

4. No 100% Quota for Tribal Teachers, says SC

Prelims Syllabus: Rights Issues

Mains Syllabus: GS-II Welfare schemes for vulnerable sections of the Population by the Centre and States and the Performance of these schemes; mechanisms, laws, Institutions and Bodies constituted for the Protection and Betterment of These Vulnerable Sections.

Why in News?

- The Supreme Court held it unconstitutional to provide 100% reservation for tribal teachers in schools located in Scheduled Areas across the country.

Observations of SC:

- It is an obnoxious idea that tribals only should teach the tribals. When there are other local residents, why they cannot teach is not understandable.
- The action defies logic and is arbitrary. Merit cannot be denied on the whole by providing reservation.
- Citizens have equal rights, and the total exclusion of others by creating an opportunity for one class is not contemplated by the founding fathers of the Constitution of India
- The court held that 100% reservation is discriminatory and impermissible. The opportunity of public employment is not the prerogative of few.
- A 100% reservation to the Scheduled Tribes has deprived Scheduled Castes and Other Backward Classes also of their due representation.
- The court referred to the judgment, which caps reservation at 50%.

What does the Indira Sawhney Judgement says?

- In the famous **Mandal case (Indra Sawhney v. Union of India 1992)**, the scope and extent of **Article 16(4)**, which provides for reservation of jobs in favour of backward classes, has been examined thoroughly by the Supreme Court.
- Though the Court has rejected the additional reservation of 10% for poorer sections of higher castes, it upheld the constitutional validity of 27% reservation for the OBCs with certain conditions, viz,
 - ✓ The advanced sections among the OBCs (the creamy layer) should be excluded from the list of beneficiaries of reservation.
 - ✓ No reservation in promotions; reservation should be confined to initial appointments only. Any existing reservation in promotions can continue for five years only (i.e., upto 1997).

- ✓ The total reserved quota should not exceed 50% except in some extraordinary situations. This rule should be applied every year.
- ✓ The 'carry forward rule' in case of unfilled (backlog) vacancies is valid. But it should not violate 50% rule.
- ✓ A permanent statutory body should be established to examine complaints of over-inclusion and under-inclusion in the list of OBCs.
- However, it is also to be noted that the Parliament has passed the 124th Constitution Amendment Bill (10% Quota Bill) to provide for 10% reservation for economically weaker sections (EWS) among the general category candidates in higher education and government employment in the year 2019.

What are the Key Features of the 124th Constitution Amendment Act?

- The act amended **Articles 15 and 16** of the constitution to provide for 10% reservation to **economically weaker sections (EWS)** among the general/unreserved category over and above the existing 49.5% quota in place for SC, ST, and OBCs.
- It seeks to insert a separate clause in article 16 after clause (5) as follows:
 - ✓ "Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of 10% of the posts in each category"
- It seeks 10% reservation for the economically weaker sections of society in higher educational institutions, private institutions (aided or unaided by the state) except minority educational institutions under Article 30.
- It also provides reservation in posts for initial appointment in services under the state.

What are the Qualifying Criteria for 10% Quota?

- All members of whose family together earn less than Rs. 8 lakh per annum.
- Have less than 5 acres of agricultural land.
- Do not possess a residential flat of area 1000 sq. ft. or larger.
- Do not possess a residential plot of area 100 yards or more in notified municipalities and 200 yards or more in areas other than notified municipalities.