



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **NAVIGATING INDIA'S RESERVATION POLICY: EMBRACING EQUITY WITH EWS RESERVATION**

AUTHORED BY - AKANKSHA RAI

LLM, Amity University

CO-AUTHOR - DR. JYOTSNA SINGH

Assistant Prof., Amity University, Lucknow

## **ABSTRACT**

The Economically Weaker Sections (EWS) reservation policy, introduced by the Government of India in 2019 through the 103rd Amendment to the Constitution, represents a paradigm shift in affirmative action strategies. Unlike traditional reservation policies based on caste or community affiliation, EWS reservation aims to address socio-economic disparities by providing reservation benefits to the people from economically disadvantaged backgrounds, regardless of their caste identity. This abstract explores the key features, objectives, and implications of EWS reservation, including eligibility criteria, reservation quotas, income thresholds, and implementation challenges. It examines the rationale behind the policy, its potential impact on social inclusion and economic empowerment, and the broader implications for India's social justice framework. By broadening the scope of affirmative action to encompass economic criteria, EWS reservation seeks to promote equity and inclusivity in education and public employment, while also raising important questions about the effectiveness of such policies in addressing entrenched socio-economic inequalities.

**Keywords:** Schedule Cast, Schedule Tribe, Dalits, Other Backward Classes

## **INTRODUCTION**

India boasts a rich cultural heritage and holds the distinction of being the world's largest democracy, the seventh-largest country by area, and the most populous nation globally. However, it is also a land of stark contrasts, where profound despair coexists with immense prosperity. With

substantial influence in the Asian subcontinent and on the global political stage, India's significance is undeniable. Yet, beneath the surface, the country has grappled with a tumultuous history marred by issues of equality, opportunity, and inclusivity. Certain castes have endured generations of discrimination and oppression. In response, the constitution has instituted reservation policies to address these longstanding injustices.

Dr. B. R. Ambedkar, frequently celebrated as the Architect of the Constitution of India, passionately campaigned for a fair society where all people could experience dignity, devoid of the shadows of exploitation and prejudice. He recognized discrimination and exploitation as twin evils that perpetuate social exclusion and marginalization, particularly affecting vulnerable groups within society.<sup>1</sup>

Reservation has a legacy stretching back 2000 years<sup>2</sup>, undergoing significant transformation post-independence due to the persistent efforts of leaders like MK Gandhi and B.R. Ambedkar. The preamble of the Indian Constitution identifies the nation as a "Democratic Republic" and upholds the principle of equality before the law. To address the historical marginalization and stigmatization faced by socially backward castes, it includes special provisions.

However, there has been a shift in Indian government policy away from caste-based reservation towards class-based reservation. The S R Sinho Commission, in 2010, recommended an amendment in the Constitution to provide reservation for economically disadvantaged people in education as well as in government employment. In line with this, the government introduced a 10% reservation for the economically weaker sections (EWS) through the 103rd Constitutional Amendment Act.

This recent inclusion of reservation for Economically Weaker Sections (EWS) has ignited conversations regarding the effectiveness and consequences of affirmative action in India. This piece explores the development of India's reservation policy, the reasoning behind EWS reservation, and its effects on the socio-political environment.

## **EVOLUTION OF RESERVATION IN INDIA**

Following India's independence, constitution provided reservation provisions in Art 15 and Art 16, guidelines were issued on September 21, 1947, reserving 12.5 percent of vacancies for Scheduled Castes (SCs) in open competition recruitment, and 16 2/3 percent for other recruitment methods. The difference between open competition and other recruitment methods is explained

---

<sup>1</sup> Sreekanth Yagnamurthy, Reservation for Economically Weaker Section Children in Unaided-Private Schools, 5 Policy and Practise 1, 3 (2013).

<sup>2</sup> Kumar, Jyotica Kumar, Policy of reservation: Its envisioned perspective, 39 Journal of the Indian Law Institute 330, 332 (1997).

further in Chapter-II. After the promulgation of the Constitution, the Minority Affairs Ministry, in its resolution dated September 13, 1950, provided an additional 5 percent reservation for Scheduled Tribes (STs), in addition to the existing percentage for SCs. The 1951 Census revealed that SCs constituted 15.05 percent of the total population, and STs 6.31 percent. These percentages were not revised at the time due to ongoing considerations for a comprehensive bill revising the lists of SCs and STs. Furthermore, reservation for SCs was already provided in posts filled through methods other than open competition, to the extent of 16.66%, and regional and local percentage instructions were issued for Class III and Class IV posts.

