



RESERVATION POLICY IN INDIA: A CONCEPTUAL ANALYSIS OF JUDICIAL PRONOUNCEMENTS

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Abstract

The Reservation system in India was implemented to help historically underprivileged parts of Indian society. Scheduled Castes (SC), Scheduled Tribes (ST), Other Backward Classes (OBC), and Economically Backward Classes (EBC) are given opportunities through legislative reservations, government jobs, promotions, and educational scholarships. The reserve ratio in higher education institutions is 49.5%. A comparable ratio is used in Parliament as well. Therefore, in this article we will analyse the reservation policy in India with reference to various judicial pronouncements made by the Apex court.

Keywords: Reservation in India, SCs, STs, OBCs, judicial pronouncements

INTRODUCTION

Reservations existed in India prior to independence. Following independence, the Constituent Assembly, chaired by Dr. B.R. Ambedkar, established the reservation system. Initially, it was adopted for a 10-year period. After a ten-year period, Indian legislators realised the importance of maintaining the quota system in order to address many years of societal and cultural discrimination against certain sectors of society. Reservations were incorporated in the Indian Constitution shortly after independence as a means of recognising the past injustice meted out to persons belonging to backward groups and implementing provisions that would provide them greater access to resources and opportunities. The long-standing social system led to the establishment of our country's reservation system. The system's principal purpose is to elevate the people and provide them rights. The purpose of this system is to give reservations for the development of Scheduled Castes (SC) and Scheduled Tribes (ST), as well as any socially or educationally deprived sections or Economically Weaker Sections (EWS) in our country. Although some wealthy groups employ the reservation technique for SCs/STs, it has proven effective. The SC/ST reservation policy has benefited poorer sectors of the population by providing social justice and opportunities for advancement. Although the Indian Constitution gives all citizens equal rights and opportunities, there are still barriers to social mobility for those from underprivileged backgrounds. The implementation of government policies and programmes aims to improve the upward mobility of underprivileged communities.¹

¹ Sonal Srivastava, All About Reservation Policy In India, available at: <https://blog.ipleaders.in/reservation-policy-india/>

JUDICIAL PRONOUNCEMENTS**1. State of Madras v. Champakam Dorairajan²**

The fundamental question was whether the rule enacted in the community Government Order (G.O.) regarding reservation in colleges and universities was still legitimate. Despite her excellent scores, Smt. Champakam Dorairajan, a Brahmin woman from Madras, was denied admission to medical school in 1951. The government issued a collective G.O., which caused this to happen. The issue at hand concerns admittance to educational institutions in India and the interpretation of key clauses of the Indian Constitution, namely clauses 13, 16(4), 29(2), and 46.

The High Court ruled that the contentious Communal Government Order, which supported a caste-based quota system, violated the Indian Constitution. The Supreme Court cited Article 37 of the Indian Constitution, which specifically declares that the articles in Part IV, which include the Directive Principles of State Policy, are unenforceable in a court of law. However, these are critical to the wellbeing of society, and it is the responsibility of states to implement them to the advantage of citizens. In circumstances where Fundamental Rights and Directive Principles of State Policy conflict, Article 37 is important because it shows that, while Directive Principles are important, they cannot go against the Fundamental Rights of the Indian Constitution. The Court decided that Article 29(2) requires no discrimination in educational institutions, and the provisions of Article 46 cannot be utilised to override the same by the State. The Court highlighted the importance and value of fundamental rights. The substance of the Constitution is embodied in these Fundamental Rights, which cannot be superseded by any legislative or executive order save within the boundaries provided by the relevant articles in Part 3 of the Constitution. The State must create rules and regulations that do not violate the Fundamental Rights guaranteed by the Indian Constitution. The Court decided that Article 29(2) requires that there be no discrimination in educational institutions, and that the State cannot employ Article 46 requirements to overrule or surpass it.

In this case, the court noted that she did not apply to the state's medical college. She did not apply because she assumed she would be denied admission because she was a Brahmin. However, there was no opposition to her non-application, and following the Court's decision, the State promised to reserve a seat for her if she applied. Finally, the Court decided that the Communal Government Order is invalid under Article 13 because it violates the provisions of Article 29(2) in Part 3 of the Indian Constitution. As a result, the appeal is dismissed with costs.

