

## Affinity Test to Identify Scheduled Tribes

Because it is no longer sure about a "affinity test," the Supreme Court wants to set watertight boundaries to assess if a person is a member of a Scheduled Tribe and is entitled to benefits owing to the community.

### **What is the Affinity Test and how does it work?**

The Affinity Test is used to relate a person to a tribe by shifting through anthropological and ethnological qualities.

Contact with other cultures, migration, and modernisation are all likely to have obliterated a tribe's traditional traits.

An applicant's claim that he is a member of a Scheduled Tribe and is entitled to the benefits afforded to that tribe cannot be dismissed simply because his current characteristics do not match those of his tribe.

These include unusual anthropological and ethnological characteristics, deities, rituals, modes of marriage, death rites, and the manner in which dead bodies are buried, among other things.

Worship is an important component of a community's life, and tribes have distinct ways of worship that must be determined by the officials deciding the claims (for ST status).

### **What are the Scheduled Tribes, and who are they?**

The phrase "Scheduled Tribes" was first used in the Indian Constitution.

Scheduled tribes were defined in Article 366 (25) as "those tribes or tribal communities, or parts or groups within such tribes or tribal communities, as are regarded to be Scheduled Tribes for the purposes of this constitution under Article 342."

Article 342, which is copied below, lays forth the method to be followed when it comes to naming scheduled tribes.



A notified order of the President, after consultation with the State governments involved, is the first designation of Scheduled Tribes in reference to a particular State/Union Territory.

Only through an Act of Parliament can these orders be changed later.

The aforementioned article also allows for the listing of scheduled tribes per state/union territory, rather than on a national level.

### **What did the Supreme Court have to say about it?**

It was decided that the issue of setting the parameters should be sent to a broader Bench.

When it came to the issuance of caste certificates, the Bench stressed that the issue was a "matter of concern."

The supreme court stressed that the affinity test should only be used to confirm documentary evidence and should not be utilised as the only criterion for rejecting a claim.

### **Why are we debating this?**

The Supreme Court has decided to submit the case to a bigger panel of judges for a final determination.

It became clear that the courts were confronted with differing viewpoints on the usefulness of the affinity test.

### **In India, the situation of the Scheduled Tribes (STs) is complicated**

According to the 2011 Census, there are 705 ethnic groups classified as Scheduled Tribes (STs).

Over ten crore Indians have been classified as STs, with 1.04 crore living in cities.

STs make up 8.6% of the population and 11.3 percent of the population in rural areas.

### **This Judgement's Forerunner**

On the one hand, in *Shilpa Vishnu Thakur v State of Maharashtra*, a full bench of the Bombay High Court affirmed the "relevance and importance of the affinity test."



In a 2009 judgement, the entire Bench found that the affinity test was a "integral aspect" of the caste certificate verification procedure.

An affinity test based on ethnicity and anthropology might simply be used by scrutiny committees to determine the validity of a claim.

The phrase 'affinity,' according to the HC, implied the petitioner for a caste certificate's 'connection' with a Scheduled Tribe into which he or she was born.

However, the Supreme Court issued a cautious remark two years later, in 2011. It suggested that the affinity test had reached its conclusion.

