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# **INTERNAL RESERVATION FOR ECONOMICALLY WEAKER SECTIONS: IS SUPREME COURT OF INDIA DONE INJUSTICE TO SOCIAL JUSTICE**

Authored By - Dr.P.R.L.Rajavenkatesan\*

## **Abstract**

*The concept of reservation has been a matter of debate for many decades in India. Initially reservation was introduced to uplift the Scheduled Caste, Scheduled Tribes and followed by backward classes of citizens in India. Nowadays, it has been extended to many citing the reason that there are not adequately represented in the matter of education, public employment etc., The very purpose of reservation itself is to ensure the social justice among all sections of society. Dr.B.R.Ambedkar had strongly believed that equality of opportunity may not be possible without reservation for those who had faced a historical disadvantage. The internal reservation for economically weaker sections for admission to Central Government run educational institutions and private educational institutions and for employment in Central Government jobs except for minority educational institutions has raised the serious questions about very foundation of reservation itself. There is no doubt that reservation for socially and educationally weaker sections have guaranteed by the Constitution of India as it is considered as affirmative action and reasonable for the poor and down trodden. The ten percent reservation for economically weaker sections through the 103<sup>rd</sup> Amendment of the Constitution is not beyond the debate and criticism and resulted in knocking the door of the Supreme Court to nullify the same but the Supreme Court of India decided in other way round. The moot question before the society is that whether ten percent reservation is reasonable and justifiable and whether Supreme Court of India has derailed from ensuring the social justice or would it really a threat to downtrodden people. In this paper, root cause behind the internal reservation for economically weaker sections and applying the different yardstick by Supreme Court of India while deciding the matter of internal reservation for various sections of people and how the Hon'ble Supreme Court of India has failed to appreciate very important constitutional philosophy of social justice will be discussed in detail.*

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**Keywords:** Constitution, Economically Weaker Sections, Reservation, Supreme Court of India, and Social Justice.

## Introduction

The issue of grant of reservation has been the contentious one in India. The very purpose of reservation is to uplift the poor and downtrodden as they are not adequately represented both in education and employment. As per as India is concerned, it is very strong in cultural identity and diverse in many aspects. The reservation for Scheduled Castes and Scheduled Tribes has been given the Constitutional sanction and later it has been extended to socially and educationally backward classes people as it is necessary to uplift them to ensure the representation in all corner. The very purpose of giving reservation is to assure the concept of social justice in India. Later, the theme of reservations has been extended to people belongs to economically weaker sections in India. Before discussing the reservation of economically weaker sections, it is worthwhile to note the origin behind the reservation in India.

## Historical Background of Reservation in India

The very foundation of reservation for the needy is to ensure the social justice but while looking back the history of introduction of reservation based on the caste is not exempted from judicial intervention. The very first case for deciding the merit of the reservation based on caste was discussed in *Srimathi Champakam Dorairajan v. The State of Madras*<sup>1</sup>. In that case, State Government of Madras reserved the seats for certain communities both for State medical and engineering colleges based on the religion, race, caste etc., but it was questioned based on Article 15 of the Constitution of India<sup>2</sup>. The State Government of Madras contented that the said order was passed in accordance with Art.46 of the Constitution of India<sup>3</sup>. The Court held that Directive Principles of State Policy could not override the fundamental rights. In result of which, Article.15 of the Constitution of India was amended by the Constitution (First Amendment) Act,1951 to nullify the judgement of Supreme Court and inserted a

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<sup>1</sup> *Srimathi Champakam Dorairajan v. The State of Madras* AIR 1951 SC 226.

<sup>2</sup> Art.15. Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth.

<sup>3</sup> Art.46.Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes, and other weaker sections.

