

RECALIBRATING RESERVATION IN INDIAN GOVERNMENT EMPLOYMENT: CONSTITUTIONAL EVOLUTION, JUDICIAL MANDATES, AND EMERGING CHALLENGES

HARSHA MISHRA,

ASSISTANT PROFESSOR, ITM UNIVERSITY RAIPUR

Abstract:

This paper critically examines the evolving landscape of reservation in government employment in India, with a particular focus on the creamy layer principle and its implications for social justice and equality. Tracing the historical and constitutional foundations of reservation policies under Articles 15 and 16, the paper analyzes key judicial pronouncements including *Indra Sawhney*, *M. Nagaraj*, *Jarnail Singh*, and *Janhit Abhiyan*. It explores how the introduction of economic criteria through the 103rd Constitutional Amendment, creating the EWS quota, marks a paradigm shift in affirmative action. The study also evaluates the implementation challenges, such as backlog vacancies, the stagnant creamy layer income ceiling, and efficiency concerns under Article 335. Using recent empirical data, the paper highlights the underrepresentation in higher services and the persistence of structural inequalities despite constitutional safeguards. The role of horizontal reservations for women, PwDs, and others is also discussed to underscore intersectionality in public employment. The paper argues for a data-driven, constitutionally balanced approach that reconciles the goals of representational justice with administrative efficiency and meritocracy, advocating periodic policy reviews and reforms to keep pace with changing socio-economic realities.

Keywords:

Reservation, Creamy Layer, Social Justice, EWS Quota, Constitutional Equality.

INTRODUCTION

The concept of reservation in government employment has been one of the most defining aspects of India's post-independence constitutional and socio-legal development. Rooted in the ideals of social justice, equality, and affirmative action, the reservation policy aims to uplift historically marginalized and disadvantaged communities by providing them a fair share in public employment and access to opportunities that were historically denied to them. India, with its vast diversity and entrenched social stratification based on caste, class, religion, and region, has long faced the challenge of ensuring an egalitarian social order. The reservation system seeks to address this challenge by creating legally sanctioned mechanisms to ensure representation and inclusivity in

government jobs for Scheduled Castes (SCs), Scheduled Tribes (STs), Other Backward Classes (OBCs), and more recently, the Economically Weaker Sections (EWS) of the general category.¹

The history of reservation in India precedes the Indian Constitution. During the British era, limited forms of communal representation were introduced in education and employment, especially following the recommendations of the Hunter Commission (1882) and the Minto-Morley Reforms (1909). However, it was in the princely state of Mysore, under the rule of the Wodeyars, that one of the earliest structured systems of reservation in jobs was implemented in 1921. With the advent of the Constitution in 1950, the framework for reservation was formalized through Part III (Fundamental Rights), particularly Articles 15 and 16. The Constituent Assembly, led by visionaries such as Dr. B.R. Ambedkar, envisaged reservation as a temporary measure to eradicate centuries-old caste-based discrimination and to level the playing field for the weaker sections of society.²

Article 16(4) of the Indian Constitution empowers the State to make provisions for the reservation of appointments or posts in favour of any backward class of citizens who are not adequately represented in the services under the State. This provision is unique in that it is an exception to the general principle of equality of opportunity enshrined in Article 16(1). Over time, through successive constitutional amendments and judicial pronouncements, the scope and application of this article have been expanded and clarified. For instance, Article 16(4A) allows reservation in promotion for SCs and STs, and Article 16(6), inserted by the 103rd Constitutional Amendment in 2019, enables reservation for EWS among the general category.

The implementation of the Mandal Commission recommendations in the early 1990s was a watershed moment in the history of reservations in India. The Commission, officially known as the Socially and Educationally Backward Classes Commission, recommended a 27% reservation in public employment for OBCs. This led to widespread protests and eventually to a series of landmark judgments, such as *Indra Sawhney v. Union of India* (1992), which upheld the OBC reservation but also laid down significant limitations, including the 50% cap on total reservations and the exclusion of the creamy layer among OBCs. Since then, reservation policy has been continuously debated, challenged, and restructured through both legislative measures and judicial scrutiny.

¹ C. Basavaraju, "Reservation Under the Constitution of India: Issues and Perspectives," *Journal of the Indian Law Institute*, Vol. 38, p. 137 (1996).

² P.P. Rao & Ananth Padmanabhan, "Legislative Circumvention of Judicial Restrictions on Reservations: Political Implications," *National Law School of India Review*, Vol. 19, p. 1 (2007).

