No Quota without Quantifiable Data

What is the issue?

- The Madras High Court has recently quashed the **10.5% special reservation for Vanniyakula Kshatriyas** within the overall 20% quota for MBC and DNC.
- This has again highlighted the importance of quantifiable data as a prerequisite for reservation in education and employment.

What was the reservation about?

- In 2021, the Assembly passed a special Act which divided the 'Most Backward Classes/Denotified Communities' category into three parts.
- Of the total, the largest share of 10.5% was given to the Vanniyakula Kshatriya and its various sub-castes.
- The MBC/DNC sub-division was to have 7% for DNCs and a section of MBCs, while the remaining 2.5% was meant for the rest of the MBCs.
- It was justified based on the report of Second Backward Class Commission which stated that the Vanniyar population was 13.01% of the then total population in 1983.

Is it possible for States to make changes in the backward classes list?

- The **102nd Amendment to the Constitution** created the National Backward Class Commission and empowered the President to notify the backward classes list for each State.
- The Supreme Court had ruled, in the Maratha reservation case, that the Amendment took away the power of the States to notify or identify OBCs.
- Later, the **105th Amendment** made it explicit that the States could make changes in their lists.

What were the reasons for the court's judgment?

- The legislation was challenged before the High Court which held it unconstitutional.
- The court cited the **lack of adequate quantifiable data** with the State government before the introduction of the law.
- The government did not wait for the report of a commission it had

appointed earlier to gather quantifiable data to justify the State's 69% total reservation.
- The other ground was that the separate reservation for one caste amounted to discrimination against all the other castes in the same MBC category.
- Even the State BC Commission report 2011, which justified the 69% reservation for BC, MBC/DNCs and SC/ ST under the 1994 Act, did not give any community-wise break up of representation in government services.

What was the stand of the State Backward Commissions regarding internal reservation?

- The **first BC Commission** (1969-70), headed by A.N. Sattanathan, talked of having a device for removing the top layers of the communities periodically (creamy layer concept).
- The **second BC Commission** headed by Ambasankar advocated compartmental reservation by grouping the BCs on the basis of backwardness.
- The concept of quota within quota is already in place in Tamil Nadu.
    - In 1989, a new category called MBC and DNC was carved out of the BCs and given 20% exclusively from the then quantum of 50%.
    - In 2007, Muslims in the BCs were provided with 3.5% reservation.
    - In 2009, 3% reservation was provided for Arunthathiyars out of 18% quota for the SCs.

What are the effects of the verdict?

- The State government is planning to appeal to the Supreme Court.
- Any change in The State's 1994 Act would require an amendment to that law as well as the President's assent which may complicate the existing internal quotas given to BC Muslims and Arundhatiyars.
- The High Court had mentioned that these two quotas were backed by census data and valid recommendations, but it did not consider the question whether their introduction without an amendment to the 1994 Act or the President's assent was valid.

References

1. https://www.thehindu.com/todays-paper/tp-opinion/no-quota-without-quantifiable-data/article37389077.ece
2. https://www.thehindu.com/news/national/tamil-nadu/explained-why-did-the-madras-high-court-invalidate-separate-quota-for-vanniyar-community/article37362540.ece
3. https://www.thehindu.com/opinion/editorial/quota-without-data-the-hindu-editorial-on-reservation-policies/article37312220.ece

