

Tamil Nadu Special Reservation Act of 2021

Why in news?

The Supreme Court has quashed the Tamil Nadu Special Reservation Act of 2021 on the ground that it was not based on updated quantifiable data.

What is the history of reservation in the state of Tamil Nadu?

- 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.
- Up until 1971, Tamil Nadu's total reservation had stood at 41%.
- 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.



How Tamil Nadu's reservation stands at 69% despite the 50% quota cap?

- In 1990, Tamil Nadu's overall reservation was taken to 69%.
- But the Indira Sawhney case judgement capped the total reservations within the 50% limit.
- The High Court of Madras and Supreme Court ruled that the reservation should not exceed 50% in the matter of admission to educational institutions.
- The Tamil Nadu government introduced the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institution and of appointments or posts in the Services under the State) Bill, 1993.
- The President's assent came which cemented the 69% reservation for Tamil Nadu.
- The Act was also brought under the Ninth Schedule of the Constitution.

Article 31B of the Constitution states that none of the Acts that are included under the Ninth Schedule shall be deemed to be void by any court or tribunal

What is the act about?

- The Tamil Nadu Special Reservation Act of 2021 or the Vanniyar quota law was introduced to meet the demand of Vanniyars, a caste that is classified among the Most Backward Classes (MBC).

- The law provided an internal reservation of 10.5% for the Vanniyar community in education and employment within the 20% quota for all MBCs and DNCs.
- The act was promulgated based on the recommendations of the Tamil Nadu Backward Classes Commission.
- The legislation was challenged before the High Court which held it unconstitutional.
- The court cited the **lack of adequate quantifiable data** on the socio-educational status of the Vanniyars with the State government before the introduction of the law.
- It also cited that the sub-classification done solely based on population data, in the absence of any objective criteria, is in violation of the constitution of India.
- Aggrieved by the judgment, Tamil Nadu had moved an appeal before the Supreme Court.

What is the Supreme Court's judgement?

- **Violation of fundamental rights-** The apex court upheld the Madras high court judgment, stating that the law violates Article 14, 15 and 16 of the constitution.
- Under Articles 14, 15 and 16 of the constitution, the government is allowed to make special laws to protect the marginalised classes of society.
- However, the same needs to be backed by quantifiable data on the socio-educational status of the class or community concerned.
- If there is enough data to prove that the class of persons are socially and economically backwards and need reservations, such reservation cannot go beyond 50% (Indira Sawhney case).
- In case the state exceeds the 50% limit, the same needs to be justified on valid grounds or else it will amount to giving preferential treatment from among the same class.
- **Absence of quantifiable data-** The Bench was of the view that caste can be the starting point for providing internal reservation, but the State Government has to justify it with adequate data.
- **No proper analysis-** The Court also pointed out that no analysis had been made of the relative backwardness and representation of other communities in the MBCs and DNCs.

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.
- The Supreme Court also held that the State Government had the legislative competence to pass the Act.

References

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