A significant evolution occurred in 2019 with the passage of the 103rd Constitutional Amendment Act, which introduced a 10% reservation for EWS in government jobs and educational institutions. This move marked a paradigm shift in the philosophy of affirmative action in India, as it allowed for economic criteria to be the sole basis for reservation, independent of caste or social backwardness. The amendment has been upheld by the Supreme Court in the *Janhit Abhiyan v. Union of India* (2022) judgment, though it remains controversial for breaching the 50% ceiling established in *Indra Sawhney* and for excluding SCs, STs, and OBCs from the EWS category.³

The policy of reservation, while constitutionally mandated and socially necessary, has not been without criticism. Opponents argue that reservations compromise administrative efficiency and meritocracy, while supporters stress that true merit can only be assessed after ensuring a level playing field. Moreover, several implementation issues persist, including non-filling of reserved posts, lack of data-driven identification of backwardness, overlapping claims of reservation (such as in horizontal reservations for women and persons with disabilities), and the absence of periodic review mechanisms. The debate is further complicated by the non-availability of recent caste census data, making it difficult to accurately determine representation and eligibility.⁴

Furthermore, reservation in promotions has emerged as a contentious domain. While Article 16(4A) allows such reservations, the Supreme Court in *M. Nagaraj v. Union of India* (2006) held that the State must demonstrate the backwardness of the class, inadequacy of representation, and impact on administrative efficiency through quantifiable data. This requirement was partially relaxed in *Jarnail Singh v. Lachhmi Narain Gupta* (2018), which ruled that SCs and STs need not repeatedly prove backwardness, although the data requirement for inadequacy and efficiency remained. Despite these clarifications, various states continue to face legal hurdles while implementing promotion-based reservations, often leading to judicial intervention.⁵

In terms of horizontal reservations, which cut across vertical categories, the Supreme Court in *Saurav Yadav v. State of Uttar Pradesh* (2021) clarified that candidates selected on merit should not be excluded from horizontal reservations, thereby ensuring that reservation policies do not penalize candidates from reserved categories who perform exceptionally well.

³ Orhan Aygün & Bertan Turhan, "Affirmative Action in India: Restricted Strategy Space, Complex Constraints, and Direct Mechanism Design," *arXiv preprint*, arXiv:2310.02660 (2023).

⁴ Orhan Aygün & Bertan Turhan, "The Over-and-Above Implementation of Reserve Policy in India," *arXiv preprint*, arXiv:2305.11758 (2023).

⁵ Tayfun Sönmez & M. Bumin Yenmez, "Can Economic Theory Be Informative for the Judiciary? Affirmative Action in India via Vertical and Horizontal Reservations," *arXiv preprint*, arXiv:2102.03186 (2021).
<https://arxiv.org/abs/2102.03186>



On the data front, recent government reports and surveys provide a mixed picture. According to the Department of Personnel and Training (DoPT), SCs and STs are gradually improving their representation in Group C and D services but remain significantly underrepresented in Group A and B services. The OBC representation has also improved, though creamy layer exclusion mechanisms are not uniformly enforced across states. Women and persons with disabilities continue to face challenges despite constitutional guarantees and statutory frameworks such as the Rights of Persons with Disabilities Act, 2016.⁶

The legal discourse surrounding reservation in government jobs is no longer limited to caste and economic status but also touches upon regional disparities, religious backwardness, and even gender and intersectionality. Some states have attempted to introduce religion-based reservations, which have been struck down by courts. The idea of introducing reservation for transgender persons and for backward religious minorities also remains under discussion, reflecting the growing recognition of diverse forms of social disadvantage.

In this context, the present research paper aims to provide a comprehensive analysis of the legal framework governing reservations in government jobs in India. It seeks to examine the constitutional provisions, legislative measures, landmark judicial decisions, and recent policy developments shaping this domain. The paper also aims to evaluate the socio-legal efficacy of reservation policies by incorporating empirical data and identifying gaps in implementation. Ultimately, the paper argues for a balanced and evidence-based approach that reconciles the goals of social justice with constitutional principles of equality, merit, and administrative efficiency.

CONSTITUTIONAL AND STATUTORY FRAMEWORK

The policy of reservation in government jobs in India derives its legal sanctity and operational mechanism from the Constitution of India, which embeds a vision of social justice within its framework. The founding fathers of the Constitution recognized the historical injustices and systemic oppression suffered by certain sections of Indian society—particularly the Scheduled Castes (SCs), Scheduled Tribes (STs), and later, Other Backward Classes (OBCs). The framers aimed to bring these marginalized communities into the mainstream of society through affirmative action, notably in the form of reservations in public employment, education, and political representation. Part III of the Constitution, which guarantees fundamental rights, specifically

⁶ A. Faizan Mustafa, "Reservations in Promotions: A Constitutional Perspective," *Aligarh Law Journal*, Vol. 22, p. 45 (2007).

