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EWS reservation: Law, Equity and Justice

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It is difficult to think of any recent constitutional developments that received so much attention in India as the EWS reservation. Reservation has remained one of the most important issues related to India's constitutional history since it determines access to education, jobs, and opportunities. On the other hand, reservation embodies the country's desire to achieve justice and equality. The introduction of EWS reservation made the discussion even more relevant because it considered economic inequality a reason for affirmative action. In this regard, the discussion brought back one important constitutional question of whether poverty could be considered alone a sufficient criterion for receiving special constitutional rights.

In order to ensure this reservation, a special provision in the Indian Constitution was adopted. **The Constitution (One Hundred and Third Amendment) Act, 2019** amended the Constitution of India by inserting two **articles (15(6) and 16(6))**. These two amendments grant the state powers to adopt special measures concerning economically weaker citizens when admitting them to educational institutions and employment. In addition, EWS reservation introduces additional 10 percent quota for individuals from economically weaker sections belonging to neither SC nor ST nor OBC categories. It represented a major change in India's reservation policy since, for the very first time, economic backwardness alone became a ground for affirmative action through the Indian Constitution.

The validity of the above-stated amendment under the Constitution of India was challenged in the Supreme Court of India in **Janhit Abhiyan v. Union of India**. The Supreme Court, in its 3-2 split judgment, upheld the validity of the amendment and accepted that economic backwardness could act independently as a criterion for reservation. The majority opinion of the Supreme Court held that excluding SCs, STs, and OBCs from the EWS category was constitutionally valid since they enjoy other benefits under their own reservation schemes. Further, the court analysed the well-settled legal precedent enshrined in the Indra Sawhney

case, where the apex court stressed the need to cap reservations at 50 percent. However, in the case of the EWS judgment, the majority opinion reiterated that this was not an inflexible principle in all situations, especially when there is a constitutional amendment creating a new category.

In terms of law, the EWS quota can be viewed as another step towards expanding constitutional equality. First and foremost, according to the Constitution, equality cannot be considered identical treatment. On the contrary, true equality requires some actions by the State to provide help to those who are at the start of a different path compared to others. Introducing the EWS quota implies that socio-economic difficulties can create obstacles for people that are equivalent to those created by any other circumstances. Quality education, good coaching, internet connections, health care, and housing depend on being economically safe. An EWS student can have all talents and ambitions needed to enter college but will find himself or herself at a disadvantage when compared to more privileged students.

On the other hand, such a system can prompt concerns regarding equity, which differs from equality. While equality presupposes that everybody has the same chance to succeed, equity assumes the recognition of the fact that all members of society do not have an equal starting point. Thus, in the case of EWS reservations, it is necessary to emphasize that poverty is a serious obstacle that should not keep the representatives of economically disadvantaged families from affirmative action.

The above argument is based on the idea that the Constitution should evolve as society evolves.

The problem here is that critics highlight valid issues as well. First of all, reservation in India was not just a response to poverty, but a necessary constitutional tool used to help overcome centuries of discrimination and social exclusion. Communities like SCs, STs, and OBCs received reservations because of being oppressed and discriminated against throughout the years. Thus, making a transition towards using economic criterion might significantly change the philosophy behind reservations.

Moreover, there is another potential issue with the current practice – the one related to implementation. The current eligibility criterion, which includes an annual income ceiling of ₹8 lakh, is viewed sceptically by many researchers and political analysts. It is possible to suggest that the existing criterion might be too wide since the people who earn ₹8 lakh annually do not belong to the most impoverished. Therefore, if the identification procedure will not work properly, the constitutional purpose will be missed.

However, there is a larger implication to the EWS reservation in terms of the definition of justice in modern India. The previous conception of reservation was closely linked to social justice and representation. The concept of EWS introduces a new component – distributive justice, wherein state intervention takes place on behalf of economically disadvantaged citizens. None of these views should be dismissed completely because one is concerned about redressing past injustices and the other about alleviating current economic inequalities. What matters is balancing the two so that they complement each other rather than undermine constitutional obligations.

The success of EWS reservation will require careful execution, judicial rulings, and constant reviews. Reservation alone cannot solve inequality. More needs to be done to improve the state of educational facilities, financial aid programs, mentorship, and information initiatives. Equal access provides opportunities, whereas support helps in taking advantage of such opportunities. Proper implementation of EWS reservation could contribute greatly to the realization of constitutional guarantees. Otherwise, it would simply add to the controversies surrounding reservation.

The EWS reservation in itself signifies a shift in the nature of the Indian Constitution. It indicates that the constitution is dynamic in nature and adjusts according to changing circumstances. Whether EWS becomes a lasting instrument of fairness or a continuing subject of constitutional debate will depend on how India balances the competing yet equally important values of law, equity, and justice.

CITATIONS

- [1] The Constitution (One Hundred and Third Amendment) Act, 2019, inserting Articles 15(6) and 16(6), Constitution of India.
- [2] Janhit Abhiyan v. Union of India, 2022 SCC Online SC 1540.
- [3] Department of Personnel and Training, Office Memorandum No. 36039/1/2019-Estt (Res), Government of India, dated 31 January 2019.
- [4] Ministry of Social Justice and Empowerment / Government of India implementation framework relating to EWS reservation in public employment and educational admissions; see

also relevant institutional admission and recruitment notifications issued pursuant to the 103rd Amendment.

[5] State of Punjab v. Davinder Singh, 2024 INSC 562.