The 1961 Census showed SCs at 14.64% and STs at 6.80% of the Indian population, leading to an increase in reservation percentages for SCs and STs to 15 percent and 7.5 percent respectively on March 25, 1970. The 1971 Census did not necessitate any revisions. The impact of the 1981 Census on all-India percentages could not be determined due to the census not being conducted in the state of Assam. In 1993, reservation for Other Backward Classes (OBCs) was introduced in direct recruitment at approximately 27 percent. With the introduction of OBC reservation, the total reservation for SCs, STs, and OBCs amounted to 49.5 percent in direct recruitment on an all-India basis through open competition, and 50 percent through other methods. As per Supreme Court judgments, the total reservation for these communities cannot exceed 50 percent.<sup>3</sup>

Over the years, reservation policies have progressively expanded to encompass various avenues of promotion. In 1957, reservation was initiated for Scheduled Castes (SCs) and Scheduled Tribes (STs) in departmental competitive exams. Additionally, in 1963, reservation was introduced for promotion by selection in Group C and Group D, initially restricted to Class III and Class IV roles. By 1968, limited departmental exams for positions ranging from Class II to Class IV, along with promotion by selection to Class III and IV roles, stipulated a condition where the proportion of direct recruitment should not surpass 50 percent.

In 1972, reservation in promotion by seniority subject to fitness was enforced, with the condition that direct recruitment should not surpass 50 percent. Further, in 1974, reservation in promotion by selection from Group C to Group B, within Group B, and from Group B to the lowest rung of Group A was introduced, again with the stipulation that direct recruitment, if any, does not exceed 50 percent.

In 1976, the cap on direct recruitment not exceeding 50 percent was elevated to 66 2/3 percent, and further increased to 75 percent in 1989. Until 1997, reservation allocations were computed based on the filled vacancies. However, the Supreme Court's verdict in the **R.K. Sabharwal Vs.**

---

<sup>3</sup> Indra Sawhney Etc. Etc vs Union of India And Others, Etc. Etc., AIR 1993 SC 477

**State of Punjab**<sup>4</sup> case in 1997 mandated that reservation should be calculated based on the total number of positions in the cadre rather than just the vacancies.

As a result, post-based reservation was implemented starting from July 2, 1997. The core tenet of post-based reservation is ensuring that the number of reserved posts within a cadre aligns with the quota designated for each category. Before the introduction of post-based reservation, there existed a provision for the interchange of reservation between SCs and STs. However, following the adoption of post-based reservation, such exchanges are no longer allowed.

Prior to 1975, scientific and technical positions vital for research were exempt from reservation policies for Scheduled Castes (SCs) and Scheduled Tribes (STs). However, in 1975, these exemptions underwent revision. It was decided that reservations for SCs and STs should extend to appointments in scientific and technical roles up to and including the lowest grade of Class I in the respective services, where previously exempt from reservation policies. Nevertheless, these revised directives did not encompass certain departments like the Department of Space, Department of Electronics, and the recruitment of trainees to the training school of the Department of Atomic Energy. The prior orders continued to apply to these departments.

Various relaxations and concessions are provided to SC/ST candidates, including relaxation in the upper age limit, exemption from payment of examination/application fees, relaxation in qualification or experience requirements at the discretion of the UPSC/competent authority, and relaxations in the standard of suitability. Some relaxations, such as those in the upper age limit, are also available to Other Backward Classes (OBCs).

The term "weaker section" encompasses individuals in the country who face social and educational backwardness as a result of limited resources and the prevailing caste system in Indian society. The reservation policy was implemented for these individuals as affirmative action, with the aim of promoting equality and ensuring adequate representation of backward classes in all government services.

The history of the economically weaker section is deeply intertwined with economic inequality and social marginalization. Throughout history, marginalized groups such as indigenous peoples, ethnic minorities, and lower castes have been part of this section, facing discrimination and limited access to resources. The advent of industrialization and capitalism in the 19th century further exacerbated economic disparities, with the working class and urban poor experiencing economic disadvantage due to poor working conditions and low wages.

In the 20th century, governments worldwide began implementing policies to address economic

---

<sup>4</sup> 1995 AIR 1371

inequality, including progressive taxation and social welfare programs. Affirmative action policies were also introduced to uplift marginalized groups. Today, amidst escalating income inequality and the challenges posed by the COVID-19 pandemic, policymakers and activists are increasingly focused on addressing the challenges faced by the economically weaker sections. It's essential to acknowledge the complexity of this history, which varies across countries and regions, and to recognize that the definition of the economically weaker section evolves over time and in different contexts.