Article 16, is the cornerstone of equality in public employment and sets the legal foundation for reservation in jobs.⁷

Article 16(1) and 16(2) affirm the principle of equality of opportunity for all citizens in matters of employment or appointment under the State, regardless of religion, race, caste, sex, descent, place of birth, or residence. However, realizing that formal equality would not be sufficient to eliminate deep-rooted social disparities, the Constitution allows for positive discrimination through Article 16(4). This clause enables the State to make special provisions 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." This article is permissive, not mandatory, and allows flexibility for the State to design policies in accordance with social realities and available data. Over the years, this clause has served as the constitutional gateway for implementing reservation policies for backward classes, primarily SCs, STs, and later OBCs.⁸

In response to persistent underrepresentation and the need to address historical injustices even in the career progression of these groups, Article 16(4A) was introduced through the 77th Constitutional Amendment Act, 1995. This provision specifically empowers the State to make reservations in matters of promotion with consequential seniority for SCs and STs in government jobs. The rationale behind this amendment was that representation is not merely about entry into public service but also about equitable participation in leadership and decision-making positions. This was followed by the 85th Amendment in 2001, which provided for the grant of consequential seniority in promotions to SC/ST employees who benefit from reservation, thereby correcting disparities that persisted in hierarchical service structures. These amendments collectively reflect a constitutional commitment to social equality not just at the entry level, but throughout the service trajectory of the reserved categories.⁹

Further reinforcing the framework of reservations, Article 335 of the Constitution provides a balancing clause that states the claims of SCs and STs shall be taken into consideration in making appointments to services and posts in connection with the affairs of the Union or of a State. However, this is subject to the maintenance of efficiency in administration. This clause has been the focal point of legal debates, as the question of whether reservations compromise administrative efficiency has been raised in multiple constitutional challenges. The judiciary, while interpreting Article 335, has often stated that efficiency should not be understood in a narrow, elitist manner,

⁷ Raj, Aditya. "Legal Aspects and Constitutional Background of Reservation Policy in India." *Issue 2 Indian JL & Legal Rsch.* 5 (2023): 1.

⁸ Sharma, Brij Kishore. *Introduction to the Constitution of India*. PHI Learning Pvt. Ltd., 2022.

⁹ Agrawal, P. K. *Constitution of India*. Prabhat Prakashan, 2025.

but rather as a broader value that encompasses the representation of all communities and the inclusiveness of governance.

One of the most transformative developments in recent years has been the 103rd Constitutional Amendment Act, 2019, which introduced clauses (6) to Article 15 and Article 16, thereby enabling the State to provide up to 10% reservation in public employment and educational institutions to the Economically Weaker Sections (EWS) of society who are not covered under existing reservations for SCs, STs, and OBCs. This marked a significant shift in India's reservation paradigm as it introduced economic criteria as a basis for affirmative action, breaking away from the caste-based rationale that had traditionally underpinned reservations. The EWS category applies to individuals with an annual family income of less than ₹8 lakh, and with limited assets in terms of agricultural land, residential property, and dwelling size. The EWS quota was upheld in the landmark judgment of *Janhit Abhiyan v. Union of India* (2022), wherein the Supreme Court, by a majority of 3:2, ruled that economic criteria-based reservation did not violate the basic structure of the Constitution. This judicial endorsement has opened a new chapter in India's reservation jurisprudence, bringing class-based disadvantages into the fold of constitutional protection.¹⁰

Alongside the constitutional provisions, various statutes and executive instruments also regulate the implementation of reservations. Notably, the Central Educational Institutions (Reservation in Admission) Act, 2006, provides for 15% reservation for SCs, 7.5% for STs, and 27% for OBCs in central educational institutions. Though primarily educational, this Act is aligned with the broader reservation policy that aims to enhance employability and job access. Similarly, orders such as the Constitution (Scheduled Castes) Order, 1950, and the Constitution (Scheduled Tribes) Order, 1950, list the communities eligible for benefits under the SC and ST categories respectively. The Mandal Commission Report (1980), though not a statutory instrument, played a pivotal role in the introduction of 27% reservation for OBCs in public employment, implemented through Office Memorandums in 1990 and upheld in *Indra Sawhney v. Union of India* (1992). This report remains one of the most significant policy frameworks guiding caste-based reservation in post-independence India.¹¹

State governments have also enacted legislation or issued notifications to implement and expand the scope of reservation within their jurisdictions. For instance, Tamil Nadu provides up to 69% reservation in public employment, including a separate category for Most Backward Classes (MBCs), supported by the Tamil Nadu Backward Classes, SCs and STs (Reservation of Seats in

¹⁰ Srivastava, Archana. "Reservation In India: An overview." (2024).

¹¹

Educational Institutions and Appointments or Posts in the Services under the State) Act, 1993. This statute was placed in the Ninth Schedule of the Constitution to shield it from judicial review. Other states like Maharashtra have introduced category-specific laws for Marathas and SEBCs, although these have been struck down or modified following judicial scrutiny for exceeding the 50% cap laid down in *Indra Sawhney*.¹²

Moreover, horizontal reservations cut across these vertical categories and are statutorily recognized in several recruitment rules. These include reservations for women, persons with disabilities (PwDs), ex-servicemen, and persons from the transgender community, as recently mandated under the Transgender Persons (Protection of Rights) Act, 2019, and subsequent rules. These statutory entitlements represent the intersectionality of discrimination and reinforce the pluralistic ethos of affirmative action in India.¹³

Thus, the constitutional and statutory framework for reservation in government jobs is both comprehensive and dynamic. It is grounded in constitutional morality, evolves through legislative responsiveness, and is continuously interpreted and refined by the judiciary. The provisions enshrined in the Constitution aim not only to compensate for historical wrongs but also to build a more inclusive and equitable future. However, the effective realization of these objectives depends on careful policy design, empirical data on representation, and consistent judicial oversight to ensure that the spirit of the Constitution is upheld in practice as well as in theory.

