



Is there a case for reservation for the forward classes?

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Social justice is not possible if we exclude the economically backward sections of our society

- Social justice is inclusive in nature.
- Poverty is one such marker of backwardness, and a very strong one, which denies certain basic rights and equality in society to individuals affected by it.
- The Preamble, which is the soul of the Constitution, promises to all citizens social, economic and political justice.
- The economic status of citizens constitutes one of the three tests of backwardness.
- Hence, the ends of social justice cannot be truly met if we exclude the economically backward sections of society from availing the fruits of development in an equal manner.

A move to help the poor

- Poverty denies equality of opportunity to individuals in education and employment.
- It denies them the opportunity of a decent and sustainable livelihood.
- Reservation, by the prevalent logic, ensures participation of the disadvantaged sections in employment through positive discrimination.
- Hence, there was a strong case for making a provision for reservation for the economically backward in the general category in education and employment to ensure that they also get reasonable opportunities to advance in life.
- The present provision of 10% reservation for the economically backward in the general category is being referred to as reservation for the 'savarnas', or upper castes.
- However, reservation under this category is not limited to upper caste Hindus; it is available to the poor in all general categories, who were not

eligible for reservation under any other category hitherto.

The test of constitutionality

- Further, to those who mistake the provision of reservation under the Constitution to be applicable only to the SCs/STs and OBCs, to remind them that the present quota, introduced through the 124th Constitution Amendment Bill, is provided through adequate amendments in Articles 15 and 16 of the Constitution, which allow for making “special provision for the advancement of any economically weaker sections of the citizens”.
- Hence, it can stand the test of constitutionality in the Supreme Court.

Nothing stopped the government from providing jobs or scholarships to the poor

- The 124th Constitution Amendment Bill, proposed and promulgated in just a few days, is a gross and wilful subversion of the principle of social justice, which the Supreme Court has held to be the part of the basic structure of the Constitution.
- It is hard to understand how the government, which has all the legal resources and counsel at its disposal, chose to characterise reservations mandated by the Constitution as a job guarantee or a poverty alleviation programme.

Constitutionally invalid

- The Constituent Assembly amended Article 15 by inserting Clause (4), which states: “Nothing in this article or in Clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.”
- The use of income or economic criteria for providing reservation for those not included in the backward classes, or for those belonging to the general sections, is thus constitutionally invalid.
- Granting 10% reservation in government jobs and education institutions to households in the general category with an income of less than Rs.8 lakh per annum will make little difference to their poverty levels as corporate-led jobless growth has increased income inequality exponentially.

When you allow reservation for the advanced classes, it changes the meaning of reservation

- During the Lok Sabha debate on the 124th Constitution Amendment Bill, to provide reservation in jobs and education for the economically weaker sections in the general category, an opinion was expressed that 50% of the States have to approve it.
- Under Article 368(2), Parliament can amend the Constitution by passing the Bill in each House by a majority of the total membership of that House present and voting.
- Thereafter, the President shall give his assent to the Bill and the Constitution will stand amended.
- But amendments which seek to make a change in certain specific provisions, including Articles 54, 55, 73, Chapter IV of Part V, Chapter V of Part VI or Chapter I of Part XI, or any of the Lists in the Seventh Schedule, or the representation of States in Parliament, shall require to be ratified by the Legislatures of not less than one-half of the States.

Providing the context

- Article 15(5) was introduced by the Constitution (93rd Amendment) Act, 2005.
- It is an enabling clause that empowers the State to make such provision for the advancement of SCs, STs and socially and educationally backward classes of citizens in relation to a specific subject, namely, admission to educational institutions including private educational institutions, whether aided or unaided by the state, notwithstanding the provisions of Article 19(1)(g).
- It is in this context that the reservation for the economically weaker sections is to be considered.
- A nine-judge Bench of the Supreme Court had ruled that reservation is a remedy for historical discrimination and its continuing ill-effects.
- The court had also said that reservation is not aimed at economic uplift or poverty alleviation.
- Economic weakness is on account of social backwardness.
- The economic criteria will lead, in effect, to the virtual deletion of Article 16(4) from the Constitution.
- The moment you make reservation for the advanced classes, it changes

the meaning of reservation altogether.

- Reservation is not an anti-poverty programme.

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