Clause (4) in the Art.15<sup>4</sup>. Again the question of providing reservation by government of Mysore was questioned in *M.R.Balaji and Ors v. State of Mysore*<sup>5</sup>. In that case, the State Government of Mysore passed an order on 26<sup>th</sup> July 1958 to place all the communities except the Brahmin community, in the category of educationally and socially backward classes, Scheduled Castes and Scheduled Tribes and reserved 75% of the total seats in educational institutions for these communities. All the above order was supplanted relating to the reservation of seats and classified the backward classes into two categories such as backward classes and more backward classes and reserved 68% of the seats for the same while leaving 32% of the seats for the merit. It was challenged by 23 petitioners before the Supreme Court of India by way of Writ petition under Art.32 of the Constitution of India. It is also noteworthy to mention the argument of the petitioner was that before passing any order under Art.15(4) of the Constitution of India, the State is required to appoint a commission as provided under Art.340 which has to give the report for the same. The report will be placed before the president, then laid before both the Houses of Parliament along with the memorandum and further stated that even for the argument sake, if the State can make special provisions under Art.15(4), that should be made by legislation and not by an executive order but the Supreme Court held that appointment of commission is not a prerequisite to take any action under Article 15(4) and it is not necessary that only president can pass an order. Even if there is any recommendation from either Union or any State, it is discretion of the both governments to decide and not the president. Further court held that Art.15(4) says about 'classes' and not 'castes' and other factors also should be taken into consideration and it has to be both social as well as educational and made it clear that reservation must not exceed 50% in any case<sup>6</sup>. The Court also was justified the order of government making a classification of socially and educationally backward classes based on economic condition was justified<sup>7</sup>. Moreover, in another occasion Supreme Court held that the power of reservation conferred on the State under Article 16(4) can be exercised in a reasonable manner not only in appointment but also reservation of selection of posts<sup>8</sup>. The importance of giving reservation of seats for backward classes was justified by the court and considered as Constitutionally valid<sup>9</sup>. In another case<sup>10</sup>, Kerala

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<sup>4</sup> Art.15(4) of the Constitution of India states that Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

<sup>5</sup> *M.R.Balaji and Ors v. State of Mysore* AIR 1963 SC 649.

<sup>6</sup> *T. Devadasan v. Union of India*, AIR 1964 SC 179.

<sup>7</sup> *Chitrallekha v. State of Mysore*, AIR 1964 SC 1823.

<sup>8</sup> *General Manager, S.Rly v. Rangachari*, AIR 1962 SC 36.

<sup>9</sup> *Venkataraman v. State of Madras*, AIR 1951 SC 229.

<sup>10</sup> *Jacob Mathew v. State of Kerala*, AIR 1964 Kerala 39.

High Court held that classification of socially and educationally backward classes based on caste, religion or community was not consistent with Article 15(4) of the Constitution of India but in contrary Supreme Court of India justified the reservation of seats made on caste wise<sup>11</sup>. The state may reserve any post or appointment in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in the services under that State.<sup>12</sup> This is to provide socio-economic equality to the disadvantaged.<sup>13</sup> The expression “backward class of citizens” contained in Art. 16(4) would take Scheduled Castes and Scheduled Tribes within its purview.<sup>14</sup>

The second Backward Classes Commissioner, Mr.B.P. Mandal, submitted his report in 1980. In August 1990, the Government declared reservation of 27% seats in government service based on this report.<sup>15</sup> This was challenged as unconstitutional. A nine-Judge Bench has decided this case in November, 1992, rejecting that challenge.<sup>16</sup> It is also important to note here that the Court has not itself enumerated the ‘backward classes’ but has directed the Government to set up a commission to specify the backward classes, in the light of the principles laid down by the Court. In result of which, Parliament has already enacted the National Commission for Backward Classes Act, 1993 for this purpose and also in August, 1993, a 5-member Commission has been constituted under the Chairmanship of Justice R.N.Prasad. Parliament has the right to make or unmake any law whatever<sup>17</sup>. Contrary to many countries newly independent after World War II, which were born authoritarian or soon became so, Indian democracy flourished in its first twenty years, its roots from the pre-independence, nationalist movement growing ever stronger. This was so even while Nehru and others occasionally showed ambivalence about the effectiveness of a democratic constitution for fostering social revolution and preserving national integrity<sup>18</sup>. Reservation does not rule out the merits. Judging of merit may be at several tiers. It may undergo several filtrations<sup>19</sup>. It further stated by nine-judge bench that there can be no reservation solely based on economic criteria as the constitution of India did not provide the same. The condition precedent for the exercise of the power conferred by Article

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<sup>11</sup> *P. Rajendran v. State of Madras*, AIR 1968 SC 1012; *Periakaruppan v. State of Tamil Nadu*, AIR 1971 SC 2303.

<sup>12</sup> The Constitution of India, art.16(4).

<sup>13</sup> *State of U.P v. Dr. Dina Nath Shukla*, AIR 1997 SC 1095.

<sup>14</sup> *E.V.Chinniah v. State of A.P.*, (2005) 1 SCC 394.