JUDICIAL PRONOUNCEMENTS AND INTERPRETATIONS – LANDMARK CASES

The judiciary in India has played a pivotal role in shaping, defining, and periodically recalibrating the scope of reservation in government employment. Over the decades, constitutional benches of the Supreme Court have delivered landmark rulings interpreting Articles 15, 16, and 335 of the Constitution, balancing the principles of equality of opportunity with affirmative action. One of the most defining judgments in this domain is *Indra Sawhney v. Union of India*.¹⁴ Popularly referred to as the "Mandal Commission Case," this decision by a nine-judge bench upheld the implementation of 27% reservation for Other Backward Classes (OBCs) in central government jobs as recommended by the Second Backward Classes Commission (Mandal Commission). Crucially, the court laid down the principle that the total reservation should not ordinarily exceed 50% of the available seats or posts, thereby introducing a judicially imposed ceiling to avoid reverse discrimination. The court also invalidated the policy of reservation in promotions for OBCs

¹² Ambagudia, Jagannath. "Scheduled tribes, reserved constituencies and political reservation in India." *Journal of Social Inclusion Studies* 5, no. 1 (2019): 44-58.

¹³ A. Faizan Mustafa, "Reservations in Promotions: A Constitutional Perspective," *Aligarh Law Journal*, Vol. 22, p. 45 (2007).

¹⁴ 1992 Supp (3) SCC 217, Civil Writ Petition No. 930 of 1990

but clarified that the concept of "creamy layer" — socially advanced individuals within backward classes — must be excluded from the reservation benefit. The judgment stood as a constitutional milestone by harmonizing affirmative action with meritocracy under Article 16(4).

Subsequently, the issue of reservation in promotions came under intense scrutiny in *M. Nagaraj v. Union of India*.¹⁵ In this five-judge bench decision, the Supreme Court upheld the constitutional validity of the 77th, 81st, 82nd, and 85th Amendments, which enabled reservation in promotions with consequential seniority for SCs and STs. However, the Court imposed a three-fold test for such reservations to pass constitutional muster: (1) the state must collect quantifiable data demonstrating the backwardness of the class; (2) inadequacy of representation in public employment; and (3) overall administrative efficiency must not be compromised. These criteria stemmed from the interpretation of Article 335 of the Constitution. Though the Court did not strike down the provisions, it emphasized that blanket promotions without empirical data would be constitutionally invalid. Thus, the decision struck a delicate balance between affirmative action and administrative exigency.

In a notable deviation from *M. Nagaraj*, the Supreme Court in *Jarnail Singh v. Lachhmi Narain Gupta*,¹⁶ held that the requirement to prove the backwardness of SCs and STs for promotions was not constitutionally mandated. The five-judge bench observed that since SCs and STs are already acknowledged as backward by virtue of their constitutional recognition, it was unnecessary and potentially regressive to demand fresh quantification of their backwardness. However, the court retained the necessity for quantifiable data regarding inadequacy of representation and the maintenance of administrative efficiency. This judgment marked a progressive shift, easing procedural hurdles in the path of promotion-based reservations for the most marginalized groups.

A major recent development occurred in the case of *Janhit Abhiyan v. Union of India*,¹⁷ wherein the Supreme Court upheld the constitutionality of the 103rd Constitutional Amendment. This amendment introduced 10% reservation in government jobs and educational institutions for Economically Weaker Sections (EWS) from unreserved categories. The five-judge bench ruled in a 3:2 majority that the amendment does not violate the basic structure of the Constitution. The court reasoned that economic disadvantage could form a valid basis for affirmative action, distinct from caste-based backwardness. Significantly, the Court clarified that the 50% cap on reservation, as set in *Indra Sawhney*, was not inviolable and could be exceeded in exceptional circumstances to achieve substantive equality. This judgment fundamentally redefined the reservation jurisprudence by embracing poverty as a standalone criterion and triggered debates over whether

¹⁵ (2006) 8 SCC 212

¹⁶ (2018) 10 SCC 396

¹⁷ 2022 SCC OnLine SC 1540

the equality framework under Articles 14, 15, and 16 should now encompass economic disadvantage without social backwardness.

