



Bihar Reservation Law and Breaching 50% Limit

For Prelims: [Bihar Reservation Law](#) and Breaching 50% Limit, [Supreme Court \(SC\)](#), Scheduled Castes, Scheduled Castes & Other Backward Classes, 77th Constitutional Amendment Act, 1995.

For Mains: Bihar Reservation Law and Breaching 50% Limit, Government Policies and Interventions for development in various sectors and issues arising out of their design and implementation.

[Source: TH](#)

Why in News?

Recently, Bihar Reservation Laws were passed in Bihar Assembly, **increasing the quantum of reservations in jobs** and education in the State to 75%, breaching the 50% Rule upheld by the [Supreme Court \(SC\)](#).

- This has sparked debate around the **permissible limits of reservations in India**, particularly in view of the "50%" limit prescribed by the Supreme Court of India in the Mandal Commission case (Indra Sawhney, 1992).

What are the Key Highlights of the Bihar Reservation Laws?

- These laws are the **Bihar Reservation of Vacancies in Posts and Services (for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Amendment Act-2023** and the **Bihar (in admission in educational institutions) Reservation Amendment Act, 2023**.
- Under the amended Act, there will be a total of 65% reservation in both the cases, including 20% for [Scheduled Castes](#), **2% for [Scheduled Tribes](#)**, 18% for Backward Classes and 25% for Extremely Backward Classes.
- Apart from this, EWS (people from economically weaker general category) already approved under the Central Act will continue to get 10 % reservation.

What is the 50% Rule?

- **About:**
 - The 50% rule, historically upheld by the Supreme Court, dictates that reservations for jobs or education in India **should not exceed 50% of the total seats or positions**.
 - Initially established by a seven-judge bench in the 1963 M.R. In The Balaji case, reservations were considered **an "exception" or "special provision"** under the constitutional framework, thereby restricted to a maximum of 50% of available seats.
 - However, the understanding of reservations evolved in 1976 when it was acknowledged that reservations are not an exception but a component of equality. Despite this shift in perspective, **the 50% limit remained unchanged**.
 - A nine-judge bench in the **Mandal commission case in 1990** reaffirmed the **50% limit and held that it is a binding rule**, and not merely a matter of prudence. However, it is not a rule without exceptions

- States **may surpass the limit in specific circumstances**, notably to provide reservations to communities marginalized and excluded from the social mainstream, **irrespective of geographical location**.
- Moreover, the Supreme Court's recent affirmation of the 103rd Constitutional Amendment validates an additional 10% reservation for **Economically Weaker Sections (EWS)**.
 - This means that the **50% limit applies only to non-EWS reservations**, and States are permitted to reserve a total of 60% of the seats/posts including EWS reservations.
- **Other States Crossing the Limit:**
 - Other States that have already surpassed the 50% limit, even excluding the EWS quota, are **Chhattisgarh (72%), Tamil Nadu (69%**, under a 1994 Act protected under the ninth Schedule of the Constitution), and several north-eastern States including Arunachal Pradesh, Meghalaya, Mizoram and Nagaland (80% each).
 - Lakshadweep has a **whopping 100% reservations for Scheduled Tribes**.
 - Previous attempts by **Maharashtra and Rajasthan** have been struck down by the courts.

Constitution and Reservation

- **77th Constitutional Amendment Act, 1995:** The Indra Sawhney verdict had held there would be reservation only in initial appointments and not promotions.
 - However, addition of the article 16(4A) to the Constitution, empowered the state to make provisions for reservation in matters of promotion to SC/ST employees, if the state feels they are not adequately represented.
- **81st Constitutional Amendment Act, 2000:** It introduced Article 16(4B), which says unfilled SC/ST quota of a particular year, when carried forward to the next year, will be treated separately and not clubbed with the regular vacancies of that year.
- **85th Constitutional Amendment Act, 2001:** It provided for the reservation in promotion that can be applied with 'consequential seniority' for the government servants belonging to the SCs and STs with retrospective effect from June 1995.
- **103rd amendment to the Constitution (2019):** [10% reservation for EWS \(Economically Weaker Section\)](#).
- **Article 335:** It says that the claims of **SCs and STs shall be taken into consideration constitutently** with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

Way Forward

- Courts should **reevaluate the 50% reservation** cap considering evolving social dynamics, equity principles, and the changing socio-economic landscape.
- Deliberate on expanding the exceptions beyond social exclusion to include broader criteria for communities facing historical disadvantages, irrespective of geographical boundaries.
- Conduct a **detailed review of the existing reservation policies**, exploring their effectiveness, impact, and alignment with current societal needs.