Supreme Court Verdict on Promotions in SC/ST

Why in news?

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SC has recently invalidated the conclusions arrived in M Nagaraj case.

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What was the Nagaraj verdict?

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- The Supreme Court had held that the state was **not bound** to provide reservation in promotions to SCs/STs.
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- But in case any state wished to make such a provision, it was required to –
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1. Collect quantifiable data on backwardness of the class
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2. Prove its inadequate representation in public employment
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3. Show no compromise on efficiency of administration
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- Additionally, the state was also required to ensure that the reservation does not breach the 50% ceiling.
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- The ruling also said that the ‘creamy layer’ concept applies to SCs and STs for promotions in government jobs.
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What was the government’s reaction?

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- The Centre and various state governments had sought reconsideration of the verdict.
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- They argued that members of the SC/ST communities were presumed to be backward and considering the stigma attached to their caste, they should be given reservation even in job promotions.
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What is the present ruling?

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- In November 2017, on the basis of petitions filed by several state governments , SC agreed that a five-judge bench should examine whether a seven-judge bench should be set up to examine the Supreme Court's earlier judgment in the Nagaraj case.
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- On arriving the verdict, it refused to refer it to 7-judge bench and had partially reversed it's earlier stance.
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- It had reversed the earlier judgment on collecting quantifiable data to prove backwardness.
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- It said that earlier stance was contrary to the decision in **Indira Sawhney case**, where it was held that once SCs and STs were part of the Presidential List under Articles 341 and 342 of the Constitution, and there was no need to prove backwardness.
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- Hence, SC ruled that States need not collect **quantifiable data on the backwardness** of SC/ST for giving quota in job promotion to SC/ST employees.
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- At the same time, the apex court says that **the inadequacy of representation of SC/STneeds to be demonstrated** and data must be relatable to the concerned cadre.
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- The data must be collected by the states and SC/ST population as a whole should not be taken into account, while calculating inadequacy.
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- The collected data can also be tested by the courts.
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- It had not made any changes to application of 'creamy layer' principle in

reservation in promotion of SC/STs.
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- So the court essentially took opposite views to **Ashoka kumar thakur v. Union of India** case. where it was ruled that the “creamy layer principle is merely a principle of identification and not a principle of equality”.
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- It stated that the whole object of reservation was to see that backward classes of citizens move forward so that they may march hand in hand with other citizens of India on an equal basis.
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- The court also said that "efficiency of administration" has to be looked at every time promotions are made.
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- It noted that majority judges in the Indra Sawhney judgement had applied the 'creamy layer' principle as a facet of the larger equality principle.
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- Hence, the court left it to the Parliament to have the complete freedom on including or excluding persons from the Presidential Lists in accordance with Articles 14 and 16.
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Source: The Indian Express

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