Another critical decision was delivered in *State of Maharashtra v. Jaishri Laxmanrao Patil*,¹⁸ which dealt with the validity of the Maharashtra State Reservation for Socially and Educationally Backward Classes (SEBC) Act, 2018. The act provided for 16% reservation to the Maratha community. A five-judge bench struck down the law on the ground that it violated the 50% ceiling set by *Indra Sawhney*. The Court held that the Maratha community did not exhibit such exceptional circumstances of backwardness or inadequacy to justify breaching the cap. Importantly, the Court emphasized that unless the 102nd Constitutional Amendment (which created the National Commission for Backward Classes) is amended, the identification of socially and educationally backward classes must lie with the President and not the states, thereby reinforcing the primacy of central data and classification mechanisms.

Finally, the interpretation of horizontal and vertical reservations was further clarified in *Saurav Yadav v. State of Uttar Pradesh*,¹⁹. The issue before the court was whether candidates qualifying on merit from reserved categories could be excluded from horizontal reservations (such as for women). The Court held that the principle of merit must prevail and that a candidate who qualifies in the general category must be treated as such, irrespective of caste, for the purpose of horizontal reservations. This decision reinforced the principle of non-exclusion and avoidance of double reservation.

In essence, these landmark rulings illustrate the evolving jurisprudence on reservation in India. They reflect the judiciary's endeavour to uphold substantive equality while balancing merit and administrative efficiency. Each decision contributed uniquely to clarifying the constitutional mandate, operational principles, and permissible limits of affirmative action in public employment.

RECENT DEVELOPMENTS AND REGULATIONS

In recent years, the landscape of reservation in government jobs in India has witnessed significant legal and policy shifts, particularly with the introduction of the Economically Weaker Sections (EWS) quota, nuanced judicial interpretations concerning reservation in promotions, and clarifications around horizontal reservations. These developments reflect the evolving understanding of equality, affirmative action, and efficiency in public employment under the Constitution of India. Each of these areas has not only drawn sharp legal scrutiny but has also transformed the administrative approach to inclusion and representation.

¹⁸ (2021) 8 SCC 1

¹⁹ (2021) 4 SCC 542

EWS Quota (2019–Present)

The introduction of the EWS quota through the **103rd Constitutional Amendment Act, 2019** marks one of the most pivotal changes in India's reservation policy post-independence. This amendment inserted **Articles 15(6) and 16(6)** into the Constitution, enabling the State to make special provisions, including reservations, for the advancement of **economically weaker sections** of citizens other than those covered under existing caste-based reservations for SCs, STs, and OBCs. The eligibility criteria for availing the EWS reservation in government jobs and educational institutions include an annual family income of less than ₹8 lakh and non-possession of certain specified assets such as more than 5 acres of agricultural land, residential flats of 1000 sq. ft. or more, and residential plots of a certain area. These criteria are implemented uniformly, although each State retains the discretion to adopt or reject the EWS policy based on its social configuration and legal framework.

The legal validation of this amendment came through the Supreme Court's decision in *Janhit Abhiyan v. Union of India*,²⁰ where a five-judge constitutional bench by a 3:2 majority upheld the validity of the EWS quota. The majority opined that reservations based solely on economic criteria do not violate the basic structure of the Constitution, and exclusion of SC/ST/OBC categories from the EWS quota is constitutionally permissible to avoid overlapping benefits. However, this judgment has been the subject of criticism for potentially diluting the foundational principle that affirmative action should primarily address historical and structural social disadvantages rather than mere economic hardship. This shift from caste-based to class-based affirmative action has ignited broader debates about the future of reservations in India and the principle of substantive equality.²¹

Reservation in Promotions

While Article 16(4) provides for reservation in appointments for backward classes, the issue of reservation in promotions has been the subject of sustained legal battles. The legal foundation for promotion-based reservations was cemented by the 77th Constitutional Amendment, which inserted Article 16(4A) to enable the State to provide for reservation in promotion to SCs and STs. However, such provisions are not unqualified. In *M. Nagaraj v. Union of India*, (2006) 8 SCC 212, the Supreme Court mandated the State to collect quantifiable data showing backwardness,

²⁰ Writ Petition (Civil) No. 55 of 2019

²¹ **Orhan Aygün & Bertan Turhan**, "Affirmative Action in India: Restricted Strategy Space, Complex Constraints, and Direct Mechanism Design," *arXiv preprint*, arXiv:2310.02660 (2023). <https://arxiv.org/abs/2310.02660>

inadequacy of representation in public employment, and the overall impact on administrative efficiency before granting reservation in promotions.²²

This position was slightly modified in *Jarnail Singh v. Lachhmi Narain Gupta*, (2018) 10 SCC 396, where the Court held that the requirement of demonstrating backwardness (in the sense required under Article 16(4A)) for SCs and STs is unconstitutional, but the need for quantifiable data to establish inadequacy and efficiency remains. The issue was revisited in *Union of India v. V.K. Shukla and Others*, Civil Appeal No. 2321 of 2011, (2023) SCC OnLine SC 1016, where a three-judge bench reiterated that while the State is empowered to provide reservations in promotions, such reservations must be backed by empirical data. The Court underscored the need for fresh data collection specific to each cadre and locality, as mechanical application or outdated data could lead to constitutional infirmities. It further clarified that “efficiency of administration” under Article 335 cannot be compromised and that promotion-based reservations should strike a balance between representational justice and administrative competence.²³

