



Intra-Group Caste Reservation in India

This editorial is based on [“Intra-group caste variances, equality and the Court’s gaze”](#) which was published in The Hindu on 13/03/2024. The article explores the question of whether State governments can create a sub-classification within the prescribed proportion for Scheduled Castes and Scheduled Tribes in public employment recruitment. This would involve granting a special allowance to certain groups considered more backward than others.

For Prelims: [Sub-Categorisation of Scheduled Castes, Madiga community](#), Justice P. Ramachandra Raju Commission, [National Commissions for Scheduled Castes](#), E.V. Chinniah v State of Andhra Pradesh case, 2004, [Scheduled Castes \(SCs\)](#), [Scheduled Tribes \(STs\)](#), High-Level Committee.

For Mains: Legal Tussle over Sub categorisation of Scheduled Castes, Benefits and Challenges Related to Sub-categorisation.

A seven-judge Bench of the [Supreme Court \(SC\) of India](#) will deliver its judgement in **State of Punjab vs Davinder Singh**, on a question of law that carries with it enormous significance for the future of affirmative action and reservations under the [Constitution](#). Research and data indicate that while [Scheduled Castes \(SCs\)](#) and [Scheduled Tribes \(STs\)](#) are often treated as uniform categories, there exist significant disparities within these groups, with certain castes facing more discrimination than others.

Shouldn't state governments be empowered to address these intra-group differences? The forthcoming judgement in the Davinder Singh case aims to address this issue, potentially bringing much-needed clarity to a legal area that has long needed a reform. The Union government has formed a high-level committee of secretaries, chaired by the Cabinet Secretary, to evaluate and work out a method for the equitable distribution of benefits, schemes and initiatives to the most backward communities.

Note

State of Punjab vs Davinder Singh, 2020:

- The present case before the Supreme Court of India was an appeal against the Punjab and Haryana High Court which had struck down a state law empowering the government to sub-classify SC/STs for grant of quotas.
- The [High Court](#) judgement had struck down a circular of the Punjab government, which provided that out of the seats reserved for SCs, 50% would be offered to Balmikis and Mazhabi Sikhs.
- The High Court in this judgement had relied on the Chinniah judgement for concluding so.

What is the Sub-Categorisation within Castes?

▪ About:

- Sub-categorisation within castes refers to the process of creating sub-groups within the existing categories of Scheduled Castes (SCs), Scheduled Tribes (STs), and **Other Backward Classes (OBCs)** for reservation and affirmative action.
- Sub-categorisation aims to address the intra-category inequalities and ensure a more equitable distribution of benefits and opportunities among the most deprived and marginalised sections of society.

▪ Legality of Sub-Categorisation:

- **Past Attempts:** States like Punjab, Bihar, and Tamil Nadu have attempted sub-categorization, facing legal challenges that have reached the Supreme Court.
- **Constitutional Dilemma:** The Supreme Court in the case of **E.V.Chinnaiah vs State Of Andhra Pradesh and Ors, 2004**, asserted that only **Parliament** has the authority to create and notify SC and ST lists.
 - However, in **State of Punjab and Others vs Davinder Singh and Others, 2020 judgement**, a five-judge Bench ruled that States could decide on the quantum of benefits in the lists of SCs/STs already notified without "tinkering" with them.
 - The contradiction between the 2004 and 2020 judgments has led to the 2020 judgement being referred to a larger Bench.

What is the Competence of the States for Creating Sub-Classification?

▪ Arguments in Favour:

- States have the competence to grant reservation benefits to SCs and STs in terms of **Articles 15(4)** and **16(4)**, and **Articles 341(1) and 342(1)**.
- Article 15(4) empowers the state to create special arrangements for promoting the interests and welfare of socially and educationally backward classes of the society such as SC and STs.
- There is a constitutional mandate and a judicial endorsement for sub-categorisation within castes, as Article 16 (4) of the Constitution empowers that the State can make any provision for reservation in matters of promotion in favour of the SCs and STs if they are not adequately represented in the services under the State.
- As per the Articles 341(1) and 342(1), the President of India, after consultation with the Governor, may specify the castes, races, tribes or parts of groups within castes or races, which shall be deemed to be SCs and STs.

▪ Arguments Against:

- In Chinnaiah judgement, a five-judge Bench quashed the Andhra Pradesh Scheduled Castes (Rationalisation of Reservations) Act, 2000, on the ground that it **offended Article 341 of the Constitution**.
- The Andhra Pradesh law sought to carve four distinct categories out of the President's list and granted to each category a separate quota based on its inter se backwardness.
 - The Court found that the State government had no power to tinker with the list because it was clear on a bare reading of Article 341 that such authority vested only with Parliament.
 - The judgement also pointed to **B.R. Ambedkar's** speech in defence of the presidential list, **in which he had warned that if State governments were allowed to amend the list, we ran the risk of the exercise partaking purely political considerations.**

Note

Mandate of High-Powered Committee Under Cabinet Secretary:

- The committee's primary objective is to explore alternative methods for addressing grievances faced by various SC communities across the country.
- While initiated in response to the **Madiga community's (Telangana) concerns**, the committee's scope extends beyond one community or state.

