

Indra Sawhney Case

The Constitution's founders made a sincere effort to promote socio-economic fairness in Indian society through equal opportunity, often known as reservation, and particularly through the reservation in areas of public service as stipulated in **Article 16** of the Constitution.

- The Supreme Court's ruling in *Indra Sawhney vs Union of India & Ors.* was a turning point in the debate over reservations. An attempt is made to summarise this critical decision in what follows.
- Apart from the disparities in religion, culture, and language, the writers of the Constitution were cognizant of the fact that Indian society was not homogeneous and that some individuals were, in comparison to others, weaker than others in terms of their economic, social, and cultural standing. The Constitution provided us with a system to protect the Backward Classes and Scheduled Castes in order to improve their living conditions and bring them on par with other parts of society.
- As a result, in the **Indra Sawhney case** the Constitution was amended to include a reserve clause. Reservation for those who are economically and socially disadvantaged as a whole is not a recent idea that has been established in the Indian Constitution; it also existed before the constitution.
- It is significant to note here the reservation made on the advice of the committee formed in 1918 and approved by the erstwhile princely state of Mysore. Leaders like Jyotibha Phule and many others had previously raised the desire for affirmative action, and while the British did grant some of these classes reservations, their motivations were never quite clear. Over time, reservations have shifted from being a sincere endeavour to create an equitable society to more of a political instrument.

Background of Indra Sawhney Case

The First Backwards Class Commission, well known as the Kaka Kalelkar Commission, was established in 1953 under Article 340 of the Indian Constitution, however, its report was effectively denied in 1961. The Janata Dal formed the Second Backwards Class Commission (Mandal Commission) in the first month of 1979, led by then-Prime Minister Moraji Desai, and submitted its report in December 1980, recommending measures for the advancement of the SEBCs. This Mandal Commission Report proposed, among other things, a 27 per cent government quota for SEBCs in addition to the existing 22.5% reservation for the SCs and STs categories.

- Narsimha Rao implemented this suggestion into action in 1991. But soon after that, it was challenged by Indira Sawhney in the Supreme Court of India hence leading to the Indra Sawhney case..

- Indira Sawhney disagreed with the provisions of the suggestions, saying that caste cannot be the sole reason for providing reservation to people. Also, she demanded that the reservation should not exceed 50% at any cost.
- According to Indira Sawhney, 60% of people are provided with reservations and 40% of people are not provided with any reservations hence creating a societal imbalance.
- Also another point she raised while signing the petition was that reservation cannot be provided solely on the basis of caste or economical grounds. This is because according to the constitution of India that reservations can only be provided to the people who belong to socially and economically backward classes.

History of Indra Sawhney Case

When India acquired independence in 1947, the government started taking affirmative action measures for the Depressed Class, Scheduled Castes (SCs), and Scheduled Tribes (STs). The Other Backward Classes (OBC), which were less disadvantaged than the ST and SC castes, were not included on the list, though. The history of the Indra Sawhney case has been highlighted and illustrated here-

- India established the first Backward Classes Commission on January 29, 1953, to deal with this problem. The commission was headed by Kaka Kalelkar, also known as the Kalelkar Commission.
- The commission informed the Central Government on March 30, 1955, that 2399 castes were behind in both social advancement and educational attainment. The Commission's advice was turned down by the National Government in 1961 because it believed in establishing a casteless society.
- The Mandal Commission, officially known as the Commission for the Socially and Educationally Backward Classes, was created on January 1, 1979. The Janata Dal, led by the time-prime minister Morarji Desai, created the panel.
- The objective is to identify socially or educationally underprivileged groups and grant them preference for government jobs and services. The Janata Party was unable to implement these suggestions because its administration disintegrated.
- Before the Janata Dal won power in 1989 and made the decision to implement the report's suggestions by allocating 27% of the seats to socially deprived strata, there had been no advancement in this area for a number of years.
- Across the nation, demonstrations for and against reservations erupted, with some of them turning violent.
- Then-Prime Minister P V Narasimha Rao released a fresh order expanding the quota limit to 37% and embracing financially, culturally, and educationally disadvantaged sections after the government's move was contested in the Supreme Court via a petition filed.

