



Lack of Authority of States in Altering SC List

For Prelims: Criterion for SC Status, Constitution (Scheduled Castes) Order of 1950, Registrar General of India.

For Mains: Criterion for SC Status and Arguments for and against the Inclusion of Dalit Christians and Muslims.

[Source: IE](#)

Why in News?

Recently, the [Supreme Court \(SC\)](#) ruled that states are not empowered to make changes to the [Scheduled Caste \(SC\)](#) list as published under **Article 341** of the Constitution.

- This decision came as the Court quashed a 2015 Bihar government notification that sought to categorise the **Tanti-Tantwa** community as **Scheduled Caste (SC)**, highlighting the importance of adhering strictly to the constitutional provisions governing such classifications.

Note:

- **Tanti-Tantwa** is a **Hindu** caste belonging to a **weaving and cloth merchant** community in India. The community has a significant presence in states like **Gujarat, Maharashtra, Jharkhand, Bihar, Uttar Pradesh, West Bengal, Assam, and Odisha**.

What is the Background of the Case and Supreme Court's Judgment?

- **Background of Case:**
 - The Tanti-Tantwa community had been earlier categorised as an **Extremely Backward Class (EBC)** under the **Bihar Reservation of Vacancies in Posts and Services (for Scheduled Castes, Scheduled Tribes, and other Backward Classes) Act, 1991**.
 - On 1st July 2015, the Bihar government issued a resolution to **merge the Tanti-Tantwa community into the SC list** based on a recommendation from the **State Commission for Backward Classes (SCBC)**.
 - This decision aimed to extend SC benefits to the Tanti-Tantwa community and was **upheld by the Patna High Court in 2017**, but later **challenged in the Supreme Court**.
- **Supreme Court's Judgment:**
 - The court held that the state government has no authority to change the SC list published under Article 341 of the Constitution.

- **Article 341(1) of the Indian Constitution** vests the power to specify SC in various states and union territories with the **President** of India.
- **Article 341(2)** empowers **Parliament** to modify this list. Thus, any change in the SC list necessitates an **amendment to the Constitution**.
- The court observed that the Bihar government had **not followed the due process** and consultation with the **Registrar General of India**, who had **not supported** the proposal to include Tanti-Tantwa in the SC list.
- The court termed the state government's notification as "**mala fide**" and an **unpardonable "mischief"**, depriving the genuine SC members of their rightful benefits.
- While the court quashed the resolution, it took a balanced approach regarding those who had already benefited from the resolution. It directed that such individuals should be accommodated under their original EBC category and that the SC quota posts they occupied should be returned to the SC category.
- **Implications of Supreme Court Judgment:**
 - The judgement reaffirms the constitutional scheme where only the **Parliament** can make changes to the SC list, and **state governments cannot** unilaterally tinker with it.
 - The judgement safeguards the interests of the **genuine SC members** by ensuring that the benefits meant for them are **not diverted** to other communities.
 - The judgement upholds the **separation of power** by clearly **delineating the powers of the Legislature and Executive** with respect to the SC list.
 - It can serve as a precedent for other states attempting to make unauthorised changes to the SC/ST lists, which is a common issue across the country.

What is the Procedure to Amend/Alter the SC List?

▪ Process of Amending/Altering the SC List:

- **Initiation and Scrutiny: A state government** proposes the inclusion or exclusion of a community from the SC list, which is **scrutinised by the Ministry of Social Justice and Empowerment**.
 - Then the proposal undergoes evaluation based on socio-economic factors and historical data, with inputs from the **Registrar General of India**.
- **Expert Consultation and Cabinet Approval:** The **National Commission for Scheduled Castes (NCSC)** provides expert recommendations on the proposal.
 - The Cabinet then reviews the proposal, considering NCSC recommendations and other factors, and grants approval for amendments.
- **Parliamentary Process:** A Constitutional Amendment Bill is introduced in Parliament, detailing the proposed changes to the SC list.
 - The Bill requires a **special majority** i.e. the majority of the total membership of both Houses present and voting, as well as a majority of the total number of members in each House.
- **Presidential Assent and Implementation:** Upon passage by both Houses, the Bill is sent to the President for assent. Once the President gives assent, the amendments to the SC list are officially enacted.

▪ Criteria for Inclusion in SC List:

- Extreme social, educational and economic backwardness arising out of traditional practice

of untouchability.

Registrar General of India

- The Registrar General of India was founded in **1961** by the Government of India under the **Ministry of Home Affairs**.
 - It arranges, conducts, and analyses the results of the demographic surveys of India including the **Census of India** and **Linguistic Survey of India**.
- The position of Registrar is usually held by a civil servant holding the rank of **Joint Secretary**.

What are the Constitutional Provisions Related to Upliftment of SC?

- **Article 15(4)** mandates **special provisions** for the advancement of SCs.
- **Article 16(4A)** allows for **reservation in promotions** to posts in the state services for SCs/STs who are underrepresented.
- **Article 17** abolishes **Untouchability**.
- **Article 46** directs the State to promote the **educational and economic interests** of SCs and STs, protecting them from social injustice and exploitation.
- **Article 330** and **Article 332** provides for **reservation seats in Lok Sabha and state legislative assemblies** respectively for SCs and STs.
- **Article 335** ensures that while making appointments to government services, the **claims of SCs and STs** are considered without compromising administrative efficiency.
- **Part IX** (Panchayats) and **Part IXA** (Municipalities) provide for **reservations for SCs and STs in local governance bodies**.
 - **Article 243D(4)**: This provision mandates the reservation of seats for SCs in **Panchayats** (local self-government institutions) in proportion to their population in the area.
 - **Article 243T(4)**: This provision ensures the reservation of seats for SCs in **Municipalities** (urban local bodies) in proportion to their population in the area.

Drishhti Mains Question:

What are the constitutional safeguards and schemes available for the socio-economic upliftment of Scheduled Castes, Scheduled Tribes and Other Backward Classes in India?

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims:

Q1. If a particular area is brought under the Fifth Schedule of the Constitution of India, which one of the following statements best reflects the consequence of it? (2022)

- (a) This would prevent the transfer of land of tribal people to non-tribal people.
- (b) This would create a local self-governing body in that area.
- (c) This would convert that area into a Union Territory.
- (d) The State having such areas would be declared a Special Category State.

Ans: (a)

Q2. Under which Schedule of the Constitution of India can the transfer of tribal land to private parties for mining be declared null and void? (2019)

- (a) Third Schedule
- (b) Fifth Schedule
- (c) Ninth Schedule

(d) Twelfth Schedule

Ans: (b)

Mains:

Q. Whether the National Commission for Scheduled Castes (NCSC) can enforce the implementation of constitutional reservation for the Scheduled Castes in the religious minority institutions? Examine. **(2018)**

Q. In 2001, RGI stated that Dalits who converted to Islam or Christianity are not a single ethnic group as they belong to different caste groups. Therefore, they cannot be included in the list of Scheduled Castes (SC) as per Clause (2) of Article 341, which requires a single ethnic group for inclusion. **(2014)**

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