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News: Supreme Court, in a majority verdict, upholds the EWS quota

- A Constitution Bench of the Supreme Court on Monday, in a 3:2 majority decision, upheld the validity of the 103rd Constitutional Amendment, which provides 10% reservation in government jobs and educational institutions to the Economically Weaker Sections (EWS) of society but excludes the “poorest of poor” among Scheduled Castes (SC), Scheduled Tribes (ST), Socially and Educationally Backward Classes (SEBC) and Other Backward Classes (OBC)” from its scope.
- Justices Dinesh Maheshwari, Bela M. Trivedi and J.B. Pardiwala delivered the majority opinions on the five judges Bench in an hour long session.
- Chief Justice U.U. Lalit, on his last working day, and Justice S. Ravindra Bhat gave the minority view, which Justice Bhat authored.

Economically Weaker Section (EWS) Quota

- The 10% Economically Weaker Section (EWS) Quota was introduced under the 103rd Constitution (Amendment) Act, 2019 by amending Articles 15 and 16.
- It inserted Article 15 (6) and Article 16 (6).

- It is for **economic reservation in jobs and admissions in educational institutes for Economically Weaker Sections (EWS)**.
- It was enacted to **promote the welfare of the poor not covered by the 50% reservation policy** for Scheduled Castes (SCs), Scheduled Tribes (STs) and socially and Educationally Backward Classes (SEBC).
- It **enables both the Centre and the States to provide reservations** to the EWS of society.

Significance

Addresses Inequality

- The **10% quota is progressive and could address the issues of educational and income inequality in India since the economically weaker sections of citizens have remained excluded from attending higher educational institutions and public employment due to their financial incapacity.**

Recognition of the Economic Backwards

- There are **many people or classes other than backward classes who are living under hunger and poverty-stricken conditions.**
- The **reservation through a constitutional amendment would give constitutional recognition to the poor from the upper castes.**

Reduction of Caste-Based Discrimination

- Moreover, it will gradually remove the stigma associated with reservation because reservation has historically been related to caste and most often the upper caste looks down upon those who come through the reservation.

Concerns

Unavailability of Data

- The Union or state governments have no such data to prove that 'upper' caste individuals, who have less than Rs 8 lakh annual income, are not adequately represented in government jobs and higher educational institutions. There is a strong possibility that they are actually over-represented in these places.

Arbitrary Criteria

- The criteria used by the government to decide the eligibility for this reservation is vague and is not based on any data or study.
- Even the SC questioned the government whether they have checked the GDP per capita for every State while deciding the monetary limit for giving the EWS reservation.

- Statistics show that the per capita income in states differs widely – Goa is the state having the highest per capita income of almost Rs. 4 lakhs whereas Bihar is at the bottom with Rs.40, 000.

Government's View

Doesn't Harm Quota of Other Classes

- The EWS quota was given independently of the already existing 50% reservation granted for the backward classes, that is, the scheduled communities and the OBCs.
- The Attorney general rejected arguments by petitioners that the exclusion of backward classes from the EWS quota amounted to discrimination, as they have been loaded with benefits by way of affirmative action's.
- For example, the members of the Scheduled Caste and Scheduled Tribe communities have been given several benefits under the Constitution, including Article 16 (4) (a) (special provision for promotion), Article 243D (reservation in Panchayat and municipality seats), Article 330 (reservation in the Lok Sabha) and Article 332 (reservation in state legislative assemblies).

Necessary to Uplift the Weaker Section

- The reservation for the backward classes, and now the EWS quota, should be considered by the court as “one single approach of the state intended for the upliftment of the weaker sections of the society”.
- Altogether 18.2% of the total population in the general category belonged to EWS and referred to the Multi-Dimensional Poverty Index (MPI) used by the NITI Aayog, which would be about 350 million (3.5 crores) of the population.

Confer the Constitution

- The reservation for OBCs, SCs and STs fall under different silos other than the EWS quota and it does not violate the basic structure of the Constitution.
- Examples: As per the written submissions submitted by government referred to how the top court had stood by the validity of the Right of Children to Free and Compulsory Education Act, 2009.
- The court had held that the 2009 Act seeks to remove all barriers, including financial and psychological barriers which a child belonging to the weaker section and disadvantaged group has to face while seeking admission and therefore upheld it under Article 21 of the Constitution.

Article 15 of the Indian Constitution

- The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them. Here, the state can discriminate against any citizen on the basis of place of residence. Hence, reservation of jobs for person who resides on a particular place is not against constitution.
- No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to
 - ✓ access to shops, public restaurants, hotels and palaces of public entertainment; or
 - ✓ the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.
- It empowers the State to make special provision for women and children.
- It empowers the State to make special provision for the advancement of any Socially and Educationally Backward Classes (SEBC) of citizens or for the Scheduled Castes and the Scheduled Tribes.