This judgment carries profound implications for State governments. It places a constitutional duty on them to substantiate their policy decisions with updated and cadre-wise quantifiable data. Mere assumptions or general backwardness are insufficient. As a result, several States have initiated data collection commissions or surveys to comply with these legal mandates. Nevertheless, implementation hurdles remain, particularly in relation to bureaucratic resistance, data limitations, and the challenge of balancing reservation with meritocracy.

Horizontal Reservations

The principle of horizontal reservation operates within the broader vertical categories of SC, ST, OBC, EWS, and General. It applies to transversely identifiable groups such as women, persons with disabilities (PwDs), ex-servicemen, and transgender persons. Horizontal reservation ensures that individuals within these categories get proportional representation across all vertical reservation categories. However, the operational intricacies of horizontal reservation have led to considerable judicial interpretation.²⁴

A landmark judgment in this domain is *Saurav Yadav and Others v. State of Uttar Pradesh and Others*, Civil Appeal Nos. 3239-3240 of 2020, (2021) 4 SCC 542, wherein the Supreme Court dealt with the proper method of filling vacancies in a recruitment process that applied both vertical

²² **Oguzhan Celebi**, "Diversity Preferences, Affirmative Action and Choice Rules," *arXiv preprint*, arXiv:2310.14442 (2023). <https://arxiv.org/abs/2310.14442>

²³ **Orhan Aygün & Bertan Turhan**, "The Over-and-Above Implementation of Reserve Policy in India," *arXiv preprint*, arXiv:2305.11758 (2023). <https://arxiv.org/abs/2305.11758>

²⁴ **Orhan Aygün & Bertan Turhan**, "Inconsistency of Score-Elevated Reserve Policy for Indian Affirmative Action," *arXiv preprint*, arXiv:2312.14648 (2023). <https://arxiv.org/abs/2312.14648>

and horizontal reservations. The case arose from the Uttar Pradesh Police recruitment, where female candidates who had scored higher than the last selected general category candidate were adjusted within the women's reserved quota rather than being selected in the general/open category on merit. The Court held that such an approach was unconstitutional and contrary to the merit principle. It categorically stated that candidates belonging to a reserved horizontal category (e.g., women) who qualify on general merit must be counted in the general category and not be pushed into the reserved slots, thereby ensuring a more inclusive merit-based recruitment process.²⁵

This ruling has important implications for recruitment agencies and public service commissions. It ensures that meritorious candidates from reserved groups are not denied their rightful place in the open category and that their presence does not reduce the opportunities available within the reserved quota for less meritorious but still eligible candidates from those categories. The judgment has effectively prevented a form of reverse discrimination and reinforced the principle that horizontal reservations are overlaid on vertical ones and must be implemented in such a way that merit is not compromised.

In sum, the developments surrounding horizontal reservations emphasize the need for clarity in the structuring of reservation mechanisms and reinforce judicial insistence on procedural fairness. The Court's proactive stance ensures that reservation policies serve their constitutional purpose of enhancing inclusion without violating the principles of merit and fairness. Moreover, it highlights the increasing importance of intersectionality in public employment law—acknowledging that individuals may face multiple and overlapping forms of disadvantage.

EMPIRICAL DATA AND ANALYSIS

5.1 Government Employment Share

As per the **Annual Report 2023–24** by the Department of Personnel and Training (DoPT), the representation of various categories in Central Government services is as follows:²⁶

Category	Representation (%)
Scheduled Castes (SC)	17.6%
Scheduled Tribes (ST)	7.1%

²⁵ Sunny Jose, Bheemeshwar Reddy A., Tati Sai Nikhil, Madadi Chetan Kodand Reddy, "EWS Quota: A Policy Against Evidence," *Social Change*, Vol. 53, No. 1, pp. 117-123 (2023).
<https://journals.sagepub.com/doi/10.1177/00490857221150841>

²⁶ Department of Personnel and Training (DoPT), "Annual Report 2023-24," (Department of Personnel and Training, Government of India), https://dopt.gov.in/sites/default/files/Annual_Report_2023-24.pdf (last visited May 13, 2025).

Category	Representation (%)
Other Backward Classes (OBC)	22.3%
Economically Weaker Sections (EWS)	5.4%
Women	20.5%

Note: The above chart illustrates the percentage representation of different categories in Central Government services.

The data indicates that while SC and ST representations are close to their respective reservation quotas (15% for SC and 7.5% for ST), OBC representation is slightly below the 27% reservation mark. The EWS category, introduced post-2019, shows a growing presence. Women's representation stands at 20.5%, reflecting ongoing efforts towards gender inclusivity.

