

## Supreme Court's Maratha Quota Verdict

### Why in news?

A five-judge Constitution Bench of the Supreme Court struck down the Maharashtra law granting reservation to the Maratha community in admissions and government jobs in the state.

### What is the case on?

- A 2018 law by the Maharashtra government granted quota to the Maratha community.
- The 16% quota in admissions to educational institutions and jobs in public services was later changed to 12% in admissions and 13% in jobs through a 2019 amendment.
- This took the total reservation in the State beyond the 50% ceiling imposed by earlier verdicts.
- The Bombay High Court had upheld the validity of the Maratha reservation in principle.
  - It however ruled that the law could not have fixed the percentage above what was recommended by the State Backward Classes Commission headed by M.G. Gaikwad.
- The Supreme Court has now set aside this ruling.
- It rejected the HC's reasoning that the denial of backward class status to the Marathas had pushed them deeper into social and educational backwardness.

### What were the key issues addressed?

- The court had framed six questions of law on the Maratha quota issue.
- It unanimously agreed on three of those issues, while the verdict was split 3:2 on the other three.

### Issue 1: On revisiting the Indra Sawhney ruling

- One of the key issues before the court was to examine whether the 1992 landmark ruling in Indra Sawhney v Union of India had to be revisited.
- The Indra Sawhney ruling by a nine-judge Bench, in which the Mandal Commission report was upheld, laid down two important precedents:

1. it said that the criteria for a group to qualify for reservation is “social and educational backwardness”
2. it reiterated the 50% limit to vertical quotas reasoning that was needed to ensure “efficiency” in administration
  - However, the court said that this 50% limit will apply unless in “exceptional circumstances.”
  - The Maratha quota exceeded the 50% ceiling.
  - The state governments asked the court for reconsidering the Indra Sawhney verdict as it laid down an arbitrary ceiling which the Constitution does not envisage.
  - Additionally, in some judgements subsequent to Indra Sawhney, the Supreme Court itself had made exceptions to this rule.
  - In a unanimous opinion in the recent verdict, the court held that there is no need to revisit the Indra Sawhney ruling.
  - The court said that the 50% ceiling, although an arbitrary determination by the court in 1992, is now constitutionally recognised.

### **Issues 2&3: On whether the Maratha law can be saved under the exception**

- Since the 50% ceiling is held valid, the court looked into whether the Maratha quota law falls under the “exceptional circumstances.”
- The court also looked into the Maharashtra State Backward Commission report on considering the case as exceptional circumstances.
- The state government noted that the population of backward class is 85% and reservation limit is only 50%.
- So, an increase in reservation limit would qualify as an extraordinary circumstance.
- All five judges in the present bench disagreed with this argument.
  - “The Marathas are dominant forward class and are in the main stream of National life. The above situation is not an extra-ordinary one.”

### **Issues 4, 5 & 6: On state’s power to identify SEBCs, and 102nd Amendment**

- The Constitution (102nd Amendment) Act, 2018 gives constitutional status to the National Backward Classes Commission.
- The Amendment also gives the President the powers to notify backward classes.
- Several states raised questions on the interpretation of the Amendment and argued that it curtails their powers.
- The Bench now unanimously upheld the constitutional validity of the 102nd Amendment.

- However, it differed on the question whether it affected the power of states to identify socially and economically backward classes (SEBCs).
- The Centre emphasized that the state government would have their separate list of SEBCs for providing reservation in state government jobs and education.
- On the other hand, Parliament will only make the central list of SEBCs which would apply for central government jobs.
- However, the Supreme Court held the following:
  - v. The final say in regard to inclusion or exclusion (or modification of lists) of SEBCs is firstly with the President.
  - vi. And thereafter, in case of modification or exclusion from the lists initially published, with the Parliament.
  - vii. In the task of identification of SEBCs, the President shall be guided by the Commission set up under Article 338B.
  - viii. Its advice shall also be sought by the state in regard to policies that might be framed by it.
  - ix. If the commission prepares a report concerning matters of identification, such a report has to be shared with the state government.
  - x. The state government is bound to deal with it, in accordance with provisions of Article 338B.
  - xi. However, the final determination culminates in the exercise undertaken by the President.
- The majority opinion on this aspect also said that -
  - the identification of SEBCs will be done centrally
  - state governments will retain power to determine the extent of reservation and make specific policy in the spirit of “cooperative federalism”
- This raises a question:
  - How does this impact interventions by other states to provide reservations for other communities, for example Jats in Haryana and Kapus in Andhra?
- The Court has said that now the National Backward Classes Commission must publish a fresh list of SEBCs, both for states and the central list.
- The Commission set up under Article 338B shall conclude its task expeditiously, and make its recommendations.
- After considering this, the President shall expeditiously publish the notification containing the list of SEBCs in relation to states and UTs, for the purpose of the Constitution.
- Till the publication of the notification, the existing lists operating in all states and UTs, and for the purposes of the Central Government and central

institutions, will continue to operate.

### **What is the significance?**

- In striking down the separate reservation, the Supreme Court has underscored the importance of adhering to the 50% limit on total reservation.
- It has also upheld the need to justify any excess by showing the existence of exceptional circumstances.
- The Court has not only found no merit in the Maratha claim to backwardness but also said the community is adequately represented in public services.

**Source: The Indian Express, The Hindu**

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