



Constitution Bench for EWS Quota

Why in News

Recently, the [Supreme Court of India](#) referred the petitions challenging the **103rd Constitutional Amendment Act, 2019** to a five-judge **constitution bench**, saying it involves ‘**substantial questions of law**’.

- According to **Article 145 (3) of the Constitution, at least five judges** need to hear cases that involve ‘**a substantial question of law as to the interpretation**’ of the Constitution, or any **reference under Article 143**, which deals with the power of the President of India to consult the Supreme Court.
- The Supreme Court bench consisting of at least five judges is called the **Constitution bench**.

Key Points

▪ **103rd Constitutional Amendment Act:**

- It introduced an **economic reservation** (10% quota) in jobs and admissions in education institutes for **Economically Weaker Sections (EWS)** by amending [Articles 15 and 16](#).
 - It inserted **Article 15 (6) and Article 16 (6)**.
- It was enacted to promote the welfare of the poor not covered by the 50% reservation policy for SCs, STs and Socially and Educationally Backward Classes (SEBC).
- It enables both Centre and the states to provide reservation to the EWS of society.

▪ **Petitioners’ Argument:**

- The amendments **run contrary to the constitutional scheme**, where no segment of available seats/posts can be reserved, only on the basis of economic criterion.
- The amendments also run contrary to the judgment pronounced in the [Indra Sawhney V. Union of India 1992 case](#), that **a backward class cannot be determined only and exclusively with reference to economic criterion**.
- The amendments **alter the 50% quota limit** set up in *Indra Sawhney V. Union of India* 1992 case, which according to the petitioner is a part [Basic Structure of the Constitution](#).
- Reservation in unaided institutions violates the fundamental right under **Article 19(1)(g)** of the Constitution.

- Article 19 (1)(g) allows every citizen to practise any profession, or to carry on any occupation, trade or business.

▪ **Central Government’s Stand:**

- The amendment **was necessitated to benefit EWS who are not covered under existing schemes of reservation**, which as per statistics, constitute a considerably large segment of the country’s population.
- The 50% limit in the **Indira Sawhney** ruling cannot be applied in the present petitions as the Sawhney case dealt with memoranda issued by the government while what is under challenge now is a constitutional amendment.

▪ **Substantial Question of Law Involved:**

- **Whether the challenged 103rd Amendment Act violates Basic Structure of the Constitution**, with reference to equality provisions of the Constitution.
- The case of the Union of India that though ordinarily 50% is the rule but same will not prevent the amendment of the Constitution itself in view of the existing special circumstances to uplift the members of the society belonging to economically weaker sections.

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