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RESERVATION FOR ECONOMICALLY WEAKER SECTION (EWS) IN INDIA: A CONSTITUTIONAL AND SOCIO-LEGAL ANALYSIS.

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ABSTRACT:

Social and economic changes in India have led to a change in reservation policy over time. In the latest revision, in 2019, it was extended to economically weaker sections (EWS). For the first time, eligibility is based on family income/ assets instead of caste/community. This has been effected by the Constitution (103rd Amendment) Act, 2019[1]. With limited positions in government and the educational system, this study examines the reservation policy of EWS and also takes into account the potential effect on social and economic conditions. It reviews the legislation, judicial decisions, and literature on the issue of the policy.

Keywords: Reservation, Economically Weaker Section (EWS), and Constitutional Amendment.

INTRODUCTION:

India's social heterogeneity has necessitated that the State take measures to integrate its society. Reservation has been the policy that has taken care of the needs of the marginalised sections of society on the basis of caste. However, with the 103 rd Constitutional Amendment of 2019, the government added a new dimension to the policy by reserving 10% of jobs and seats in educational institutions for the Economically Weaker Sections (EWS). The policy seeks to address the issue of poverty and check the level of inequality that has been rising since independence. However, the policy has faced severe criticism for being overtly inclusive and overlapping with other welfare schemes meant for the poor.[2] Hence, it is essential to evaluate the policy in the backdrop of its regional implications. This study attempts to establish the impact of the EWS quota on the level of inequality in the country. Inequality has

[1] Vaibhav Mishra, 103rd Amendment of Indian Constitution — EWS Reservation — 10% Quota for General Category, Anantam IAS (October 18, 2026, 9:00 P.M.), 103rd Amendment of Indian Constitution — EWS Reservation — 10% Quota for General Category - Anantam IAS.

[2] Pandey, J. N., Constitutional Law of India (60th Ed.), Central Law Agency. (2023).

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been a pertinent issue in the country, stemming from multifarious sources, and has kept a significant section of the Indian population deprived of adequate resources. This factor alone justifies the need for studying the EWS policy.

Evolution of Reservation Policy:

Reservation in India has been in place to address the needs of the socially and educationally backward classes of society. Articles 15(4) and 16(4) of the Indian Constitution provide the directive for the State to make special provisions for the weaker sections of society. Moreover, seats and posts are reserved for the Scheduled Castes (SCs) and Scheduled Tribes (STs). In the 1990s, the Mandal Commission's recommendations extended reservation to Other Backwards Classes. Indra Sawhney v. Union of India (1992) upheld that extension[3], set a general ceiling of 50% on reservations, and introduced the creamy layer exclusion. The same judgment struck down a 1991 government order that had reserved 10% of posts for economically backward persons, holding that economic status alone could not be the basis for reservation. The 103rd Amendment later took up this idea through a constitutional amendment.

The main aims of the EWS Reservation Policy are:

1. To give economically weaker households access to opportunities they previously lacked.
2. To help them improve their social and economic condition through education and employment.
3. Social inclusion: The quota extends reservation to poor persons of every caste and community who previously had no such access to public education and employment.
4. Education: A share of seats in educational institutions is set aside for eligible EWS candidates.
5. Employment: a quota in government posts widens the range of people in public services and helps address unemployment among the poor.
6. Social justice: affirmative action for EWS acknowledges that economic disparity exists even among groups outside the traditionally disadvantaged classes.[4]

[3] Koteswar Rao, D., Indian Constitutional Law (9th Ed.). S. Gogia & Company (2006).
[4] Ashok Kumar, Economically Weak Section: A Right or Privilege, Nav Bharat Publications (2021).

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Constitutional Background:

The Constituent Assembly was divided on how far reservation should go and whom it should serve. Some members stressed the need to reduce graded social inequality, while others cautioned that group-based reservation could work against social integration. The Constitution ultimately confined reservation to groups identified as socially and educationally disadvantaged. The First Amendment of 1951 added Article 15(4)[5], confirming the State's power to make special provision for socially and educationally backward classes, including the SC and ST.

Parliament passed the Constitution (103rd Amendment) Act in January 2019. It inserted Articles 15(6) and 16(6), permitting reservation on economic grounds in higher education and public employment. The reservation applies to classes outside the SC, ST and OBC categories. Its objective is to extend social justice to economically weaker sections who earlier had no reservation because they fell outside the existing social categories.[6] The amendment was passed by Parliament on 8 and 9 January 2019 and received Presidential assent shortly afterwards. Article 15(6) permits special provision for economically weaker sections in admission to educational institutions, including private institutions, aided or unaided, other than minority educational institutions. Article 16(6) permits a reservation of up to 10% in appointments and posts under the State.[7] This 10% is in addition to the existing reservations.

