

## **5. 10% Reservation for EWS**

**Prelims Level: Rights Issues**

**Mains Level: GS-II Functions and responsibilities of the Union and the States, issues and challenges pertaining to the federal structure, devolution of powers and finances up to local levels and challenges therein**

### **Why in News?**

- The Centre has informed the Supreme Court that it would be the States' prerogative to provide 10% economic reservation in government jobs and admission to Education Institutions.

### **About the 103<sup>rd</sup> Constitutional Amendment Act:**

- One Hundred and Twenty- Fourth Amendment Bill was introduced to extend 10% quota to “the economically weaker sections in the general category that are not covered by any of the existing schemes of reservation”.
- The bill was designed to amend the Constitution to extend 10% reservation in direct recruitment in government jobs and for admission in higher educational institutions to “**economically weaker**” sections among all castes and communities, Christians and Muslims included, who are not eligible under the already Existing Quotas.

### **Who were Included in EWS?**

- Annual Household Income below Rs 8 lakh.
- Agriculture land below 5 acres.
- Residential house below 1000 Sq.ft.
- Residential plot below 100 yards in notified municipality.
- Residential plot below 200 yards in non-notified municipality area.

### **Why Constitution Amended?**

- It was amended because the issue was related to the Fundamental rights Articles 15 (prohibition of discrimination on grounds of religion, race, caste, sex or place of birth) and 16 (equality of opportunity in matters of public employment) of the Constitution.
- The amendment was ratified in both Lok Sabha and Rajya Sabha, by two thirds of members present and voting.

### What are its Implications?

- The 10% reservation will be in addition to the existing cap of 50% reservation for the Scheduled Castes, Scheduled Tribes and the Other Backward Classes, taking total reservation to 60%.
- The quota targets the poor among the upper castes. This will be over and above 50% mandated by Constitution and hence the need for Constitution amendment Bill.

### What was SC's Response?

- A nine-judge Constitution Bench of the Supreme Court in the Indira Sawhney case of 1992 specifically answered the question “whether backward classes can be identified only and exclusively with reference to the economic criterion.”
- The constitution bench had categorically ruled that a backward class cannot be determined only and exclusively with reference to economic criterion.
- The bench had held that economic criterion may be a consideration or basis along with, and in addition to, social backwardness, but it can never be the sole criterion.
- The bench in its judgement declared 50% quota as the rule unless extraordinary situations “inherent in the great diversity of this country and the people” happen.
- Even then, the court stated that extreme caution is to be exercised and a special case should be made out.

### What is the Current Issue?

- The Centre said in an affidavit “Whether or not to provide reservation to the economically weaker section in appointment to State government jobs and admission to State government educational institutions, as per provisions of the newly inserted Articles 15(6) and 16(6) of the Constitution, is to be decided by the State government concerned”.
- The Centre also added that Department of Social Justice and Empowerment “has no role in deciding the reservation policy of any State government”.