## IMPLICATIONS

The inclusion of reservation for Economically Weaker Sections (EWS) has significant implications, as it amends Article 15 and Article 16 of the Constitution, allowing the state to provide up to 10 percent reservation for economically weaker sections of society, excluding Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes - Non-Creamy Layer (OBC-NCL).

The newly added clause (6) of Article 15 empowers the state to make special provisions, including reservation in admissions to educational institutions (including private institutions), while also excluding educational institutions for minorities under Article 30(1).<sup>5</sup> Similarly, the newly added clause (6) of Article 16 allows for reservation for governmental appointments or state posts.

To be eligible for EWS reservations, an individual's gross family income must be less than Rs 8 lakh, with additional criteria such as land ownership and residential plot size.<sup>6</sup> Currently, reservations account for a total of 49.5 percent in India. However, with the addition of the 10 percent reservation for EWS, the total would increase to around 59.5 percent, potentially impacting the number of meritorious admissions.

Absolutely, the EWS classification plays a crucial role in determining access to government support programs and benefits aimed at addressing economic and social challenges. By being classified as EWS, individuals and families become eligible for a wide array of government initiatives designed to provide financial and social assistance. These programs encompass various areas such as affordable housing, education and training opportunities, childcare assistance, energy subsidies, healthcare services, and more.

Access to these programs can significantly impact the lives of individuals and families by helping them meet their basic needs and improve their overall well-being. By receiving financial

---

<sup>5</sup> The Constitution of India, 1949, Art. 15 (6)

<sup>6</sup> K. Pawar, *Affirmative Action: Current Reservation Policy And Alternative Model*, 12 (1st ed., 2019)

assistance, affordable housing options, educational opportunities, and healthcare services, individuals and families can strive towards greater economic stability and social inclusion. Thus, the EWS classification serves as a vital mechanism for ensuring that support reaches those who need it most, fostering greater equity and opportunity within society.

Indeed, determining EWS status can be intricate and burdensome, often involving complex criteria and documentation requirements. As a result, individuals and families may encounter barriers that hinder their access to the benefits they are entitled to receive.

Moreover, there's a risk of social stigma attached to being classified as EWS, which can perpetuate discrimination and marginalization within society. This stigma may discourage individuals and families from seeking the assistance they need, further exacerbating their economic and social challenges.

Additionally, the fluid nature of EWS classification, with eligibility criteria subject to change over time, can contribute to uncertainty and instability for those affected. Such unpredictability can create additional stress and anxiety, particularly for individuals and families already facing economic hardship.

To address these issues, it's crucial to ensure that the process of determining EWS status is fair, transparent, and easily accessible to all eligible individuals and families. Efforts should be made to streamline the application process, simplify documentation requirements, and increase awareness about available benefits and support services.

Furthermore, initiatives aimed at reducing the social stigma associated with EWS classification can help foster a more inclusive and supportive environment. By promoting empathy and understanding, society can work towards breaking down barriers and ensuring that individuals and families receive the assistance they need without fear of judgment or discrimination. Ultimately, creating a more equitable and compassionate society requires ongoing efforts to address the challenges and barriers faced by those classified as economically and socially weak.

### **DOES IT VIOLATE THE BASIC STRUCTURE?**

The **case of Keshwananda Bharti** established the basic structure doctrine as a fundamental aspect of the Indian Constitution, holding that no amendment can alter this core framework of Indian democracy.<sup>7</sup> While not explicitly outlined in the constitution, the basic structure includes principles such as federalism<sup>8</sup>, secularism, democracy, equality, and freedom.<sup>9</sup>

---

<sup>7</sup> Kesavananda Bharti v. State Of Kerala, AIR 1973 SC 1461.

<sup>8</sup> S. R. Bommai v. Union Of India, AIR 1994 SC 1918.

<sup>9</sup> S. Deshpande, Caste Inequalities In India Today, Contemporary India: A Sociological View, 98-124 (1st ed., 2003).

Regarding reservation for Economically Weaker Sections (EWS), two tests are applied to determine its compatibility with the basic structure doctrine. The first test, the "Width test," examines the scope of amending power and considers issues such as adherence to the 50 percent ceiling on reservations, exclusion of the creamy layer, compelling reasons for reservations, and ensuring reservations do not compromise the overall efficiency of administration. The second test, the "Identity test," assesses whether the reservation alters the Constitution's true identity and must also consider the principle of equality enshrined in the Constitution.

