Economic Criterion Not the Sole Basis for Creamy Layer

Why in news?

The Supreme Court (SC) has clarified that economic criterion alone cannot be used to classify a member of a Backward Class as belonging to the 'creamy layer.'

What is the creamy layer concept?

> Creamy layer denotes the relatively forward, socially and educationally advanced members within the OBC. The term "creamy layer" was introduced by Sattanathan Commission in 1971.

- Based on the recommendation of Second Backward Classes Commission (Mandal Commission), the government had notified 27% reservation for Socially and Educationally Backward Classes (SEBCs).
- Indira Sawhney case, 1992 upheld the 27% reservation for OBCs.
- But it directed the exclusion of those falling within the "creamy layer" from receiving quota benefits.
- It had mentioned the following criteria (not just economic) for exclusion from quota benefits:
    1. Children of high-ranking constitutional functionaries,
    2. Employees of a certain rank in the Union and State governments
    3. Those affluent enough to employ others
    4. Those with significant property and agricultural holdings
- Added to these was the annual income criterion.

What is the present case about?

- The SC ruling is in relation to a 2016 Haryana government notification.
- The notification mentioned monetary income of Rs.6 lakh as the only criterion to identify whether a family belongs to the creamy layer.
- The Supreme Court has struck down this, stating that income cannot be the sole basis for deciding creamy layer. It has directed the State to issue fresh notifications.

What is the significance of the case?

- The Constitution permitted special provisions in favour of 'socially and educationally backward classes' through the 1st Amendment Act, 1951.
- The Indra Sawhney judgement, though clarified on the various criteria, is being used as a reference to bring in the economic criterion into reservations.
- Also, the 103rd Constitution Amendment that brought in 10% reservation for the 'economically weaker sections' (EWS) has significantly altered the affirmative action programme.
- [The current income ceiling is Rs.8 lakh per annum for availing of both OBC and EWS quotas. This is again questionable as the size of the respective quotas vary.]
- Given these, the SC judgment now gains significance as it clarifies that that the creamy layer would be identified only through a mix of social, economic and other factors, [and not merely economic].

Source: The Hindu, The Indian Express