5.2 Issues with Implementation

5.2.1 Backlog Vacancies

Despite affirmative action policies, a significant number of reserved vacancies remain unfilled across various departments. According to data from the **Ministry of Defence** as of January 1, 2024:

²⁷

Category	Vacancies	Filled	Unfilled
SC	6,351	3,015	3,336
ST	3,378	1,504	1,874
OBC	7,874	4,507	3,367

Note: The above chart depicts the number of filled and unfilled reserved vacancies in the Ministry of Defence.

Furthermore, the **Employees' State Insurance Corporation (ESIC)** reported shortfalls in OBC representation across various groups:²⁸

²⁷ □ The Hindu, "Revise OBC creamy layer limit, say MPs at House panel meeting," (The Hindu), <https://www.thehindu.com/news/national/revise-obc-creamy-layer-limit-say-mps-at-house-panel-meeting/article68864181.ece> (last visited May 13, 2025).

²⁸ □ Economic Times, "Panel to revisit debate on including salary in determining creamy layer for OBC quota," (Economic Times), <https://economictimes.indiatimes.com/news/india/panel-to-revisit-debate-on-including-salary-in-determining-creamy-layer-for-obc-quota/articleshow/115328816.cms> (last visited May 13, 2025).

Group	OBC Shortfall
A	-104
B	Data Not Available
C	-759

These figures underscore the persistent challenge of filling reserved positions, necessitating targeted recruitment drives and policy interventions.

5.2.2 Creamy Layer Debate

The concept of the "creamy layer" pertains to the exclusion of the more affluent individuals within the OBC category from reservation benefits. The income ceiling for determining the creamy layer was last revised in 2017 to ₹8 lakh per annum. However, this threshold has not been updated since, leading to concerns about its adequacy in the current economic context.

A **Parliamentary Standing Committee** highlighted that many OBC candidates, despite clearing competitive examinations like the UPSC Civil Services Exam, face hurdles in joining services due to the outdated income ceiling. The committee recommended revising the income limit to ₹15 lakh to reflect inflation and changing economic realities.

Note: The above chart shows the historical progression of the creamy layer income ceiling.

The debate also extends to the inclusion of salary components in calculating income, with discussions ongoing about whether to consider salaries of Public Sector Undertaking (PSU) employees in the creamy layer assessment.

5.2.3 Efficiency Clause under Article 335

Article 335 of the Indian Constitution states that the claims of SCs and STs shall be taken into consideration, consistent with the maintenance of efficiency of administration. This clause is often cited in debates surrounding reservation in promotions.

In **Union of India v. V.K. Shukla & Others, Civil Appeal No. 2321 of 2011**, the Supreme Court emphasized the need for quantifiable data to justify reservation in promotions for SCs and STs, ensuring that such reservations do not compromise administrative efficiency.

□ **KM, Ashok**, "[EWS Quota] Why Supreme Court's Minority Judgment Did Not Read Down 103rd Constitutional Amendment?," (KM, Ashok), <https://kmashok.com/ews-quota-why-supreme-courts-minority-judgment-did-not-read-down-103rd-constitutional-amendment/> (last visited May 13, 2025).

The ruling mandates that:

- 1- States must collect empirical data demonstrating the inadequacy of representation of SCs and STs in public employment.
- 2- The data should be specific to each cadre and should not be generalized.
- 3- The impact of reservation on administrative efficiency must be assessed.

This judgment reinforces the principle that while affirmative action is essential, it must be balanced with the need to maintain the efficiency of public administration.

CONCLUSION

The reservation policy in Indian government jobs is a cornerstone of the country's commitment to social justice and inclusive governance. Initially designed to uplift historically marginalized communities such as Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs), the policy has undergone significant evolution to accommodate new categories like the Economically Weaker Sections (EWS) and to promote horizontal equity for women, persons with disabilities (PwDs), and ex-servicemen. The introduction of the EWS quota in 2019 marks a transformative shift by recognizing economic disadvantage as a ground for affirmative action, albeit not without controversy. Legal validation by the Supreme Court in *Janhit Abhiyan v. Union of India* (2022) has paved the way for its continued implementation.

The judicial interpretation of promotion-based reservations, particularly in *Union of India v. V. K. Shukla* (2023), underscores the importance of empirical data and administrative efficiency, reinforcing Article 335 of the Constitution. Similarly, the recognition of horizontal reservations in *Saurav Yadav v. State of UP* (2021) has contributed to more nuanced and equitable allocation of opportunities.

However, empirical data from the Department of Personnel and Training (DoPT) and ministries like Defence reveal that implementation gaps persist. Backlog vacancies, outdated creamy layer criteria, and concerns over meritocracy continue to challenge the efficacy of the reservation system. Furthermore, while representation figures show progress, especially for women and OBCs, true inclusivity demands sustained policy innovation, data-backed decision-making, and political will.