<sup>15</sup> Dr. Durga Das Basu, *Introduction to the Constitution of India* 423 (Lexis Nexis, Haryana, 21<sup>st</sup> edn., 2013).

<sup>16</sup> *Indra Sawhney v. Union of India*, (1992) Supp. (3) SCC 217.

<sup>17</sup> A.V. Dicey, *An Introduction to the Study of the Law of the Constitution* 34 (Universal Law Publishing Co, New Delhi, 6<sup>th</sup> edn., 2012).

<sup>18</sup> Granville Austin, *Working A Democratic Constitution A History of the Indian Experience* 388 (Oxford University Press, New Delhi, 17<sup>th</sup> impression, 2020).

<sup>19</sup> M P Jain, *Indian Constitutional Law* 986 (Lexis Nexis, Haryana, 7<sup>th</sup> edn., 2014).

16(4) is that the States ought to be satisfied that any backward class of citizens is not adequately represented in its services. This condition precedent may refer either to the numerical inadequacy of representation in the services or even to the qualitative inadequacy of representation.<sup>20</sup> The advancement of backward classes requires not only that they should have adequate representation in the lowest rung of services but they should aspire to secure adequate representation in selection posts in services as well<sup>21</sup>. N.M.Thomas case ruled that Article 16(4)<sup>22</sup> allows the state to provide for reservation, is not an exception to equality but rather a facet of Article.16(1) and held that some caste classification like those inherent in reservation are indeed reasonable. Indra Sawhney 1992- it was noted that reservation should not exceed 50 per cent and reminded the quotation of Dr.B.R.Ambedkar that reservation shall be confined to a minority of seats and excessive reservation would breach the principle of equality of opportunity. It is also pertinent to mention here that economic backwardness was the only criterion that can be devised to determine social and educational backwardness<sup>23</sup>.

## Judicial Analysis of Reservation in India

In *M. Nagaraj v. Union of India*<sup>24</sup> the Supreme Court of India validated the parliament decision<sup>25</sup> to extend the reservations for SC/STs to include promotions (reservation in promotion) but it was very difficult for the central and state governments to grant such reservations. There are three conditions imposed by the Supreme Court while delivering the judgement such as follows<sup>26</sup>: 1. State must show the backwardness of the class 2. It must also show that the class is inadequately represented in the position or service 3. It must show that the reservations are in the interest of administrative efficiency. The moot question is that whether there is a fundamental right to reservation<sup>27</sup>. In *Mukesh Kumar v. State of Uttarakhand* case the issue was that promotion of the reservation in public services of SCs or STs for the post of Assistant Civil Engineer in public service, Department, Government of Uttarakhand.

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<sup>20</sup> *Southern Railway v. Rangachari*, AIR 1962 SC 36.

<sup>21</sup> Mahendra Pal Singh, *V.N. Shukla's Constitution of India* 118 (Eastern Book Company, Lucknow, 12<sup>th</sup> edn., 2013).

<sup>22</sup> Art.16(4) of the Constitution of India; "Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State."

<sup>23</sup> *K.C.Vasanth Kumar v. State of Karnataka* 1985 Supp SCC 714.

<sup>24</sup> *M.Nagaraj v. Union of India* AIR 2007 SC 71.

<sup>25</sup> The Constitution (Seventy Seventh Amendment) Act,1995 which inserted Article 16(4A); The Constitution (Eighty First Amendment) Act,2000 which added Article 16(4B); The Constitution (Eighty Second Amendment) Act,2000 which added Article 335 and The Constitution (Eighty Fifth Amendment) Act,2000 which added "consequential seniority" for SC/STs under 16(4B).

<sup>26</sup> Available at: [https://www.scobserver.in/cases/jarnail-singh-v-lacchmi-narain-gupta-reservation-in-promotion-case-background/\(last visited on 15.05.2023\)](https://www.scobserver.in/cases/jarnail-singh-v-lacchmi-narain-gupta-reservation-in-promotion-case-background/(last%20visited%20on%2015.05.2023)).

<sup>27</sup> *Mukesh Kumar v. State of Uttarakhand* (2020) 3 SCC 1 : the court said that there is no fundamental right to reservation.