2. M.R. Balaji and ors. v. State of Mysore³

On July 26, 1958, the state of Mysore enacted a rule. It stated that all communities, with the exception of the Brahmin community, were educationally and socially backward. This rule allocated 75% of seats in schools and colleges to certain groups. Then, in 1962, the State of Mysore implemented a new rule. This new rule repealed all prior provisions that reserved seats under Article 15 (4) for specific categories. Instead, the backward classes were divided into two categories: backward classes and additional backward classes. This new law allocated 68% of seats in engineering, medical colleges, and other institutions for educationally and socially disadvantaged groups, as well as Scheduled Castes and Scheduled Tribes. Only 32% of the seats were reserved for students of excellent distinction. In MR Balaji vs State of Mysore, the court ruled that the questioned order violated the State's constitutional authority under Article 15(4) and should be overturned. The order segregated backward classes based purely on caste, which is prohibited under Article 15(4). The reserving of 68% of seats contradicts the concept of the specific provision allowed under Article 15(4).

However, the court avoided establishing a specific and precise percentage for reserves, noting that reservations must help the advancement of marginalised groups in society. However, caution should be made not to eliminate qualified individuals from other communities. In terms of educational backwardness, the test for literacy derived from Census reports may be insufficient. The use of the average student population from the previous three high school classes as a criterion for educational backwardness may be problematic. Nonetheless, placing castes or communities that are slightly above or very close to the state average on the list of disadvantaged groups is unjustified. The sensible approach is to regard classes considerably below the

² AIR 1951 SC 226

³ AIR 19963 SC 649

state average as educationally backward. This is a matter for the state to decide, taking into account the demands of Article 15(4). The division of backward classes in two categories, "backward classes" and "more backward classes," exceeds the limits of Article 15 (4). Article 15 (4) allows for specific provisions for genuinely disadvantaged classes, but the introduction of such dual categories seeks to establish measures for all classes in the State that are less advanced than the most advanced ones. However, according to the court in *MR Balaji versus State of Mysore*, this is not consistent with the intended ambit of Article 15 (4).

The goal of establishing particular measures for the advancement of specific castes or groups is to meet the Directive Principle outlined in Article 46. To attain the goal of social and economic equality, the weaker sectors' educational and economic interests must be advanced quickly and generously. Article 15 (4) allows the State to take the necessary steps to attain this goal. While implementing suitable provisions under Article 16 (4), it is critical to avoid making unjustified, excessive, or costly reservations. According to the court in the present case, such measures could undermine fair competition across a broad sector and lead to widespread unhappiness among employees, reducing their efficiency. Reservations that exceed the permissible and legitimate boundaries under Article 16 (4) will constitute a violation of the Constitution, just as poorly constructed special provisions under Article 15 (4) are.