In conclusion, reservation in government jobs remains a dynamic and necessary tool for achieving substantive equality in India. Its future success hinges on balancing social justice with merit, revisiting outdated criteria, and ensuring rigorous implementation across all administrative levels. The legal framework must continue to evolve, guided by constitutional morality and empirical realities.

REFERENCES

CASE LAWS

- 1- *Indra Sawhney v. Union of India*, AIR 1993 SC 477
- 2- *M. Nagaraj v. Union of India*, (2006) 8 SCC 212
- 3- *Jarnail Singh v. Lachhmi Narain Gupta*, (2018) 10 SCC 396
- 4- *Janhit Abhiyan v. Union of India*, SCC Online SC 1540 (2022)
- 5- *Saurav Yadav v. State of UP*, (2021) 4 SCC 542
- 6- DoPT Annual Report 2023–24
- 7- 103rd Constitutional Amendment Act, 2019
- 8- Department of Social Justice and Empowerment, Govt. of India
- 9- *State of Maharashtra v. Jaishri Patil*, (2021) 8 SCC 1

BOOKS

1. Sharma, Brij Kishore, *Introduction to the Constitution of India*, PHI Learning Pvt. Ltd., 2022.
2. Agrawal, P. K., *Constitution of India*, Prabhat Prakashan, 2025.

ARTICLES

- 1- C. Basavaraju, "Reservation Under the Constitution of India: Issues and Perspectives," *Journal of the Indian Law Institute*, Vol. 38, p. 137 (1996).
- 2- P.P. Rao & Ananth Padmanabhan, "Legislative Circumvention of Judicial Restrictions on Reservations: Political Implications," *National Law School of India Review*, Vol. 19, p. 1 (2007).
- 3- Orhan Aygün & Bertan Turhan, "Affirmative Action in India: Restricted Strategy Space, Complex Constraints, and Direct Mechanism Design," *arXiv preprint*, arXiv:2310.02660 (2023).
- 4- Orhan Aygün & Bertan Turhan, "The Over-and-Above Implementation of Reserve Policy in India," *arXiv preprint*, arXiv:2305.11758 (2023).
- 5- Orhan Aygün & Bertan Turhan, "Inconsistency of Score-Elevated Reserve Policy for Indian Affirmative Action," *arXiv preprint*, arXiv:2312.14648 (2023).

- 6- Tayfun Sönmez & M. Bumin Yenmez, "Can Economic Theory Be Informative for the Judiciary? Affirmative Action in India via Vertical and Horizontal Reservations," *arXiv preprint*, arXiv:2102.03186 (2021).
- 7- Oguzhan Celebi, "Diversity Preferences, Affirmative Action and Choice Rules," *arXiv preprint*, arXiv:2310.14442 (2023).
- 8- A. Faizan Mustafa, "Reservations in Promotions: A Constitutional Perspective," *Aligarh Law Journal*, Vol. 22, p. 45 (2007).
- 9- Raj, Aditya, "Legal Aspects and Constitutional Background of Reservation Policy in India," *Indian Journal of Law & Legal Research*, Issue 2, Vol. 5, p. 1 (2023).
- 10- Srivastava, Archana, "Reservation In India: An Overview," (2024).
- 11- Sunny Jose, Bheemeshwar Reddy A., Tati Sai Nikhil, Madadi Chetan Kodand Reddy, "EWS Quota: A Policy Against Evidence," *Social Change*, Vol. 53, No. 1, pp. 117–123 (2023).
- 12- Ambagudia, Jagannath, "Scheduled Tribes, Reserved Constituencies and Political Reservation in India," *Journal of Social Inclusion Studies*, Vol. 5, No. 1, pp. 44–58 (2019).

WEBSITES

1. **Department of Personnel and Training (DoPT)**, "Annual Report 2023-24," (Department of Personnel and Training, Government of India), https://dopt.gov.in/sites/default/files/Annual_Report_2023-24.pdf (last visited May 13, 2025).
2. **The Hindu**, "Revise OBC creamy layer limit, say MPs at House panel meeting," (*The Hindu*), <https://www.thehindu.com/news/national/revise-obc-creamy-layer-limit-say-mps-at-house-panel-meeting/article68864181.ece> (last visited May 13, 2025).
3. **Economic Times**, "Panel to revisit debate on including salary in determining creamy layer for OBC quota," (*Economic Times*), <https://economictimes.indiatimes.com/news/india/panel-to-revisit-debate-on-including-salary-in-determining-creamy-layer-for-obc-quota/articleshow/115328816.cms> (last visited May 13, 2025).
4. **KM, Ashok**, "[EWS Quota] Why Supreme Court's Minority Judgment Did Not Read Down 103rd Constitutional Amendment?," (*KM, Ashok*), <https://kmashok.com/ews-quota-why-supreme-courts-minority-judgment-did-not-read-down-103rd-constitutional-amendment/> (last visited May 13, 2025).