

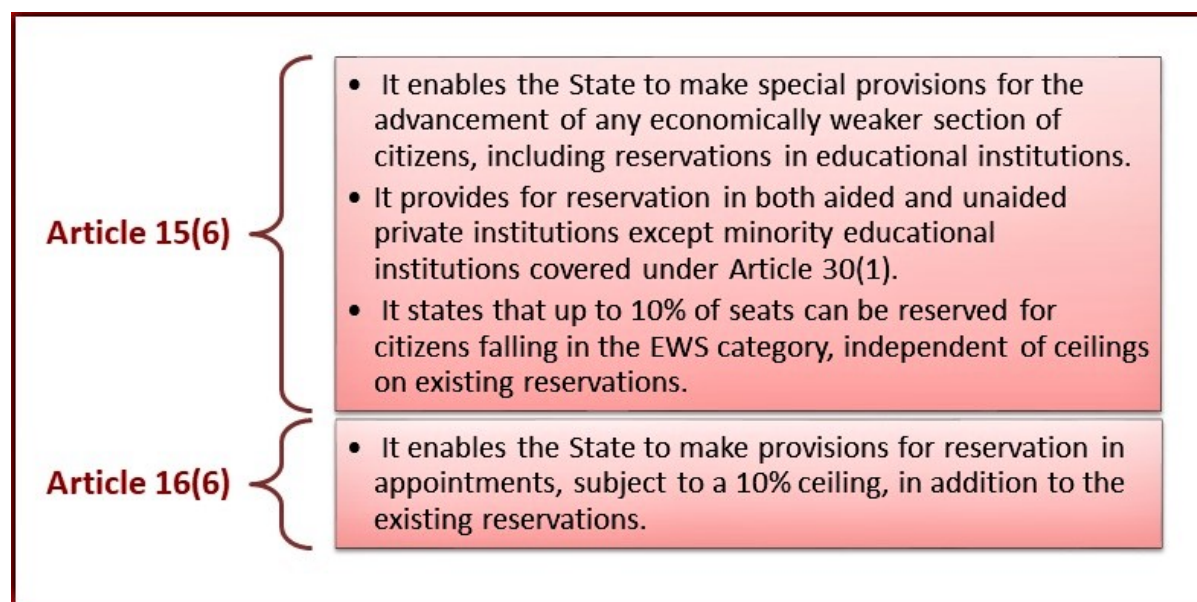
Supreme Court Ruling on EWS Quota - Part 2

Why in news?

By a majority of 3:2, a five-judge bench of the Supreme Court has upheld the validity of the 103rd Constitutional Amendment, 2019.

What is the background of the case?

- The Parliament enacted the 103rd Constitutional Amendment Act, 2019 which enabled the State to make reservations in higher education and in public employment on the basis of economic criteria alone.
- The Act amended Articles 15 and 16 of the Constitution by inserting 15(6) and 16(6).



- **Definition of EWS** - Under the 2019 notification, EWS includes a person
 - Who was not covered under the scheme of reservation for SCs, STs, and OBCs
 - Whose family had a gross annual income below Rs 8 lakh, was to be identified as for the benefit of reservation
- It also excluded some persons from the EWS category if their families possessed certain specified assets.
- The Centre's three-member panel said that the threshold of Rs 8 lakh of annual family income, in the current situation, seems reasonable for determining EWS and may be retained.
- **Present reservation** - At present, 49.5% of seats in education and public appointments are reserved for SCs, STs and OBCs.

To know about reservation for EWS Part-1, click [here](#)

Category	Reservation granted
Other Backward Classes	27%
Scheduled Castes	15%
Scheduled Tribes	7.5%

What is the case about?

