Supreme Court Verdict on OBC reservation in All India Quota Seats

Why in news?

The Supreme Court has approved the 27% OBC quota in MBBS and MD courses under All India Quota seats and permitted the government to earmark additional 10% seats for EWS for the academic year 2021-22.

What is the All-India Quota scheme?

- The All-India Quota (AIQ) scheme was introduced in **1986** under the directions of the Supreme Court.
- The aim was to provide for domicile-free merit-based opportunities to students from any State to study in a medical college located in another State.
- It comprises **15% of UG seats and 50% of PG seats** surrendered by the States for admission through a central pool in government medical colleges.
- Initially, there was no reservation in the AIQ.
- The Supreme Court in 2007 introduced the reservation of 15% for SCs and 7.5% for STs in the scheme.
- Meanwhile, the Central Educational Institutions (Reservation in Admission) Act became effective in 2007.
- It provided for uniform 27% reservation to the OBCs in all the Central Educational Institutions.
- However, this reservation was not extended to the AIQ seats of State medical and dental colleges.

To know more about OBC reservation in All-India Quota Medical Seats, click here

What is the creamy layer concept in OBC reservation?

- Based on the recommendation of the Second Backward Classes Commission **(Mandal Commission),** 27% reservation for OBCs has been provided in government jobs and higher educational institutions.
- The Supreme Court in **1992 (Indira Sawhney case)** upheld 27% reservation for OBCs, subject to exclusion of the creamy layer.
- It is a concept that sets a threshold within which OBC reservation benefits are applicable and those falling within the “creamy layer” cannot get the benefits of this quota.
- The criteria for the reservation is that
    1. For those not in government, the current threshold is an income of Rs 8 lakh per year.
    2. For children of government employees, the threshold is based on their parents’ rank and not income.

What is EWS reservation?

- The **103rd Constitutional Amendment, 2019** amended the Articles 15(6) and 16(6) to provide 10% reservation to EWS in admission to educational institutions and government jobs.
- The criteria for the reservation is that
    1. The annual income of the person should be less than 8 lakh.
    2. The person should not own more than 5 acres of farmland.
    3. People who have a house but less than 1000 square feet in a town.
    4. Residential plot of less than 100 sq yards in notified municipalities
    5. Residential plot of less than 200 sq yards in areas other than the notified municipalities

To know more about The EWS Quota in NEET Admissions, click here

What is the petition about?

- The Union Health Ministry has announced 27% reservation for the OBCs and 10% quota for EWS in the AIQ scheme for UG and PG medical / dental courses from 2021-22 onwards.
- Writ petitions were filed by NEET aspirants challenging the Central Government's decision to introduce reservation for OBCs and EWS in NEET All India Quota.
- The petitioners argued that there cannot be reservation in post-graduate courses and that the PG admissions must be solely merit-based.

What is the court’s verdict on this issue?

- The court rejected this contention and **upheld the constitutional validity of reservation for OBC candidates in the AIQ seats for UG and PG medical and dental courses**.
- The Court said that it cannot be implied that the impact of backwardness simply disappears because a candidate has a graduate qualification.
- The judgment noted that **Article 15(5)** of the Constitution which provides for reservations for socially and educationally backward classes in educational institutions does not make any distinction between UG and PG Courses.
- The Court noted that while in certain cases it has been held that there should be no reservation in Super Specialty Courses but it has never held that reservations in medical PG courses are impermissible.
- The criteria for the determination of the EWS notified in 2019 shall be used for identifying the EWS category for candidates who appeared for the NEET-PG 2021 and NEET-UG 2021 examinations.
- The validity of the criteria determined by the **Ajay Bhushan Pandey Committee** for identification of EWS to be applied prospectively for the future would be subject to the final result of the petitions.

What is the Ajay Bhushan Pandey Committee about?

- In 2021, the Union Government constituted an Expert Committee under Ajay Bhushan Pandey to review the Rs. 8 Lakhs annual income limit for reservations under EWS category.
- The Committee submitted a report finding that the Rs. 8 Lakhs income criteria should be retained.
- It recommended, however, that the criteria of excluding candidates from the EWS category based on their family residential assets must be removed.
- The Committee also recommended that the pending Post-Graduate (PG) admissions in medical

programmes should be completed in keeping with the old EWS criteria.

What is the significance of this judgement?

- The Supreme Court has once again addressed the 'merit versus reservation' debate that has engaged public and judicial discourse for years.
- The courts have now come to recognise the idea of **'substantive equality'** rather than **formal equality**.
- Formal equality is the principle that everyone competes on an equal footing and it is inadequate to address social inequalities and the inherent disadvantages of the less advanced sections.
- The reservation ensures that backward classes are able to avail of opportunities that typically evade them because of structural barriers.
- The latest judgment marks another notable addition to the body of affirmative action jurisprudence.

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