- **Madiga Community's Struggle:** The Madiga community, constituting 50% of SCs in Telangana, has faced challenges in accessing government benefits intended for SCs due to dominance by the Mala community.
- Despite their substantial population, the Madiga community argued that it has been excluded from SC-related initiatives.
- They have been struggling since 1994 for the sub-categorisation of SCs and it was this demand that first led to the formation of the **Justice P. Ramachandra Raju Commission in 1996** and later a National Commission in 2007.
- It aims to evaluate and work out a method for the equitable distribution of benefits, schemes and initiatives to the most backward communities amongst the over 1,200 SCs across the country, that have been crowded out by relatively forward and dominant ones.

What are the Major Aspects Related to Sub Categorisation of SCs in India?

▪ Identification of SC/ST:

- The Constitution, while providing for special treatment of SCs and STs to achieve equality, does not specify the castes and tribes that are to be called SCs and STs.
- This power is left to the central executive, the **President**, under **Article 341**:
 - As per Article 341, those castes notified by the President are called SCs and STs. A caste notified as SC in one state may not be a SC in another state.

▪ Arguments For Sub-categorisation:

- As India is a welfare state, its obligation is to undertake the emancipation of the deprived section of the community and eradicate inequalities.
 - When the reservation creates inequalities within the reserved castes itself, it is required to be taken care of by the State making sub-classification and adopting a **distributive justice** method so that State resources do not concentrate in few hands and equal justice to all is provided.
- If sub-classification is denied, it would defeat the right to equality by treating unequal as equal.
- There are unequals within the list of Scheduled Castes, Scheduled Tribes, and socially and educationally backward classes.
- Various reports indicate that Scheduled Castes and Scheduled Tribes do not constitute a homogenous group. The inequality within the Scheduled Castes is underlined in several reports, and special quotas have been framed to address it:
 - **Justice Ramachandra Raju Commission, 1997** recommended sub-dividing the SCs into four groups and apportioning reservations separately for each.
 - It also recommended that the Creamy layer of Scheduled Castes be excluded from receiving any reservation benefits in public appointments and admission to educational institutions.

▪ Arguments Against Sub-categorisation:

- The argument is that the test or requirement of social and educational backwardness cannot be applied to Scheduled Castes and Scheduled Tribes.
- The special treatment is given to the SCs due to **untouchability** with which they have suffered since ages.
- In the **N M Thomas vs State Of Kerala case in 1976**, the Supreme Court itself has admitted that Scheduled Castes are not castes but they are a class and hence should be treated as a class.
- Sub categorisation will be used to appease one vote-bank or the other among the SC/ST and thus a cause of social justice would end being politicised.

What are the Different Timelines of Legal Tussle over the Sub Categorisation of SCs in Punjab?

▪ 1975:

- The Punjab government issues a notification dividing its 25% SC reservation into two categories. It was one of the first instances of existing reservations being 'sub-classified' by

a state.

- While the notification remained in force for nearly 30 years, it ran into legal hurdles in 2004.
- **2004:**
 - Supreme Court strikes down Andhra Pradesh Scheduled Castes (Rationalisation of Reservations) Act, 2000, citing violation of the right to equality in the E.V. Chinnaiiah v State of Andhra Pradesh case and emphasised that the SC list should be treated as a single, homogeneous group.
 - Later, the Punjab & Haryana High Court, in Dr. Kishan Pal v. State of Punjab, struck down the 1975 notification, supporting the E.V. Chinnaiiah decision.
- **2006:**
 - The Punjab government attempted to reintroduce sub-categorisation through the Punjab Scheduled Caste and Backward Classes (Reservation in Services) Act, 2006, but it was struck down in 2010.
- **2014:**
 - The Supreme Court referred the matter to a five-judge constitution bench, questioning the correctness of the 2004 E.V. Chinnaiiah decision.
- **2020:**
 - The Constitution bench holds that the 2004 decision needs reconsideration, rejecting the idea of SCs being a homogeneous group and acknowledging the existence of "unequal" within the list.
 - The concept of the "**creamy layer**" was also recommended by the Supreme Court for SCs and STs.
- **Present:**
 - A larger seven-judge bench is hearing the issue as only its judgement can prevail over the decision of a smaller bench.
 - Sub-classification will impact various communities across states, including Balmikis and Mazhabi Sikhs in Punjab, Madiga in Andhra Pradesh, Paswans in Bihar, Jatavs in UP, and Arundhatiyars in TamilNadu.

What are the Different Developments in the Davinder Singh Case Until Now?