- More than 20 petitions have been filed challenging the constitutional validity of the 103rd Amendment.
- They argued that the Amendment violates the basic features of the Constitution and violates the fundamental right to equality under Article 14.
- **Arguments** - Reservations cannot be based solely on economic criteria, given the Supreme Court's judgment in *Indra Sawhney v. Union of India (1992)*.
- SCs/STs and OBCs cannot be excluded from economic reservations, as this would violate the fundamental right to equality.
- The Amendment introduces reservations that exceed the 50% ceiling-limit on reservations, established by Indra Sawhney.
- Imposing reservations on educational institutions that do not receive State aid violates the fundamental right to equality.

1

Can reservations can be granted solely on the basis of economic criteria?

2

Can Scheduled Castes, Scheduled Tribes, Other Backward Classes, and Socially and Economically Backward Classes be excluded from the scope of EWS Reservations?

3

Can EWS Reservations breach the 50% ceiling for reservations established by the Supreme Court in *Indra Sawhney (1992)*

4

Can States provide reservations in private educational institutions which do not receive government aid?

How has the Supreme Court ruled?

- In a 3:2 split, the bench declared that the Amendment and EWS reservations were constitutionally valid.
- All five judges agreed that the Constitution permits reservations based solely economic criteria, but disagreed on who can avail EWS reservations and how many seats may be reserved.

Majority opinion

- **Quotas based on economic criteria alone** - The economically weaker sections of the citizens are not declared as socially and economically backward classes (SEBCs) for the purpose of Article 15(4), separate reservations are not barred by the Constitution.
- **Exclusion of SC/ST, SEBC from quota** - Reservation cannot be denied to the EWS on the note that they are not suffering from other disadvantages.
- **50% ceiling** - 50% ceiling was meant for backward classes and this ceiling limit has been held to be flexible.
- **EWS in private colleges** - A part of the majority view held that the reservation

cannot be ruled out in private institutions where education is imparted.

Minority opinion

- **Quotas based on economic criteria alone** - Laws that provide benefits based on only economic criteria do not by themselves violate the right to equality.
- However, the Constitution envisages reservations to be community-based and not individual- centric.
- **Exclusion of SC/ST, SEBC from quota** - It goes against the idea of fraternity and denies the chance of mobility from the reserved quota to a reservation benefit based only on economic deprivation.
- **50% ceiling** - The minority opinion warned that breaching the 50% ceiling could affect the rule of equality and may become a gateway for further infractions.

What are the arguments for supporting and opposing EWS reservation?

ISSUES	SUPPORTING EWS	OPPOSING EWS
Provision of reservation solely on the basis of economic criteria	State has to take measures to alleviate poverty	Indra Sawhney (1992) bars reservations solely based on economic criteria
Impact of EWS reservation on SC, ST and OBC	EWS reservation will not affect existing reservation schemes for SCs/STs/OBCs	Specifically excluding SCs/STs/OBCs from EWS reservation is discriminatory
Effect on Right to Equality	EWS reservation does not violate the Right to Equality	Exclusion of SCs/STs/OBCs violates the the equality of opportunity
Effect on 50% limit on reservation	EWS reservation is a different compartment from SC/ST/OBC reservations to whom the limit applies	Since, less than 50% of the seats are available for the General category, it is against 50% limit
Justification for EWS reservation	The Government claimed that EWS reservations were introduced on the basis of the Major Sinho Commission Report	Sinho Commission Report does not explicitly talk about EWS reservation but stressed on the welfare measures to be taken
EWS on individual basis	EWS reservations can address inequalities between individuals from various classes within the general category.	Reservations are specifically for classes that have faced historic oppression and inequality
Fulfillment of Article 46	Article 46 does not require the interests of SCs and STs to be protected at the cost of other classes	Since Article 46 states that interests of SCs and STs must be protected, excluding them violates Article 46

References

1. [The Indian Express | Quotas for poor among forward castes upheld](#)

2. [The Indian Express | 4 questions in EWS judgment](#)
3. [The Hindu | Supreme Court upholding 10% EWS quota](#)
4. [Supreme Court Observer | EWS Reservation](#)



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