

102 Constitutional Amendment Act

102 Constitutional Amendment Act 2018

The 102nd Amendment Act acquired presidential approval and came into existence in August 2018. The amendment included Articles 338B and 342A into the Indian Constitution and brought about modifications in Article 366.

- Article 338B deals with the powers, system, and duties of the NCBC, which stands for National Commission for Backward Classes.
- Article 342A grants power to the President of India to announce any particular caste as a Socially and Educationally Backward Class (SEBC) and the control of the Parliament to change the list.

Historical Context and Chronology of 102 Constitutional Amendment Act

Initially, two Backward Class Commissions got established in the 1950s and 1970s; however, the Supreme court ordered the government to establish a permanent commission in 1992 to explore and recommend the inclusion and exclusion of backward classes for reservation.

- In 1993, the government established the National Commission for Backward Classes for the socially and educationally backward classes.
- Till 2016, it was reconstituted 7 times. However, the constitutional status of this commission was granted by the 102 Constitutional Amendment Act in 2018.

Effects of Constitution (One Hundred and Second) Amendment Act, 2018

The 102nd Amendment Act of 2018 is integral to the UPSC General studies syllabus. The major 3 effects brought about by the 102 Constitutional Amendment Act are:

Changes in article 366 of the Indian Constitution

Through the changes in article 366, the National Commission for Backward Class (NCBC), which was set up in 1993, got a constitutional status.

After that, the NCBC acquired all the powers given to the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes and has the authority to redress the grievances of the backward classes.

Insertion of article 338B into the Indian Constitution

Article 338B, inserted by the 102 Constitutional Amendment Act, delineates the structure and powers of the NCBC.

- As per the article, the Commission consists of Chairperson, Vice-chairperson, and three other members the President appoints.
- The duties of the NCBC comprise monitoring matters concerning the safeguards provided to the socially and educationally backward classes, enquiring into complaints

regarding the violation of their rights, recommending measures to implement safeguards and welfare measures, etc.

- NCBC also presents the annual report to the President.
- The article empowers the Commission to act as a civil court while investigating the complaints regarding the deprivation of rights of the socially and educationally backward classes.

Insertion of Article 342A into the Indian Constitution

102 Constitutional Amendment Act incorporated article 342A that empowers the President of India to define the socially and educationally backward classes regarding a state or union territory.

Also, it makes parliamentary approval obligatory when adding or removing any community from the list of backward classes.

Duties of the 102 Constitutional Amendment Act

The important responsibility of the Commission is listed below. The 102 Constitutional Amendment Act gave the National Commission of Backward Classes a constitutional position.

- Monitoring protection for educationally and socially deprived groups.
- Delivering socio-economic development service.
- The centre and the states must consult the Commission on all policy decisions regarding SEBCs.
- It informs on the usefulness of securities to the President annually or when the Commission finds it necessary. Each Parliament house is required to present such reports by the President.
- A report duplicate has to be forwarded to the State Government if concerned.
- NCBC is instructed to perform duties related to welfare, development, security, and advancing backwards groups as directed by the President.

102 Constitutional Amendment Act - The Judicial View

While clarifying the 102 Constitutional Amendment Act, the Supreme Court ruled that the power of the states identify socially and educationally backward classes (SEBC) under their territory stays nullified.

- Only the President can add a particular caste to the list of backward classes. After that, if any modification or exclusion from the initial list is required, then the parliament has the authority to do that.
- Thus, the President has the first authority, and next comes the parliament. The states, however, can still recommend to NCBC or the President to add or delete any caste in the list of backward classes.
- Initially, the 102 Constitutional Amendment Act met with resistance and was depicted to be against the fundamentals of a democratic state.
- Nevertheless, after the necessary modifications by the parliament, the act was passed to attain the welfare state as outlined by the Constitution.