Eligibility Conditions:

The reservation was introduced to give economically weaker households opportunities comparable to those of better-off groups. The following conditions apply:

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1. **Income limit:** annual family income must be below Rs 8 lakh.
2. **Assets:** the family must not own more than five acres of agricultural land, a residential flat larger than 1,000 sq. ft., or a residential plot larger than 100 sq. yards in a notified municipality.

[5] Dr. S.R. Myneni, Constitutional Law I, Asia Law House.
[6] Sharma, A., Social Justice and Reservation Policy in India, Serials Publications (2020).
[7] Acharya, N. K., The Constitution of India (5th Ed.). Asia Law House (2014).

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3. **Category:** the applicant must not belong to a class covered by other reservations (SC, ST, and OBC).
4. **Certificate:** the applicant must produce a certificate issued by a competent authority.
5. **Age:** there is no lower age limit. The upper age limit is set by the concerned institution.

Judicial Scrutiny of Economic Criteria for Reservation:

Janhit Abhiyan v. Union of India, 2022, is the most prominent case regarding the economic basis of Reservation. The decision was made by a 3:2 majority in favour of the amendment on a 5-judge bench of the Supreme Court established by the Constitution. The Bench was split in decision. The majority believed that the rounded-off ceiling concept of 50 per cent does not preclude the inclusion of the EWS group under reservation[8] and that economic criteria are permissible grounds for reserving seats for non-EWS groups who are already enjoying such benefits.[9] The dissenting judges said the scheme's change of eligibility criteria for the benefit of the poorest, excluding the poorest members of the SC, ST and OBC communities, was discriminatory. The decision reveals the amendment raises questions on equality and the nature of reservation, and not just on the application of economic criteria. A committee has been formed by the Ministry of Social Justice and Empowerment to scrutinise the implementation of the EWS reservation. The report of the committee was submitted to the Government of India on 31st December 2021.

Pandey Committee Report 2021:

As per Supreme Court directions, the Union Government constituted the Pandey Committee and submitted the report on 31st December 2021. It was formed to go through the implementation and implications of the Economically Weaker Section (EWS) reservation policy in the country . This policy provides a 10% reservation in jobs and education to people belonging to lower economic backgrounds, other than the Scheduled Castes (SC), Scheduled tribes (St) and Other Backwards Classes (OBC). Pandey Committee Report consist of assessment of EWS criteria and in act on existing reservation policies , legal processor and in implementation which types difficulties will come . The report consists of recommendations

[8] Vaibhav Mishra, 103rd Amendment 2019: EWS Reservation Explained, Anantam IAS (October 18, 2026, 9:00 P.M.), 103rd Amendment 2019: EWS Reservation Explained.

[9] Kumari, R., The Politics of Reservation: The Indian Experience. Sage Publications (2020).

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for the government to take necessary actions to improve existing reservation system , so that it will benefit the maximum number of people.

Issues in Implementation:

There are various issues related to the implementation of this scheme. The first is that there is no income-based qualification. It is similar to the creamy layer qualification for the OBCs,[10] which is indicative of a very large section of people being eligible. Secondly, the asset tests may not be appropriate for areas with considerable variance in property value and land. Third, applicants have to inquire for certificates from competent authorities, and this is a slow and uneven procedure[11]. Fourth, the policy presents a dilemma over the way of determining and proving economic disadvantage. Its supporters argue that the quota helps to tackle the real deprivation of groups which were not targeted in earlier schemes and that the selection criteria can be enhanced by being constantly reviewed. The failure of the policy to be successful relies not only on the constitutionality issue but also depends on the proper execution of the policy.

CONCLUSION:

The EWS policy provides a transparent and socially guaranteed benefit to the poor community persons of unrestricted category via public employment and education. But, its implementation introduces uncertainty into the impact on existing welfare programs for vulnerable groups. The state must safeguard those groups who are financially poor. The policy should thus be left open and subjected to revisions from time to time, which will ensure that economically vulnerable groups are protected without reducing the strength of the existing policy of helping the disadvantaged groups.

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[10] R. K. Sapru, Human Right of reservation policy in India, Eastern Book Company (2021).

[11] Mohan, S., Reservation Policy and Its Impact on Socio-Economic Development, New Century Publications (2019).

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