

Refining the Reservation Policy

What is the issue?

Recently there has been series of changes to the way reservation is implemented.

What changes were made recently?

- Tamil Nadu Assembly has adopted a Bill to provide 10.5% reservation for Vanniyars within the quota of MBCs and Denotified Communities (DNCs) in admission to higher education and government services.
- Relying on the 102nd Constitution Amendment, Supreme Court reiterated that States did not have the power to identify “socially and educationally backward” classes (SEBCs)
- This forced the Centre to pass the 105th Amendment which again empowers States or Union Territories to prepare their own lists of SEBCs
- The Central Educational Institutions (Reservation in Admission) Act, 2006 provided for uniform 27% reservation to OBCs which was implemented in all the Central Educational Institutions
- However, this was not extended to the AIQ seats of State medical and dental colleges
- From this year onwards, 27% of all-India quota for admissions for medical and dental courses will be reserved for OBCs and 10% for EWS

What are the implications of the recent changes?

- Recent developments have led to the demand for a caste-based census and removal of the 50% cap on reservation
- **Caste Census** - The 2011 Socio-Economic and Caste Census’s report was made public five years ago but without the data on caste
- Karnataka launched a similar exercise in 2015 but the report is not out
- Caste data alone cannot be used as the basis for breaching the 50% cap on reservation because there is no provision in the Constitution to link the quantum of reservation to the population
- **50% cap on reservation** - Tamil Nadu provides 69% quota for BCs, MBCs, SCs and STs but it was not framed keeping in mind the population of the reserved communities

- Several other States have breached the cap by adopting 10% quota for EWS

Indra Sawhney & Others vs Union of India, 1992 - Reservation of any manner shall not exceed 50%

Maratha case 2021 - The 50 per cent ceiling limit for reservation laid down by Indra Sawhney case is on the basis of principle of equality as enshrined in Article 16 of the Constitution.

How can the reservation policy be refined?

- Sub-categorisation is essential for equitable distribution of reservation benefits among OBCs
- **Rohini Commission** on sub categorisation of OBCs reports that just 10% of the OBC communities have accrued 24.95% of jobs and admissions
- Frequently revising the income limit in determining the creamy layer
- Inclusion of factors such as the trend of rise in GDP, inflation, per capita income and rise in the cost of living, etc. while revising the income limit
- The definition of income needs to change which exempts income from salary and agriculture but takes into account income from other sources
- The parliamentary committee had said that as on 2016, OBC employees in 78 ministries and departments of the Central government constituted only 21.57% against the quota of 27%
- Political parties should channel their energies to make substantive and qualitative changes in the way the reservation is implemented
- Need to develop an evidence-based policy options that can be tailored to meet specific requirements of specific groups
- An institution like the **Equal Opportunities Commission** of the United States or the United Kingdom is in need
- An audit on performance of employers and educational institutions on non-discrimination and equal opportunity can be undertaken

Source: The Hindu