In this case the High Court of Uttarakhand directed the state government to gather quantitative data regarding the deficiency of the representation of SCs or STs candidates in government services and further said that this data would empower the State Government to examine and take decisions on the matter related to reservation. The Hon'ble Supreme Court has stated that the authorities of the State Government are not required to promote public appointments or positions to the individuals belonging to the SCs or STs and to generate a reservation for that purpose. It is also worthwhile to note here that the court held that promotion of reservation does not fall under the ambit of the fundamental rights which can be maintained and hence no writ petition of mandamus can be issued for this purpose and no fundamental right has been provided for an individual to move forward to claim reservation in promotions and the constitution.

In *Jarnail Singh v. Lachmi Narain Gupta*<sup>28</sup> there was an issue of correctness of the decision of M.Nagaraj case relating to equality of opportunity in the matter of public employment and placed the argument that the concept of creamy layer has not been applied in Indra Sawhney case but it was applied for SC's and ST's. There are three issues raised in this case such as 1. Whether the Nagaraj judgement should be reconsidered; 2. Is it mandatory to collect the quantifiable data to prove the backwardness for promotion and 3. Whether the creamy layer among the scheduled castes and the scheduled tribes should be barred for obtaining promotion by way of reservation. The Supreme Court said that Nagaraj case does not need to be referred to a seven-judge bench and stated that the provision for mandating the State to collect quantifiable data to prove the backwardness of the Scheduled Castes and the Scheduled Tribes is totally contrary to Indra Sawhney case and making this provision is invalid and confirmed the application of creamy layer to promotions for Scheduled castes and Scheduled Tribes<sup>29</sup>. There is a mechanism which helps the State to decide the parameter for fixing the reservation and include in Ninth Schedule of the Constitution<sup>30</sup>.

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<sup>28</sup> *Jarnail Singh v. Lachmi Narain Gupta*, Civil Appeal No. 629 of 2022 (Arising out of SLP (C) No. 30621 of 2011), Judgement delivered on 28<sup>th</sup> January, 2022.

<sup>29</sup> Available at: <https://blog.ipleaders.in/jarnail-singh-vs-lachhmi-narain-gupta-case-study/> (last visited on 19.06.2023).

<sup>30</sup> *IR Coelho v. State of Tamil Nadu AIR 2007 SC 861*- The Court held that if any law found inconsistent with Part 3 of the Constitution even included in Ninth Schedule of the Constitution would be struck down by the process of judicial review and reiterated that judicial review is the part of the basic structure doctrine.

# Contemporary Issues of Reservation for Economically Weaker Sections in India

The reservation for economically weaker sections has been contentious one from the day of adoption in the Constitution of India but root cause for this reservation has many constitutional amendments<sup>31</sup>. Art.342A<sup>32</sup> of the Constitution of India has been focused on reservation for economically weaker sections<sup>33</sup>. In addition to this, 105<sup>th</sup> Constitutional Amendment was brought regarding socially and educationally backward classes<sup>34</sup>. In *Dr.Jaishree Laxmanrao Patil v. The Chief Minister and Others*<sup>35</sup> Constitution Bench of the Supreme Court of India had strike down the Maratha quota in excess of 50% ceiling limits as unconstitutional. Furthermore, the court said that “Neither the Gaikwad Commission nor the High Court have made out any situation for exceeding the ceiling of 50 % reservation for Marathas. Therefore, there are no extraordinary circumstances for exceeding the ceiling.” The basic reason for struck down the Maharashtra Socially Educationally Backward Classes Act,2018 was that no extraordinary circumstances were made out to grant separate reservation for Maratha community and if granted it will violate basic principle of equality as enshrined in Art.16 of the Constitution of India<sup>36</sup> because Maharashtra SEBC Act,2018 provided 16% reservation for Marathas in jobs and education which resulted in reservation in Maharashtra exceeded to 68%. While granting reservation for Maratha Community by way of enacting the legislation namely the Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments in the public services and posts under the State) for Socially and Educationally

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<sup>31</sup> The Constitution (One Hundred and Second Amendment) Act,2018 resulted in constitutional status to the National Commission for Backward Classes. Moreover, it has taken away the power of the State Governments to identify socially and educationally backward classes (SEBC) and power to identify the SEBC lies with the Centre but make suggestions to the President or the statutory commissions for inclusion, exclusion, or modification in the SEBC list.

<sup>32</sup> Art.342A inserted by the Constitution (One Hundred and Second Amendment) Act,2018, s.4(w.e.f.15-8-2018).