Issues Before the Court in Indra Sawhney Case

Caste was regarded by the Supreme Court in its ruling as a legitimate measure of socioeconomic backwardness, and it maintained the government's decree. As a result, in 1992, the suggestion for OBC reservations in federal government services was finally implemented. The court also articulated a number of issues in the Indra Sawhney case, the resolution of which was necessary to address the current situation, including:

- If economic factors might determine a class on their own and whether caste alone would establish a new class.
- Whether or not Article 16(4) was an exception to Article 16(1) and included all reservation rights.
- Does Article 16(4) allow the division of "Backward Classes" into Backward Classes and Most Backward Classes? It also permits the division of these classes among themselves depending on economic or other factors.
- The petitioners' complaints:
 - The petitioners' attorneys, led by Nani Palkhiwala, argued that the caste system's negative effects were exacerbated by reservation and that this negative effect will impede India's progress toward becoming a welfare state. They further stated that if the reservation was kept in place, the standard would be replaced by substandard, and meritocracy would be replaced by mediocrity. Additionally, petitioners claimed that the Mandal report was essentially an attempt to change the Constitution.
- The responders' complaints:
 - The respondent State said that the report only provides a way for the underprivileged classes to realise their legitimate demands. They claimed that the study was an extension of the first minority commission, which had likewise advocated affirmative action to redress historical injustices that the underclasses had endured side by side for generations.

Indra Sawhney Judgement by the Court

On November 16, 1992, the nine-judge Supreme Court panel ruled the Indra Sawhney Case by a vote of 6:3 and led the judgement of the Indra Sawhney Vs Union Of India case. The Backward class of citizens defined in Article 16 might be connected to the caste system rather than only the economy (4). The other pertinents of the Indra Sawhney case have been illustrated here-

- Classification of Regressive Groups: According to Article 16, there are two categories of backward classes: backward and most backward (4).
- There are no bookings included in the promotion.
- There is no exception to the general rule in Article 16(4). (1). It is possible to make reservations under Article 16(4). Socially and educationally backward classes are defined differently under Article 16(4) than they are under Article 15(4).
- 50% is the maximum allowed for reservations.

- The creamy layer must not be included in the weaker sections.
- the permanent legal entity tasked with looking into claims of inclusion and exclusion.
- The Supreme Court alone has the authority to settle disputes over new standards.

After Indra Sawhney Case

Following the case of Indra Sawhney, the reserve has seen a lot of changes. In 1995, the Parliament amended the Constitution and added clause [4A] in the Article 16 in response, giving the State the authority to reserve seats for Schedule Caste & Schedule Tribe in advancements in the government services if communities are not sufficiently included in public sector employment. In M. Nagaraj Vs. Union of India 2006, the Supreme Court maintained the constitutionality of Article 16(4A) and established three requirements given below:

- SC & ST ought to be intellectually and socially backwards.
- SC and ST are not sufficiently represented in government jobs.
- It won't have an impact on the administration's overall effectiveness.

After the Indra Sawhney case, many state governments passed laws in response to the 77th Amendment to the Constitution, for example, the State of Karnataka passed the Extension of Compelling Seniority to Government employees promoted on the Grounds of Reservation and in 2019, the Supreme Court decided its validity

Karnataka Determination of Seniority of the Government Servants Promoted on the Basis of the Reservation Act, 2002 had previously been found unconstitutional in the BK Pavitra Case on the grounds that the State had not conducted to assess "inadequacy of portrayal," "primitiveness," and the effect on overall effectiveness prior to passing the law.

In the recent ruling Mukesh Kumar v. State of Uttarakhand, which was issued in February 2020, the top court also stated that there is no basic right which heresies in an individual to seek reservation in appointments.

Indra Sawhney Case Summary

In the Indra Sawhney case, the court made an effort to find a suitable remedy that strikes a careful balance between society and the interests of the underprivileged classes. A step in the right direction was also taken by eliminating economic factors as the only criterion for categorization and by excluding the creamy layer, which had already reaped the benefits of equal opportunity to a sufficient degree. The Court's decision may have been compassionate, but later changes made to the reservation criteria by succeeding administrations further proved that reserve was now primarily about vote-bank politics and nothing more.

The anti-reservation voices have gained strength in the nearly three decades since this important decision, but lawmakers should be reminded of the responsibilities the Constitution's creators gave them. There is still a long way to go until all past wrongs are righted, but the issue of reservations has undoubtedly assisted in pulling up the lower classes.