For the EWS reservation to withstand scrutiny by the Supreme Court and avoid being deemed a violation of the basic structure, it must effectively pass these tests. The reservation policy, aimed at fostering social equality, should not compromise the right to equality itself. The architects of our constitution were cognizant of this, which is why they imposed limitations on reservation policies. This limit was first established in the landmark case of **M.R. Balaji v. State of Mysore**,<sup>10</sup> where the court emphasized that reservation policies should not be unreasonably excessive or extravagant, thus preventing reverse discrimination.<sup>11</sup>

However, a different perspective emerged in the subsequent **N.M. Thomas case**,<sup>12</sup> and further changes were seen with the introduction of the Mandal Commission in 1979. This commission recommended reservation for the Other Backward Castes (OBCs) category, with the court capping it at 27 percent. It was recognized that the power granted by Clause (4) of Article 16 must be exercised fairly and within reasonable limits. Indeed, the 103rd Amendment allowing a breach of the reservation ceiling established in previous cases raises important questions. While the intention behind the amendment may be positive, it is crucial to subject it to scrutiny based on persuasive precedents such as those established in previous cases. Amendments to Articles 15 and 16 of the constitution must be evaluated in light of existing legal principles to ensure that they uphold the fundamental values of equality and fairness enshrined in the constitution.

Social justice, although not explicitly defined in the Constitution, is a principle fundamental to our legal and societal framework. It is a concept entrusted to lawmakers to delineate its scope and application. Social justice is inherently inclusive and essential for fostering a fair and equitable society. The preamble of the Constitution underscores the importance of justice - social, economic, and political - highlighting its foundational significance.

True social justice cannot be achieved without addressing the needs of the economically

---

<sup>10</sup> AIR 1963 SC 649.

<sup>11</sup> M.R. Balaji v. State of Mysore, 1963 AIR 649.

<sup>12</sup> State Of Kerala & Anrvs N. M. Thomas &Ors, 1976 AIR 490.

backward segments of society. Poverty not only deprives individuals of opportunities in education and employment but also obstructs access to sustainable livelihoods. Therefore, ensuring equitable access to the benefits of development is essential for realizing social justice in its truest sense.

### CHALLENGES TO EWS RESERVATION

It's true that previous Supreme Court judgments may not hold the same weight in today's context, potentially justifying the government's decision to breach the 50 percent reservation ceiling set in the **Indra Sawhney v. Union of India**<sup>13</sup> case. However, this breach could pave the way for further escalation of reservation percentages in the future unless clear boundaries are established. Without such boundaries, the foundational principle of equality underlying the reservation policy could be undermined.

For the new reservation policy to be justified, the government must provide robust reasoning supported by empirical research. Mere reliance on economic criteria may not suffice to demonstrate inadequate representation of economically weaker sections within the general category. Before implementing the new policy, the government should substantiate its claim with evidence showing the underrepresentation of economically weaker sections in both educational institutions and civil services, aided or unaided.

In the absence of such evidence and clear boundaries, there's a risk of perpetuating inequalities rather than addressing them effectively. Therefore, it's essential for either the government to provide compelling justification or for the Supreme Court to impose a new ceiling on the reservation policy while considering the case.

The purpose of reservation is indeed to address historical and existing social deprivation by enhancing the representation of marginalized sections of society. It aims to empower these communities by providing them with opportunities for education and advancement, thereby contributing to their overall development. However, it's important to note that reservation was primarily intended to uplift socially disadvantaged groups, rather than being solely based on economic conditions.

The current approach to reservation for economically weaker sections may not fully serve the intended purpose of representation, as it primarily focuses on economic criteria rather than addressing social deprivation. Data from the National Sample Survey Office (NSSO) and the Income Tax department indicate that a significant portion of Indian families fall within the EWS

---

<sup>13</sup> AIR 1993 SC 477.

income limit, suggesting that the threshold of Rs 8 lakh may encompass a large proportion of the population not covered by existing reservation policies.

This highlights the need for a nuanced approach to reservation policies that effectively address social inequities while ensuring fair representation for historically marginalized communities. Simply targeting economic criteria may not sufficiently address the underlying issues of social deprivation and inequality.

The 103rd Amendment raises questions regarding whether the reservation for Economically Weaker Sections (EWS) a hard or soft reservation policy is. In hard reservations, leftover vacancies are not filled by individuals outside of the reserved category. This approach is evident in the case of reservations for Scheduled Castes (SCs) and Scheduled Tribes (STs) as established in the Indra Sawhney judgment of 1992.