<sup>33</sup> Art.342A of the Constitution of India- Socially and educationally backward classes and mentioned that the president may with respect to any State or union territory and where it is a State after consultation with the Governor, thereof, by public notification specify the socially and educationally backward classes in the Central List which shall for the purpose of the Central Government be deemed to be socially and educationally backward classes in relation to that State or Union territory as case may be.

<sup>34</sup> The Constitution (One Hundred and Fifth Amendment) Act,2021 was brought to amend Articles 338 B, 342A and 366 and to restore the power of the state governments to identify Other Backward Classes that are socially and educationally backward and to nullify judgement of the Supreme Court namely *Dr. Jaishree Laxmanrao Patil v. The Chief Minister and Others* Civil Appeal No.3123 of 2020 Supreme Court, which had empowered only the Central Government for such identification.

<sup>35</sup> *Dr.Jaishree Laxmanrao Patil v. The Chief Minister and Others* Civil Appeal No.3123 of 2020 Supreme Court.

<sup>36</sup> Art.16 of the Constitution of India mentioned about Equality of opportunity in matters of public employment.

Backward Classes(SEBC) Act,2018 , the Bombay High Court<sup>37</sup> upheld the validity of reservation but held that 16% reservation is not justifiable and altered as reservation should not exceed 12% in employment and 13% in education as recommended by Backward Commission. The Court further held that ceiling of reservation can be exceeded under exceptional and extraordinary circumstances and observed that Maratha reservation was based on justifiable data submitted by the Backward Commission<sup>38</sup>. There is an interpretation of the Constitutional Amendments (102,103 and 105) by the Supreme Court of India which is not beyond the criticism<sup>39</sup>. In *Vikas Balwant Alase & Ors v. Union of India through Secretary & Ors*<sup>40</sup> held that Maharashtra Government's decision to allow members of the Maratha community to avail benefits under the Economically Weaker Section category midway through an electricity distribution recruitment drive as Maratha community candidates were aware that their selection process would be subject to Supreme Court order in the Maratha Reservation matter. There is a concrete policy in India to give the reservation to socially and educationally backward classes and Scheduled Castes and Scheduled Tribes. It is also matter of debate by way of introducing the 103<sup>rd</sup> Constitutional amendment introduced in Article 15(6)<sup>41</sup> of the which give the power to state to make special provisions for any economically weaker sections of citizens other than

<sup>37</sup> *Dr. Jaishree Laxmanrao Patil v. The Chief Minister and Others*, Public Interest Litigation No.175 of 2018, Bombay High Court.

<sup>38</sup> Available at:<https://www.livelaw.in/top-stories/maratha-reservation-bombay-hc-145929>(last visited on 25.06.2023).

<sup>39</sup> *Pattali Makkal Katchi v. A. Mayilerumperumal & Ors* 2022 LiveLaw (SC) 333. In this case Supreme Court of India held that internal reservation of 10.5% to the Vanniyar Community under the Category Most Backward Classes is unconstitutional and the Constitutional 105<sup>th</sup> Amendment Act is prospective in nature and rejected the contention that the Constitution 105<sup>th</sup> Amendment is clarificatory in nature and should be given retrospective effect from the date on which 102<sup>nd</sup> Amendment Act came into effect because the opponent had questioned the validity of the Tamil Nadu Special Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the services under the State with the Reservation for the Most Backward Classes and Denotified Communities Act,2021. It is also stated that sub-classification amongst backward classes is permissible and State has the legislative competence to enact the legislation. In *V.V.Saminathan v. The Government of Tamil Nadu* W.P.No.15679 of 2021 Madras High Court delivered judgment on -01.11-2021 held that no such commission report was received by the State Government except a letter in the form of remarks, dated 23.02.2021 from the Chairman of the Tamil Nadu Backward Classes Commission and there is no data much less quantifiable data available with the State Government before the introduction of the impugned Act and finally held that caste alone cannot be a criteria to make reservation and the State Legislature has no power to enact such legislation and accordingly, the State Legislature has no competency to pass the impugned Act. Based on the above it can be said that Unfortunately 10.5% internal reservation for Vanniyar in MBC was set aside citing the reason that it was not supported by any data even though internal reservation for other caste has been given without any quantifiable data. It resulted in pushing down 100 years back of that vanniyyar community which is against the social justice.

