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.

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?

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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