3. T. Devadasan v. The Union of India and Another⁴

The carrying forward provision was challenged as being so broad that it nullified or abolished the rights provided by Article 16 clause (1). The Court, relying on the *Balaji* dicta of the less than 50% quantum rule and the assumption that Articles 15(4) and 16(4) were exceptions to the main sections, struck down the carry forward rule as modified in 1955 by a majority of 4:1. The *Balaji* case established that the rule is problematic. In *General Manager Southern Railway v. Rangachari*, Gajendragadkar, J., who gave the majority judgement, stated that reservations under Article 16(4) are intended to provide adequate representation to marginalised communities, not to create monopolies or harm legitimate interests. In exercising the authorities provided for in Article 16(4), the matter of adequate representation of the backward class of individuals must be handled equally and objectively, and an attempt must always be made to achieve an equitable balance between the claims of backward classes and other worker's interest, As well as other essentials of administrative efficiency. Both of these rulings make it obvious that the problem of providing sufficient representation to members of backward classes imposed by Article 16(4) of the Constitution cannot be addressed by enacting a general norm without considering its long-term consequences. The government must decide the exact approach to use to achieve this goal. It is necessary to state that, while the government can develop any approach, it must strike "a fair balance between the claims of the backward classes and the claims of other employees," as *Balaji's* case demonstrated. The Court's substantial reliance on the *Balaji* case was notable in its argument for establishing a quantitative rule to reserve positions in accordance with Article 16(4) of the *Balaji* decision, as well as reservations in educational institutions under Article 15(4). While *Balaji's* decision focused on the number of reservations in educational institutions, he made some observations on Articles 15(4) and 16(4), which both need an acceptable and valid reservation cap. His obiter was, however, deemed disproportionate and unreasonable by the majority in *Devadasan*, who overturned the altered carry forward rule. The Court, however, found no distinction in the terminology utilised in the two sections. The Court suggested that the reservations should not be used to undermine or nullify the principle of equal opportunity, and that the overall impact of clause (4) on clauses (1) and (2) of Article 16 was restricted in such cases to a limited number of reservations of appointments and posts. The method of obtaining suitable representation for backward-class members has to strike a fair balance between backward-class claims and other employee claims. The Court emphasised that in order to carry out the guarantee, each year of recruiting must be assessed separately, and the reservation for backward communities should not be so extensive that it creates a monopoly or unnecessarily interferes with the legitimate demands of other groups. According to the ruling, Article 16(1) guarantees equal rights for all workers and nominations to state offices. This ensures that the State will treat all people fairly at any recruitment opportunity. The guarantee applies to every individual citizen, and so every person seeking a job or position in an office within the State is entitled to an opportunity to pursue such jobs or positions whenever they are likely to be filled."

⁴ AIR 1964 SC 179

4. State of Kerala v. N.M. Thomas⁵

The decision is based on several sections of the Indian Constitution that play an important role in providing equal rights and opportunities in public employment. The current case concerned the privileges and preferential treatment of backward classes, notably the Scheduled Castes and Scheduled Tribes. The Court emphasised that the provisions of Articles 14, 15, and 16, which generally give equality rights, complement one another. The Court upheld Rule 13AA of the Rules, as well as two orders, Exhibits P-2 and P-6, and overturned the High Court of Kerala's decision to strike down these Rules and Orders. The Court emphasised that reasonable classification is vital for guaranteeing justice and equality, and certain remedial measures may be required. The decision is based on several sections of the Indian Constitution that play an important role in providing equal rights and opportunities in public employment. The current case concerned the privileges and preferential treatment of backward classes, notably the Scheduled Castes and Scheduled Tribes. The Court emphasised that the provisions of Articles 14, 15, and 16, which generally give equality rights, complement one another. The Court upheld Rule 13AA of the Rules, as well as two orders, Exhibits P-2 and P-6, and overturned the High Court of Kerala's decision to strike down these Rules and Orders. The Court emphasised that reasonable classification is vital for guaranteeing justice and equality, and certain remedial measures may be required in order to elevate the interest of backward classes. However, the Court stated that such steps should not jeopardise the functioning of the services. The Court believed that equality of opportunity should be extended to all citizens, regardless of class, rather than only a subset of the population. The classification must be sensible and closely related to the intended goal. The state should not discriminate against someone at the expense of others. The Court interpreted the Constitution's equality clauses, explaining that state policies governing public employment must be consistent with the principles of equality and social justice. The Court emphasised that while interpreting Articles 16(1) and 16(2), it is critical to remember Article 46, which instructs the State to take steps to advance the interests of backward classes, particularly the SC and ST. Furthermore, the Court addressed Article 335, which calls for more precise measures dealing with reservations within State services. The Court stated that Article 335 should not be overlooked or weakened when determining the meaning of Articles 16(1) and 16(2).

The Court ruled that the High Court's ruling addressing the denial of benefits to employees from backward classes solely because it fell outside the scope of Article 16(4) seemed incomplete. The respondent was responsible for showing the unjust prejudice against them, which they had failed to do. As a result, the Court dismissed the petition.

