutional validity of Art 16(4A) held that any such reservation policy in order to be constitutionally valid shall satisfy the following three constitutional requirements:-

- a. The SC and ST community should be socially and educationally backward
- b. The SC and ST communities are not adequately represented in Public employment.
- c. Such reservation policy shall not affect the overall efficiency in the administration.

V. Ashoka Kumar Thakur Vs Union of India [MANU/SC/0225/2008 / (2007) 4 SCC 361]¹²:

In the year 2005, the government introduced (93rd constitutional Amendment) Act and Article 15 (5) was inserted in the constitution of India. Article 15 (5) provides reservation to the socially and educationally backward classes in relation to admission in public and private educational institutions. But this amendment was challenged on the ground that it

¹⁰ *Indra Sawhney & Others v. Union of India AIR 1993 SC 477/ 1992 Supp (3) SCC 217 / MANU/SC/0104/1993*

¹¹ *M. Nagaraj v. Union of India MANU/SC/4560/2006 / AIR 2007 SC 71 / (2006) 8 SCC 212*

¹² *Ashoka Kumar Thakur Vs Union of India MANU/SC/0225/2008 / (2007) 4 SCC 361*

is against the principle of equality and violative to the basic structure of the constitution.

The Supreme Court while upholding that the constitutional validity of this amendment, held that the reservation provides an extra advantage to those who without such support cannot dream of university education. It was further held that:-

- a. 93rd constitutional amendment act does not violate the basic structure of the constitution as it only moderately abridges or alters the principle of equality.
- b. Reservation in educational institutions is a part of affirmative action.
- c. Social and financial status must be studied for the identification of backward classes.
- d. Caste or economic backwardness should not be the sole criteria of the reservation. For reservation social, economic, and educational backwardness should be considered together.
- e. Creamy layer exclusion principle should not be extended to SCs and STs.

VI. Jarnail Singh vs Lachhmi Narain Gupta [MANU/SC/1053/2018 / (2018) 10 SCC 396 / AIR 2018 SC 4729]¹³

The Hon'ble Supreme Court held that reservation in promotions does not require the state to collect quantifiable data on the backwardness of the Scheduled Castes and the Scheduled Tribes. The Court also held that creamy layer exclusion extends to SC/STs and, hence the State cannot grant reservations in promotion to SC/ST individuals who belong to the creamy layer of their community.

VII. The State of Punjab and Ors. v. Davinder Singh and Ors. (C.A. No.2317/2011) / 2024 [SCC OnLine SC 1860 / MANU/SC/0816/2024]¹⁴:

The Supreme Court, while pronouncing the judgment with 6:1 majority holding the sub-classification of the Scheduled Castes and Scheduled Tribe permissible, has in the concurring opinion of Justice Pankaj Mithal held that the reservation must be limited only to the first

¹³ Jarnail Singh vs Lachhmi Narain Gupta *MANU/SC/1053/2018 / (2018) 10 SCC 396/ AIR 2018 SC 4729*

¹⁴ The State of Punjab and Ors. v. Davinder Singh and Ors. (*C.A. No. 2317/2011*) / **2024 [SCC OnLine SC 1860 / MANU/SC/0816/2024]**

generation and that it must be on some criteria other than caste since the Constitution does not have a caste system and the country has moved into a caste-less society.

A seven-judge Bench of the Supreme Court pronounced the judgment that sub-classification of the Scheduled Caste and Scheduled Tribe categories is permissible. There are six opinions in the judgement. Justice Bela Trivedi has dissented.

Justice Pankaj Mithal, pronounced concurring judgment and held:

The policy of reservation as enshrined under the Constitution and by its various Amendments require a fresh relook and evolvement of other methods for helping and uplifting the depressed class or the downtrodden or the persons belonging to the Scheduled Castes and Scheduled Tribe; and other that backward classes communities. So long as no new method is evolved or adopted, the system of reservation, as prevailing, may continue to occupy the field with the power to permit sub-classification of a class, particularly in Scheduled Caste".

It was further held, "In the constitution, there is no caste system and the country has moved into a caste-less society except for giving provision under the Constitution for the limited purpose of affording reservation to the depressed class of persons or belonging to downtrodden or SC/ST. Therefore any facility or privilege for the promotion of the above category of persons has to be on a totally different criterion other than the caste. May be on economic or financial factors or status of living, vocation, the facilities available to each one of them based upon their place of living, urban or rural.

Reservation, if any, has to be limited only for the first generation or one generation. If any generation in the family has taken advantage of the reservations and has achieved higher status, the benefit of reservation would not logically be available to the second generation. It is reiterated that periodical exercise has to be undertaken to exclude class of persons, who after taking advantage of reservation have come to march shoulder to shoulder with the general category.

Conclusion:

Equality is the essence of the constitution of India. Reservation policy provides special privileges and extra protection to certain classes of people (OBC/SC/ST) in the society. Reservation benefits should be extended only to the first generation of the class that, due to

social and economic backwardness, has gained access to higher education or government jobs for the first time. The second generation, which has already achieved equal opportunities, should not be benefited from reservation.

Reservation is fair, as far as it provides appropriate positive discrimination for the benefit of the downtrodden and economically backward Sections of the society but when it tends to harm the society and ensures privileges to some at the cost of others for narrow political ends; it should be done away. Meritocracy should not be polluted by injecting relaxation of entry barriers, rather than it should be encouraged by offering financial aid to the underprivileged. If reservation is indispensable, Social, educational and economic criteria should be taken cumulatively to determine the backward classes of the society.

Reservation should not be provided generations to generation perpetually. It can be provided to people who really deserve such kind of affirmative action or extra protection. Simultaneously, equal importance should be given for the abolishment of the caste system, malpractice of untouchability and other sorts of discrimination.

Overall, this aspect demonstrates the importance of reservations in Indian society, but also opens new avenues for necessary reconsideration and equality. Society and the government need to periodically review the reservation policy to ensure its true benefits reach the needy people.

Acts/Law and judgments relied upon:

1. *Article 15(4)(6), 16(4)(4A)(6), 330 & 332, 233T, 243D and 335*
2. *Constitutional (77th Amendment) Act 1995*
3. *Constitutional (81st Amendment) Act 2000*
4. *Mandal Commission*
5. *State of Madras vs. Champakam Dorairajan [MANU/SC/0007/1951/ [1951] 2 SCR 525 / AIR 1951 SC 226]*
6. *M. R. Balaji vs. State of Mysore AIR 1963 SC 649 / MANU/SC/0080/1962*
7. *Indra Sawhney & Others vs. Union of India AIR 1993 SC 477/ 1992 Supp (3) SCC 217 / MANU/SC/0104/1993*
8. *M. Nagaraj vs. Union of India MANU/SC/4560/2006 / AIR 2007 SC 71 / (2006) 8 SCC 212*
9. *Ashoka Kumar Thakur Vs Union of India MANU/SC/0225/2008 / (2007) 4 SCC 361*
10. *Jarnail Singh vs. Lachhmi Narain Gupta MANU/SC/1053/2018 / (2018) 10 SCC 396/ AIR 2018 SC 4729*
11. *The State of Punjab and Ors. vs. Davinder Singh and Ors. (C.A. No. 2317/2011) / 2024 [SCC OnLine SC 1860 / MANU/SC/0816/2024]*