All about Ninth Schedule

Why in news?

Jharkhand's new bill that seeks to increase the reservation in government posts to 77% needs its inclusion in Ninth Schedule to take effect.

What is the Jharkhand bill about?

- The Jharkhand Reservation of Vacancies in Posts and Services (Amendment) Bill, 2022 raised reservation to 77% from the current 60%.
- The Bill came with the notice that the Act shall take effect after it is included in the ninth schedule of the Constitution.
- The 77% reservation breaches the 50% ceiling set by the Supreme Court in the landmark Indra Sawhney v Union of India verdict.
- The total reserved seats in jobs and education institutions has crossed 5o% in many states including Tamil Nadu where 69% seats are reserved.

Indra Sawhney & Others vs Union of India, 1992 - Reservation of any manner shall not exceed 50%, unless in "exceptional circumstances"

What is the Ninth Schedule of the Constitution?

- The Ninth Schedule contains a list of central and state laws which cannot be challenged in courts.
- The Schedule became a part of the Constitution in 1951 by the **First Constitutional (Amendment) Act**. It was created by the new Article 31B, which along with 31A was brought to protect laws related to agrarian reform and for abolishing the Zamindari system.

- Article 31B also has retrospective operation i.e. if laws are inserted in the Ninth Schedule after they are declared unconstitutional, they are considered to have been in the Schedule since their commencement, and thus valid.
- In ***I R Coelho v State of Tamil Nadu, 2007***, the Supreme Court ruled that the laws placed under Ninth Schedule can be challenged on the ground of violating the basic structure of the Constitution.

Related links - Supreme Court's Maratha Quota Verdict

References

1. The Indian Express | Jharkhand's new quota Bill
2. The Indian Express | What is Ninth Schedule?