Conversely, reservations for Other Backward Classes (OBCs) in admissions to publicly funded higher educational institutions are considered soft reservations. In the landmark **Ashoka Kumar Thakur vs Union of India**<sup>14</sup> case in 2008, the Supreme Court ruled that unfilled OBC vacancies should be converted into open category positions, without prescribing a specific procedure. This lack of clear guidance has led to ad-hoc measures to address OBC de-reservation, resulting in potential inefficiencies, unfairness, and manipulability, as highlighted in a recent study by **Aygün and Turhan (2022c)**.<sup>15</sup>

The ambiguity surrounding whether the EWS reservation is a hard or soft reservation could lead to similar challenges in implementation and may require careful consideration to ensure fairness and efficiency in the allocation of reserved positions.

## CRITICISM

These criticisms highlight important issues with the current EWS classification system:

1. Lack of transparency and fairness:<sup>16</sup> The process for determining EWS status may not be transparent or fair, leading to potential barriers in accessing benefits. Without clear guidelines and criteria, individuals and families may struggle to understand how their eligibility is determined.
2. Lack of flexibility: The fixed income and asset thresholds used in the EWS classification system may not account for the unique circumstances of individual families or communities. This

---

<sup>14</sup> (2008) 6 SCC 1 138

<sup>15</sup> Hafalir, I.E., Yenmez, M.B. and Yildirim, M.A., Effective affirmative action in school choice. *Theoretical Economics*, (2013), <https://doi.org/10.3982/TE1135> (accessed on May 2, 2024, 12:36am)

<sup>16</sup> Eligibility, Impact and Criticisms of Economically Weaker Section (EWS), <https://www.geeksforgeeks.org/ews-economically-weaker-section/>, (accessed on May 2024, 12:59am)

lack of flexibility can result in deserving individuals being excluded from benefits due to rigid criteria that do not reflect their actual needs.

3. **Insufficient benefits:** Critics argue that the benefits provided to those classified as EWS may not be adequate to address their needs and improve their quality of life. Without sufficient support, individuals and families may continue to face economic and social challenges despite their classification.

4. **Discriminatory impact:** EWS classification can lead to discrimination and marginalization of those classified as economically and socially weak. This stigma may further exacerbate the challenges faced by vulnerable individuals and families, perpetuating cycles of poverty and exclusion.

5. **Complexity:** The complexity of the EWS classification system can make it difficult for eligible individuals and families to navigate the process and access benefits. Without clear guidance and support, many may struggle to understand their rights and entitlements.

6. **Lack of accountability:** There may be insufficient oversight and monitoring to ensure that benefits are reaching those who are most in need. Without proper accountability measures, there is a risk that resources may not be allocated effectively, leaving vulnerable populations underserved.

Addressing these criticisms requires comprehensive reforms to make the EWS classification system more transparent, flexible, and equitable. Efforts should focus on simplifying the eligibility criteria, ensuring adequate benefits, combating discrimination, and enhancing accountability mechanisms to better serve those in need.

## **CONCLUSION**

Considering the various implications discussed above, it becomes evident that while the government's intention behind introducing the policy was to uplift the economically weak, the amendment faces scrutiny on constitutional and judicial grounds. Reservation, initially conceived as a temporary measure to address discrimination, has evolved into a more permanent fixture, raising questions about its continued necessity.

Addressing the caste system, untouchability, and discrimination are indeed essential steps toward achieving true equality in society. These deep-rooted issues have contributed to the historical inequalities that necessitated reservation policies in the first place. It's crucial to recognize that justice for one group should not come at the expense of justice for another. Rather, the aim should be to uplift all marginalized communities and ensure equal opportunities for everyone, regardless of caste or background.

The exclusion of SC/ST and OBC communities from the EWS category raises valid concerns and underscores the complexity of addressing social and economic disparities in India. While some argue that these communities continue to face significant socio-economic challenges and should be included in EWS classifications, others may question the need for additional benefits beyond existing reservation policies.

Ultimately, finding long-term solutions to address these issues requires a multifaceted approach. Raising awareness, promoting social and political mobilization, and fostering dialogue are crucial steps toward eliminating discrimination and promoting inclusivity. By actively engaging with communities, policymakers can work towards creating a more equitable society where everyone has the opportunity to thrive based on their abilities and merit, rather than their caste or social status.

The Supreme Court, in deciding on this amendment, may either invalidate it for violating the basic structure doctrine or uphold it on the basis of principles of social justice. However, it's clear that reforms are needed in the reservation system. These could include restricting its usage to once in a lifetime and ensuring the provision of quality education from the elementary level onwards. While it's acknowledged that unequal individuals should not be treated equally, the efficacy of reservation as the sole solution remains a pertinent and ongoing question.