5. Indra Sawhney v. Union of India and Others⁶

Indra Sawhney, a lawyer, filed a Public Interest Litigation (PIL) under Article 32 of the Indian Constitution, challenging the execution of the Mandal Commission Report's recommendations. One of the major concerns highlighted in this PIL is the idea that caste be used as the primary factor for determining who falls into the 'backward class'.

The Hon'ble Bench also established the limitations of the term "backward class of citizens" in the Indra Sawhney case. This is relevant for two reasons: it restricts the criteria for identifying the same, and it contrasts from the language "socially and educationally backward classes of citizens" codified in the subsequently introduced Article 15(4) [introduced vide the Constitution (First) Amendment Act, 1951] as compared to the phrase "backward classes of citizens" enshrined in Article 16(4). The Supreme Court ruled that there is no constitutional or legal bar on the State from classifying a specific class as backward or more backward, and so such classification will not be unconstitutional if done legitimately. The Court's reasoning for permitting such a classification is identical to that of a creamy layer. That example, while there are many backward classes, some, such as goldsmiths, are more advanced than others. If everyone has the same reservations, the more backward classes may suffer, while the less backward ones will benefit from them. To avoid this injustice, the Court allowed the Commission and the State to decide on the question of sub-classification of classes into backward classes and more backward classes. If the classification is arbitrary, it can be challenged in court, requiring the court to intervene. The Court addressed the issue of reservation in promotion by citing

⁵ AIR 1976 SC 490

⁶ AIR 1993 SC 477

Article 16(4) and Article 335 of the Indian Constitution, which deal with Claims of Scheduled Castes and Scheduled Tribes to Services and Posts, and held that no reservations shall be made in cases of promotions because they impair administrative efficiency.

6. Jarnail Singh v. Lacchmi Narayan Gupta⁷

The clauses of Article 16 (4), namely (4A) and (4B), were challenged in the matter of M. Nagraj versus Union of India (AIR 2007, SC 71). This case considers the terms of Article 16 (4) in light of the right to equality, as well as equal opportunity and fair treatment. The Hon'ble Supreme Court upheld the validity of the provisions in its judgement, stating that if the state wishes to exercise its discretion and make provisions regarding the reservation, it must collect quantifiable data demonstrating the class's backwardness in areas of public employment. First and foremost, the court refused to review or reconsider Nagraj's case before a higher panel of judges. The court expressed its opinion, citing the Nagraj case, which used the creamy layer test. The court concluded that if the creamy layer class is not excluded, the aim of reserve is defeated. A five-judge bench of the Supreme Court ruled that people in the creamy layer of the SCs and STs would not be eligible for reservation privileges. People in the creamy layer are socially, educationally, and economically advanced, and hence should be excluded from the scope of the reservation to preserve the concept of equality. The court relied on the Indra Sawhney decision and declared Nagraj's reservation terms unconstitutional. In Indra Sawhney, a nine-judge bench of the Supreme Court ruled that the backwardness test does not apply to SCs and STs because they are deemed to be backward in any sense. As a result, the Court strongly rejected the need of demonstrating backward, which was directly opposed to Indra Sawhney's argument. Justice Nariman stated that "the whole object of reservation is to see that backward classes of citizens move forward so that they march hand in hand with other citizens of India on an equal footing. "This will not be conceivable if only the cream of the crop in that class gets all of the sought jobs in the public sector and perpetuates itself, leaving the rest of the class as backward as they always were." According to this, if those who do not deserve the position get hired, the creamy class's entire objective will be defeated. The goal of the creamy layer is to implement the equality principle, so that the unequal and those who truly deserve the job do not acquire it and are eliminated.