- **Taking Cue from Indra Sawhney Judgement:** In questioning the extant view, the Supreme Court cited its judgement in Indra Sawhney vs Union of India, 1992 which arose out of the **Mandal Commission's** report.
 - There, a nine-judge Bench had held that sub-classifications within socially and educationally backward classes (OBCs) for services under the government was permissible.
- **Endorsing Judgement in K.C. Vasanth Kumar Case (1985):** The majority endorsed Justice Chinnappa Reddy's judgement in K.C. Vasanth Kumar & Another vs State Of Karnataka (1985). In it, Justice had ruled that while the propriety of making sub-classifications might depend on the facts of each case but:
 - Courts do not see why on principle there cannot be a classification into backward classes and more backward classes, if both classes are not merely a little behind, but far far behind the most advanced classes.
 - In fact such a classification would be necessary to help the more backward classes; otherwise those of the backward classes who might be a little more advanced than the more backward classes might walk away with all the seats.
 - If reservation was concerned to the more backward classes and no reservation was made to the slightly more advanced backward classes, the most advanced classes would walk away with all the seats available for the general category leaving none for the backward classes.

What are the Different Suggestions for Sub-Classifying Various Caste Groups?

- **Ensuring Promise of Substantive Equality:**
 - At the root of the matter is the Constitution's collective commitment to equality. Contained in Articles 14 to 16, which can be read together as a code, is a promise of substantive equality.

- This guarantee recognises that individuals, throughout India's history, have been discriminated against based on their caste.
- Therefore, our constitutional vision demands that we be mindful of group interests in striving to ensure equal treatment.
 - Under this model, reservations must be seen not as a measure in conflict with — and in exception to — the basic notion of equality, but, instead, as a means to furthering and entrenching that goal.
- **Acknowledging the Role of State Governments:**
 - In State Of Kerala & Anr vs N.M. Thomas & Ors (1975), the Supreme Court has, at least in theory, appeared to acknowledge that governments not only possess the power to make reservations and correct historical wrongs but also have a positive duty to ensure non-discrimination.
 - Viewed thus, if the Government of Punjab were to find on the basis of its studies that its existing measures of reservation have not adequately reached Balmikis and Mazhabi Sikhs, then it is constitutionally obligated to ensure that these measures are corrected.
- **Need for Wider Reading of Article 341:**
 - If Article 341 is seen as constituting a bar against sub-classification, then that prohibition would run against the Constitution's equality code. In any case, even on a plain reading, Article 341 does not impose such a prohibition.
 - It merely proscribes State governments from including or excluding castes from the President's list of SCs.
 - Where States provide special measures to certain castes that are within this list, they do not act to include or exclude other castes from the list.
 - Those castes will continue to be entitled to the State's general provisions of reservation.
- **Following the Reasonable Classification:**
 - In the case of the Punjab law, it decidedly does not modify the President's list. It merely accounts for inter se backwardness within that list by providing for a greater degree of preference to Balmikis and Mazhabi Sikhs.
 - This sub-classification is also in keeping with the Constitution's time-honoured theory that reasonable classifications are permissible to ensure that equality is achieved.
- **Judging Sub-Classification on Its Own Merits:**
 - If the lists of SCs and STs are not seen as homogenous categories, but as comprising different castes with differing levels of development, a sub-classification will have to be judged on its own merits.
 - That is, the Court will only have to examine whether Balmikis and Mazhabi Sikhs are intelligibly differentiable from other castes within the President's list, and whether the grant of preferential treatment to them and the extent of such grant bears a rational nexus with the law's larger objective of ensuring fair treatment.

Conclusion

The forthcoming ruling by a seven-judge bench of the Supreme Court, along with the insights from a committee, will guide the path for the sub categorisation of Scheduled Castes. It is time the Supreme Court takes seriously what it recognised in N.M. Thomas - that governments have both a power to make reservations and a duty to ensure that the constitutional dream of equality is achieved.

To that end, any authority vested in the States to provide for special measures to those castes within SCs and STs who are most discriminated against must be seen as a way of making real the idea of equal opportunity.

Drishti IAS Mains Question:

How does the sub-classification of Scheduled Castes impact social welfare policies and political representation? Discuss with examples in the Indian context.

UPSC Civil Services Examination, Previous Year Question:

Q1. Consider the following organizations/bodies in India: (2023)

1. The National Commission for Backward Classes
2. The National Human Rights Commission
3. The National Law Commission
4. The National Consumer Disputes Redressal Commission

How many of the above constitutional bodies?

- (a) Only one
(b) Only two
(c) Only three
(d) All four

Ans: (a)

Q2. With reference to 'Changpa' community of India, consider the following statements: (2014)

1. They live mainly in the State of Uttarakhand.
2. They rear the Pashmina goats that yield a fine wool.
3. They are kept in the category of Scheduled Tribes.

Which of the statements given above is/are correct?

- (a) 1 only
(b) 2 and 3 only
(c) 3 only
(d) 1, 2 and 3

Ans: (b)

Mains:

Q. What are the two major legal initiatives by the State since Independence addressing discrimination against Scheduled Tribes (STs). **(2017)**