- It empowers the State to make special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the SCs or the STs in so far as such special provisions relate to their admission to educational institutions including private educational institutions except the minority educational institutions.

Article 16 of the Constitution Of India

- There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
- No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect or, any employment or office under the State
- It empowers the Parliament for making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment. Such a law can only be legislated by Parliament and not any State legislatures.

- It empowers the State to make provision for the reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.
- A law can provide that the incumbent of an office related to the religious or denominational institution or a member of its governing body should belong to the particular religion or denomination.

Constitutional Bench of the Supreme Court

- Constitution Bench is a bench of the Supreme Court having five or more judges on it.
- These benches are not a routine phenomenon.
- A vast majority of cases before the Supreme Court are heard and decided by a bench of two judges (called a Division Bench), and sometimes of three.

Circumstances for Constitutional Bench to Exist

Article 145(3)

- Article 145(3) provides, “The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under Article 143 shall be five.”

Article 143

- When the President seeks the Supreme Court's opinion under law under Article 143 of the Constitution.
- As per the provision, the President of India has the power to address questions to the Supreme Court, which he deems important for public welfare.
- The Supreme Court upon reference advises the President by answering the query. However, such referral advice by the apex court is not binding on the President, nor is it 'law declared by the Supreme Court'.

Conflicting Judgments

- When two or more three-judge benches of the Supreme Court have delivered conflicting judgments on the same point of law, necessitating a definite understanding and interpretation of the law by a larger bench.
- The Constitution benches are set up on ad hoc basis as and when the above-mentioned conditions exist.

News: Census, NPR sites declared ‘protected system’

- The websites and applications related to the decennial Census exercise and the National Population Register (NPR) were on Monday notified as “protected system” or “Critical Information Infrastructure” under the Information Technology Act, 2008.
- The notification means that any tampering or unauthorized access to the data associated with Census applications, NPR database or the data centres of the Registrar General of India (RGI) will be punishable by 10 years imprisonment.

Critical Information Infrastructure (CII)

- The Information Technology Act of 2000 defines Critical Information Infrastructure as a computer resource, the incapacitation or destruction of which shall have debilitating impact on national security, economy, public health or safety.
- The government, under the IT Act of 2000, has the power to declare any data, database, and Information Technology network or communications infrastructure as CII to protect that digital asset.
- Any person who secures access or attempts to secure access to a protected system in violation of the law can be punished with a jail term of up to 10 years.

Significance of protection of CII

Global Practice

- World over governments have been moving with alacrity to protect their critical information infrastructure.

Backbone of Countless Critical Operations

- IT resources form the backbone of countless critical operations in a country's infrastructure, and given their interconnectedness, disruptions can have a cascading effect across sectors.

IT Failure leads to crippling other Sectors

- An information technology failure at a power grid can lead to prolonged outages crippling other sectors like healthcare, banking services etc.

Example

- **Wave of Denial-of-Service Attacks in Estonia:** In 2007, a wave of denial-of-service attacks, allegedly from Russian IP addresses, hit major Estonian banks, government bodies – ministries and parliament, and media outlets. It was cyber aggression of the kind that the world had not seen before. The attacks played havoc in one of the most networked countries in the world for almost three weeks.

- A Denial-of-Service (DoS) attack is an attack meant to shut down a machine or network, making it inaccessible to its intended users. DoS attacks accomplish this by flooding the target with traffic, or sending it information that triggers a crash.

Case of India

- In October, 2020 as India battled the pandemic, the electric grid supply to Mumbai suddenly snapped hitting the mega city's hospitals, trains and businesses.
- Later, a study by a US firm claimed that this power outage could have been a cyber attack, allegedly from a China linked group, aimed at critical infrastructure. The government, however, was quick to deny any cyber-attack in Mumbai.
- But the incident underlined the possibility of hostile state and non state actors probing internet dependent critical systems in other countries, and the necessity to fortify such assets.

Protection status of CII

National Critical Information Infrastructure Protection

Centre (NCIIPC) as Nodal Agency

- Created in January 2014, the National Critical Information Infrastructure Protection Centre (NCIIPC) is the nodal agency for taking all measures to protect the nation's critical information infrastructure.
- NCIIPC is mandated to guard CIIs from unauthorized access, modification, use, disclosure, disruption, incapacitation or distraction.
- It will monitor and forecast national-level threats to CII for policy guidance, expertise sharing and situational awareness for early warning or alerts.
- In the event of any threat to critical information infrastructure the NCIIPC may call for information and give directions to the critical sectors or persons serving or having a critical impact on Critical Information Infrastructure.

Basic Responsibility

- The basic responsibility for protecting the CII system shall lie with the agency running that CII.