<sup>40</sup> *Vikas Balwant Alase & Ors v. Union of India through Secretary & Ors* W.P. No 2663 of 2021 Bom HC.

<sup>41</sup> Art.15(6) of the Constitution of India says that any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses(4) and (5); and special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by a State other than the minority educational institutions and in case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent of the total seats in each category. It was inserted by the Constitution (One Hundred and Third Amendment) Act,2019, s.2(w.e.f.14-1-2019).

those mentioned in educationally backward classes and Scheduled Castes and Scheduled Tribes. In addition to this, Article 16(6) also have been introduced to enable reservation for economically weaker sections other than the socially and educationally backward classes and Scheduled classes and Scheduled Tribes in public employment and education<sup>42</sup>. It is a matter of debate about reservation even 70 years after adoption of the Constitution. The recent 103<sup>rd</sup> Amendment in the Constitution of India has created the issues for reconsidering the reservation as it is providing the reservation for economically weaker sections and it retains a caste dimension by limiting economically weaker section to the upper caste but excluding lower castes and scheduled tribes. Dr B.R.Ambedkar said that caste system is not just a division of labour but a division of labourers. In *Janhit Abhiyan v. Union of India*<sup>43</sup>, the Constitutional validity of 103 Amendment Act, 2019 was challenged it citing the reason that it was unconstitutional and a breach of the basic structure doctrine and because of this amendment the State became empowered to make a special provision regarding reservation for the economically weaker section with an upper limit of 10% by virtue of addition of Articles 15(6) and 16(6) in the Constitution of India<sup>44</sup>. The important provision in the amendment was that state has empowered to give a ten percent reservation to economically weaker sections of the society in the educational institutions and employment opportunities excluding of Scheduled Castes, Scheduled Tribes and non-creamy layer Other Backward Class and it is merely enabling in nature rather than mandatory, i.e., it does not mandate the institutions to provide the 10% ceiling reservation to the Economically Weaker Sections classes but enable the state to make arrangements for the same. It is also important to note here about issued raised as follows; 1. Economic criteria cannot be the sole determinant in allowing reservation for a particular section of society and thus it infringes the basic structure of the constitution 2. The defined 10% upper limit of reservation for the economically weaker sections directly breaches the 50% cap of reservation and directly goes against the ethos and jurisprudence of reservation and violates the equality principles resulted in breach of basic structure of the Constitution of India and exclusion of socially and educationally backward classes i.e., SCs, STs, and OBCs from these special provision for economically weaker sections is inexplicably discriminatory in nature and thus violates the basic structure of the constitution.

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<sup>42</sup> Art.16(6) of the Constitution of India says that State has a power to make any provision for the reservation of appointment or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4) of art.16, in addition to the existing reservation and subject to a maximum of ten per cent of the post in each category. It was inserted by the Constitution (One Hundred and Third Amendment) Act, 2019, s.3 (w.e.f.14-1-2019).

<sup>43</sup> Writ Petition (Civil) No.55 of 2019 Supreme Court of India.

<sup>44</sup> Available at: [https://lawbhoomi.com/janhit-abhiyan-vs-union-of-india-2022-case-comment\(last](https://lawbhoomi.com/janhit-abhiyan-vs-union-of-india-2022-case-comment(last) visited on 12.07.2023).

## **Conclusion and Suggestions**

The internal reservation for economically weaker sections has been a matter of debate from date one in which it was granted. The one section of people has welcomed the steps taken by the State. Another section of people has raised the issues that without making any demand by the people in the fullest extents, it has been done in a speedy manner without any quantifiable data citing the reason that it will be useful for them. Even though there is a Constitutional guarantee for economically weaker sections to enjoy the 10 % reservation, it has created huge uproar. The Supreme Court of India has backed the decision of the State and validated the same. Being the guardian of the Constitution of India, the Supreme Court of India should have been acted to ensure the social justice but here what is happened to the majority in the name of reservation is injustice. Nobody will object the reservation for economically weaker sections but it should have been done in a proper manner by way of appointing the commission to analyse the pros and cons and collect the quantifiable data, then to take a decision to provide the numerical value for grant of reservation. The Supreme Court of India also has missed the opportunity to analyse it in wider perspectives keeping the social justice in mind. Therefore, it is the right time that State should take an initiative for caste census and fix the percentage of reservation based on population of each caste without affecting other. Otherwise, it would be like futile exercise to speak about reservation and social justice.