

SC upholds 10 per cent quota for EWS

With the 3:2 split verdict, the Supreme Court recently upheld the 10% quota for people belonging to economically weaker sections (EWS) in admissions and government jobs.

What is the EWS Quota?

The EWS Quota was introduced by the Indian Government to provide reservations in jobs and higher education to the economically weaker sections of the society. The 10 per cent reservation is applicable for people who are not covered under the existing 50 per cent reservations for the scheduled castes, the scheduled tribes and the socially and economically backward classes (SEBCs).

10% quota was created under the Indian Constitution's 124th Amendment Bill. This amendment bill took the form of 103rd Constitutional Amendment Act, which was enacted on February 12, 2019.

What is the impact of 124th Amendment Bill?

The Bill enables states to make limited reservations for direct employment and higher education based on economic criteria while not altering the other quotas provided for SC, ST and OBC communities.

It makes changes to Article 15 and 16 of the Indian Constitution. While Article 15 prohibits discrimination based on race, religion, caste, sex, or place of birth, Article 16 bans discrimination in government employment.

The amendments – Article 15(6) and Article 16(6) – seek to uplift of economically weak groups. They allow the state governments to decide whether or not to provide reservations to the EWS in the state government jobs and admissions in educational institutions. They mention Article 46, that advocates for the educational and economic interests of poor sections of the society.

SC Verdict on EWS Quota

The SC verdict was based on three questions that focused on

1. EWS Reservation's constitutionality and its impact on basic structure
2. If 103rd amendment breaches the Constitution's basic structure by permitting the government to make special provision in relation to admission to private unaided institutions.
3. If the amendment breaches the basic structure by excluding SEBCs, OBCs, SCs, and STs from the scope of EWS reservation.

In a split verdict, the five-judge constitution bench, headed by CJI Lalit, held that:

- The 103rd amendment for EWS quota is valid and does not violate the basic structure of the Indian Constitution.
- The EWS Reservation does not damage the essential feature of the Constitution by surpassing the 50 per cent ceiling for the quota since the ceiling itself is flexible.
- The 103rd constitution amendment cannot be repealed on the grounds of being discriminatory, though there is need for a revisit of the reservation policy.
- Reservations should not exist for an indefinite period.
- Justice Ravindra Bhat, who disagreed with the majority verdict on the validity of the 103rd Constitutional Amendment, held that exclusion of poor from SC/ST/OBCs availing reservations under EWS category is discriminatory. The Chief Justice UU Lalit also agreed with this opposing verdict.