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Union Government Opposes Creamy Layer Extension to SCs and STs While Defending Constitutional Reservation Framework

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Recent Developments:

- The **Union Government** informed the **Supreme Court of India** that the **Creamy Layer** principle cannot be extended to **Scheduled Castes (SCs)** and **Scheduled Tribes (STs)**, maintaining that the doctrine has historically been confined to **Other Backward Classes (OBCs)**.
- The submission was made in response to petitions seeking **income-based exclusion** within **SC/ST reservations** and pursuant to the **Supreme Court's 2024 judgment** permitting **sub-classification within Scheduled Castes and Scheduled Tribes**.
- The Union Government also submitted an **Action Taken Report (ATR)** before the Court, stating that any modification of reservation policy requires a **comprehensive empirical assessment** and cannot be based solely on economic criteria.

Background of the Present Case:

Origin of the Dispute:

- Petitions before the **Supreme Court** sought the introduction of a **Creamy Layer** exclusion within **Scheduled Castes (SCs)** and **Scheduled Tribes (STs)** on the lines applicable to **Other Backward Classes (OBCs)**.
- The petitions followed the **2024 Constitution Bench judgment** which upheld the constitutional validity of **sub-classification within Scheduled Castes**, while also discussing the possibility of evolving separate criteria for identifying advanced sections within reserved communities.

Union Government's Position:

- The Government argued that the **Creamy Layer** doctrine has consistently been applied only to **Other Backward Classes (OBCs)** and has never been extended to **Scheduled Castes (SCs)** or **Scheduled Tribes (STs)**.
- It submitted that reservation is founded primarily on **historical discrimination, social exclusion, untouchability, tribal isolation** and **structural disadvantage**, rather than merely on economic status.
- The Government stated that seeking an **income-based exclusion** within **SC/ST reservations** neither raises an independent constitutional issue nor establishes the violation of any **Fundamental Right**.
- It further argued that any change in reservation policy should be preceded by a **holistic review, scientific empirical study** and **legislative policy determination**.

Reservation Framework in India:

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Meaning:

- **Reservation** is a form of **affirmative action** intended to improve representation of historically disadvantaged and under-represented communities in **public employment, educational institutions** and other public opportunities.

Present Reservation Structure:

- **Scheduled Castes (SCs): 15%** reservation in direct recruitment on an all-India basis through open competition.
- **Scheduled Tribes (STs): 7.5%** reservation in direct recruitment on an all-India basis through open competition.
- **Other Backward Classes (OBCs): 27%** reservation in direct recruitment on an all-India basis through open competition.
- **Economically Weaker Sections (EWS): 10%** reservation enabled through the **Constitution (103rd Amendment) Act, 2019**, applicable to economically weaker persons not covered under existing reservation categories.

Creamy Layer Principle:

Meaning:

- The **Creamy Layer** principle excludes the relatively advanced and socially better-off members of a reserved category from availing reservation benefits so that affirmative action reaches the genuinely disadvantaged sections.

Objective:

- To ensure equitable distribution of reservation benefits among eligible members of backward communities.
- To prevent repeated concentration of reservation benefits within relatively privileged families.
- To improve the effectiveness of affirmative action policies.

Origin:

- The doctrine was evolved by the **Supreme Court** in the **Indra Sawhney v. Union of India (1992)** judgment, popularly known as the **Mandal Commission Case**.
- The Court held that socially advanced sections within **Other Backward Classes (OBCs)** should be excluded from reservation benefits.

Present Applicability:

- The **Creamy Layer** principle presently applies only to **Other Backward Classes (OBCs)**.
- It does not presently apply to **Scheduled Castes (SCs)** or **Scheduled Tribes (STs)**.

Constitutional Provisions Related to Reservation:

Article 14:

- Guarantees **Equality Before Law** and **Equal Protection of Laws**, while permitting reasonable classification based on intelligible differentia.

Article 15(4):

- Empowers the State to make special provisions for the advancement of **Socially and Educationally Backward Classes, Scheduled Castes and Scheduled Tribes**.

Article 15(5):

- Enables reservation in admissions to educational institutions, including private institutions except minority educational institutions.

Article 16(4):

- Permits reservation in public employment for backward classes inadequately represented in State services.

Article 16(4A):

- Enables reservation in promotion for **Scheduled Castes and Scheduled Tribes**, subject to constitutional requirements.

Article 16(4B):

- Permits carrying forward unfilled reserved vacancies beyond the ceiling applicable to a particular recruitment year.

Article 46:

- Directs the State to promote the educational and economic interests of **Scheduled Castes, Scheduled Tribes** and other weaker sections.

Article 335:

- Recognises that the claims of **Scheduled Castes and Scheduled Tribes** shall be considered consistently with administrative efficiency while making appointments to public services.

Article 338, Article 338A:

- Provide constitutional status to the **National Commission for Scheduled Castes (NCSC)** and the **National Commission for Scheduled Tribes (NCST)**.

Article 341, Article 342:

- Empower the **President of India** to notify **Scheduled Castes and Scheduled Tribes**, subject to parliamentary modification.