7. B.K. Pavitra v Union of India⁸

On March 22, 2017, the Court overturned the Reservation Act of 2002 in a previous decision (BK Pavitra I). It determined that the State had failed to produce persuasive evidence to support the consequential seniority policy. It gave the State of Karnataka three months to take further action. Following the decision, the State of Karnataka established the Ratna Prabha Committee to submit a quantitative report demonstrating the three Nagaraj criteria: current backwardness of SC/STs, cadre-wise representation of SC/STs in Government Departments, and (iii) impact on administrative efficiency due to reservation in promotion. Karnataka approved the 2018 Reservation Act based on the Ratna Prabha Committee's report. On the first question, the Court ruled that the Reservation Act 2018 does not constitute a legislative overturning of BK Pavitra I. Justice Chandrachud observed that the 2018 Act altered the premise of BK Pavitra I by supplying data. He ruled that corrective legislation is constitutionally permissible. On the second question, the Court examined the facts presented by the State, which demonstrated backwardness, inadequate representation, and administrative efficiency. Justice Chandrachud stressed that the Court's judicial review authority was limited, noting that the requirement for reservation falls under the purview of the government and legislative. As a result, on May 10, 2019, the Supreme Court affirmed the constitutionality of the 2018 Reservation Act, which established consequential seniority for SC/STs in Karnataka government jobs. Section 3 of the 2018 Reservation Act allows for reservation in promotion, whereas Section 4 validates consequential seniority dating back to April 24, 1978.

⁷ (2018) 10 SCC 396

⁸ AIR 2019 SC 2723

8. Janhit Abhiyan v. Union of India⁹

The 103rd Amendment Act established a special reservation allotment for members of the economically weakest parts of society. This quota was in addition to the existing ones for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes. Article 15(6) specified that such reservations might be made at any educational institution. This eliminated minority educational establishments and included private institutions that received or did not receive government financing. Article 16(6) allowed for comparable reservations in appointments (10% of which were independent of any current reservation). Subsequently, multiple writ petitions were submitted before the Court, alleging that the reservation was violative of the Constitution's basic structure because it went against the ideals of non-discrimination and equal rights for all people. Prior to the Act's enactment, 49.5% of seats were designated for public appointments and educational institutions. This comprised distinct quotas for SCs (15%), STs (7.5%), and OBCs (27%). Following the hearing on the question of referring the case to a Constitutional bench, the Court resolved on August 5, 2020, to refer the matter to a bigger court (a five-judge bench). The matter was scheduled to be heard on August 30, 2022, during the first week of September. Attorney General K.K. Venugopal outlined the issues in the case, which was admitted by the Bench on September 8, 2022. Denying the economically disadvantaged the opportunity for education and work is denying those who are capable and qualified what they legitimately deserve. He emphasised how the continued development and expansion of education had resulted in a significant narrowing of the gap between different parts of society. With an increasing number of individuals from disadvantaged classes achieving quality education and work, they must be eliminated from backward category quotas so that more attention can be given to others. Justice J.B. Pardiwala emphasised the need of developing a mechanism for identifying and distinguishing distinct members of the backward classes, as well as ensuring that the standards used to classify the disadvantaged sections are still valid today. As a result, the Supreme Court declared the 'Economic Disabilities or Economic Backwardness condition' to be a valid condition for reservation. They remarked that this reserve was designed to address the sufferings caused by economic disadvantages and was sanctioned by the Indian Constitution. They discovered that the Constitution's equality clause incorporated the concept of real and 'substantive equality', rather than just legal equality.

CONCLUSION

The government would have to take a variety of steps as part of a coordinated and focused effort. The SC minority community demands better services, especially in the fields of literacy, health development, and poverty reduction. The SC minority community need improved services, particularly in the areas of health, literacy, and poverty reduction. Illiteracy prevents access to the public educational system. Of course, several variables contribute to this situation. One of these is the economic downturn that South Carolina's minority communities are experiencing; it is recommended that, in order to address this, these communities be given access to distinct development programmes; given their financial challenges, these communities be granted their own growth plans. The goal of India's reservation policy is to give the impoverished an equal opportunity. The reservation system should be changed so that lower-caste persons may prove themselves. Reservations should be altered to accommodate the needs of various communities. To remedy the old technique, reservations should be updated. Reservations should only be issued to people in real need. Reservations would be unfair to other groups that strive for greatness.¹⁰

⁹ 2022 SCC Online SC 1540

¹⁰ Dr. G. Yoganandham, Mr. A. Abdul Kareem, Mr. E. Mohammed Imran Khan, Mr. G. Elanchezhian, An Evaluation of the Reservation System in India, 11 IJARESM 3, PG 227-228 (2023)

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