Supreme Court's Maratha Quota Verdict

Why in news?

A five-judge Constitution Bench of the Supreme Court struck down the Maharashtra law granting reservation to the Maratha community in admissions and government jobs in the state.

What is the case on?

- A 2018 law by the Maharashtra government granted quota to the Maratha community.
- The 16% quota in admissions to educational institutions and jobs in public services was later changed to 12% in admissions and 13% in jobs through a 2019 amendment.
- This took the total reservation in the State beyond the 50% ceiling imposed by earlier verdicts.
- The Bombay High Court had upheld the validity of the Maratha reservation in principle.
    - It however ruled that the law could not have fixed the percentage above what was recommended by the State Backward Classes Commission headed by M.G. Gaikwad.
- The Supreme Court has now set aside this ruling.
- It rejected the HC's reasoning that the denial of backward class status to the Marathas had pushed them deeper into social and educational backwardness.

What were the key issues addressed?

- The court had framed six questions of law on the Maratha quota issue.
- It unanimously agreed on three of those issues, while the verdict was split 3:2 on the other three.

Issue 1: On revisiting the Indra Sawhney ruling

- One of the key issues before the court was to examine whether the 1992 landmark ruling in Indra Sawhney v Union of India had to be revisited.
- The Indra Sawhney ruling by a nine-judge Bench, in which the Mandal Commission report was upheld, laid down two important precedents:

1. it said that the criteria for a group to qualify for reservation is “social and educational backwardness”
2. it reiterated the 50% limit to vertical quotas reasoning that was needed to ensure “efficiency” in administration

- However, the court said that this 50% limit will apply unless in “exceptional circumstances.”
- The Maratha quota exceeded the 50% ceiling.
- The state governments asked the court for reconsidering the Indra Sawhney verdict as it laid down an arbitrary ceiling which the Constitution does not envisage.
- Additionally, in some judgements subsequent to Indra Sawhney, the Supreme Court itself had made exceptions to this rule.
- In a unanimous opinion in the recent verdict, the court held that there is no need to revisit the Indra Sawhney ruling.
- The court said that the 50% ceiling, although an arbitrary determination by the court in 1992, is now constitutionally recognised.

Issues 2&3: On whether the Maratha law can be saved under the exception

- Since the 50% ceiling is held valid, the court looked into whether the Maratha quota law falls under the “exceptional circumstances.”
- The court also looked into the Maharashtra State Backward Commission report on considering the case as exceptional circumstances.
- The state government noted that the population of backward class is 85% and reservation limit is only 50%.
- So, an increase in reservation limit would qualify as an extraordinary circumstance.
- All five judges in the present bench disagreed with this argument.
    - “The Marathas are dominant forward class and are in the main stream of National life. The above situation is not an extra-ordinary one.”

Issues 4, 5 & 6: On state’s power to identify SEBCs, and 102nd Amendment

- The Constitution (102nd Amendment) Act, 2018 gives constitutional status to the National Backward Classes Commission.
- The Amendment also gives the President the powers to notify backward classes.
- Several states raised questions on the interpretation of the Amendment and argued that it curtails their powers.
- The Bench now unanimously upheld the constitutional validity of the 102nd Amendment.

- However, it differed on the question whether it affected the power of states to identify socially and economically backward classes (SEBCs).
- The Centre emphasized that the state government would have their separate list of SEBCs for providing reservation in state government jobs and education.
- On the other hand, Parliament will only make the central list of SEBCs which would apply for central government jobs.
- However, the Supreme Court held the following:
    v. The final say in regard to inclusion or exclusion (or modification of lists) of SEBCs is firstly with the President.
    vi. And thereafter, in case of modification or exclusion from the lists initially published, with the Parliament.
    vii. In the task of identification of SEBCs, the President shall be guided by the Commission set up under Article 338B.
    viii. Its advice shall also be sought by the state in regard to policies that might be framed by it.
    ix. If the commission prepares a report concerning matters of identification, such a report has to be shared with the state government.
    x. The state government is bound to deal with it, in accordance with provisions of Article 338B.
    xi. However, the final determination culminates in the exercise undertaken by the President.

- The majority opinion on this aspect also said that –
    - the identification of SEBCs will be done centrally
    - state governments will retain power to determine the extent of reservation and make specific policy in the spirit of "cooperative federalism"
- This raises a question:
    - How does this impact interventions by other states to provide reservations for other communities, for example Jats in Haryana and Kapus in Andhra?

- The Court has said that now the National Backward Classes Commission must publish a fresh list of SEBCs, both for states and the central list.
- The Commission set up under Article 338B shall conclude its task expeditiously, and make its recommendations.
- After considering this, the President shall expeditiously publish the notification containing the list of SEBCs in relation to states and UTs, for the purpose of the Constitution.
- Till the publication of the notification, the existing lists operating in all states and UTs, and for the purposes of the Central Government and central

institutions, will continue to operate.

What is the significance?

- In striking down the separate reservation, the Supreme Court has underscored the importance of adhering to the 50% limit on total reservation.
- It has also upheld the need to justify any excess by showing the existence of exceptional circumstances.
- The Court has not only found no merit in the Maratha claim to backwardness but also said the community is adequately represented in public services.

Source: The Indian Express, The Hindu

Related articles: Maratha Reservation proposal