Supreme Court Judgment on SC Sub-Classification (2024):

Background:

- In **State of Punjab v. Davinder Singh (2024)**, a **6:1 Constitution Bench** overruled the earlier **E.V. Chinnaiah v. State of Andhra Pradesh (2004)** judgment.

Key Findings:

- The Constitution permits **sub-classification within Scheduled Castes** for equitable distribution of reservation benefits.
- The **Presidential List** identifies eligible communities but does not prohibit internal classification for welfare purposes.

- Equality under **Article 14** permits differential treatment among unequally placed groups.
- The Court observed that any future consideration of **Creamy Layer** within SC/STs, if undertaken, would require criteria distinct from those applicable to **Other Backward Classes (OBCs)**.

Conditions for Sub-Classification:

- Sub-classification must be supported by **quantifiable empirical data**.
- The State must establish **greater backwardness** of the beneficiary group.
- There must be evidence of **inadequate and ineffective representation** in public services.
- Classification should remain **reasonable, non-arbitrary** and **constitutionally justified**.

Arguments Supporting Differential Treatment Within SCs/STs:

Unequal Levels of Backwardness:

- Certain communities within **Scheduled Castes** continue to remain significantly more deprived than relatively advanced sub-groups.

Effective Representation:

- Reservation seeks meaningful representation rather than mere numerical inclusion.

Constitutional Equality:

- **Article 14** permits classification among differently situated groups to achieve substantive equality.

Targeted Social Justice:

- Empirical identification of the most deprived communities can improve the effectiveness of affirmative action.

Arguments Against Extending Creamy Layer to SCs/STs:

Historical Basis of Reservation:

- Reservation for **Scheduled Castes** and **Scheduled Tribes** addresses historical discrimination, untouchability and social exclusion, which may persist irrespective of income.

Article 341 and Article 342:

- Excessive State intervention may indirectly interfere with the constitutionally notified lists.

Community Fragmentation:

- Further categorisation may increase internal divisions and weaken collective social and political representation.

Administrative Complexity:

- Developing objective indicators for identifying advanced sections within **SC/ST communities** poses significant empirical and legal challenges.

Significance of the Ongoing Constitutional Debate:

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Affirmative Action Reform:

- The proceedings may influence the future architecture of India's reservation policy.

Balancing Equality Principles:

- The issue seeks to reconcile **formal equality**, **substantive equality** and **social justice**.

Evidence-Based Policymaking:

- Greater emphasis is being placed on empirical evidence while designing targeted welfare measures.

Constitutional Governance:

- The case highlights the evolving relationship between judicial interpretation and legislative policy in affirmative action.

Way Forward:

Constitutional Compliance:

- Any reform should remain consistent with **Articles 14, 15(4), 16(4), 341 and 342** of the Constitution.

Evidence-Based Decision Making:

- Reservation reforms should rely upon comprehensive socio-economic surveys and objective empirical evidence.

Balanced Approach:

- Any consideration of **Creamy Layer** within **SC/STs**, if undertaken in future, should adopt criteria reflecting their distinct historical and constitutional position rather than replicating the **OBC** framework.

Complementary Welfare Measures:

- Reservation should be supplemented through improved education, skill development, entrepreneurship promotion, anti-discrimination measures and targeted social welfare programmes.

Conclusion:

- Reservation for **Scheduled Castes (SCs)** and **Scheduled Tribes (STs)** is not based solely on economic disadvantage but is a constitutional mechanism designed to address **historical discrimination**, **social exclusion** and **structural inequalities**.
- Any decision regarding the extension or exclusion of the **Creamy Layer** principle to **SCs/STs** should be guided by **constitutional provisions**, **judicial precedents** and **robust empirical evidence**, rather than income alone.
- A balanced reservation framework should ensure **effective representation**, **equitable distribution of benefits** and **targeted affirmative action**, while preserving the constitutional objective of protecting the most disadvantaged sections.
- Going forward, reservation policy should strengthen **social justice**, **inclusive development**, **substantive equality** and **national social cohesion**, while remaining consistent with the evolving constitutional jurisprudence on affirmative action.

UPSC Value Addition:

Important Supreme Court Judgments:

- **State of Punjab v. Davinder Singh (2024)**
- **E.V. Chinniah v. State of Andhra Pradesh (2004)**
- **Indra Sawhney v. Union of India (1992)**
- **M. Nagaraj v. Union of India (2006)**
- **Jarnail Singh v. Lachhmi Narain Gupta (2018)**

Important Constitutional Amendments:

- **77th Constitutional Amendment Act, 1995** — Reservation in promotion for **SCs/STs**.
- **81st Constitutional Amendment Act, 2000** — Carry forward of backlog vacancies.
- **82nd Constitutional Amendment Act, 2000** — Relaxation in qualifying marks for **SCs/STs**.
- **85th Constitutional Amendment Act, 2001** — Consequential seniority in promotions.
- **103rd Constitutional Amendment Act, 2019** — Reservation for **Economically Weaker Sections (EWS)**.

Related Constitutional Bodies:

- **National Commission for Scheduled Castes (NCSC)**
- **National Commission for Scheduled Tribes (NCST)**
- **National Commission for Backward Classes (NCBC)**