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Analysing the Challenges of Women Reservation

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ABSTRACT

The purpose of this paper is to establish the idea about the Women Reservation Bill, 2023. This paper focus on the barriers and struggles faced by the women from the history. There are several challenges faced while enacting this Women Reservation Bill, 2023. The Delimitation, lack of population census, caste wise census etc.. were dealt in this paper. This paper also focusses on the needs and challenges faced by the government in the future. The major amendment made in the constitution is a crucial part of this paper. Several Judicial decisions were also been discussed in this paper. The rights and reservation for women has to be provided at the earliest as mentioned in our constitution.

Keywords: Women Reservation; Delimitation; Population; Empowerment.

I. INTRODUCTION

“There is nothing so unequal as the equal treatment of the unequal’s” - Aristotle

The law keeps on changes as per the society changes. Women community fought so long for their betterment and welfare. On **20 September 2023** 128th constitution amendment acts 2023⁵ was passed which raised the women reservation up to 33%. Further the said reservation is only applicable to the Lok Sabha and Legislative assembly. Moreover, the said reservation is not applicable to Rajya Sabha and Legislation Council. The Act was titled ‘**NARI SHAKTI VANDAN ADHINIYAM**’. Further the Bill of Constitutional Amendment brought several amendments in the Constitution also. Because of the reservations **Articles 239AA**, in the **clause**

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⁵128TH Constitution amendment act 2023 – Women reservation Act,2023.

(2), after **subclause(B)**, [ba]⁶, [bb]⁷, [bc]⁸, **330A**⁹, **332A**¹⁰ and **334A**¹¹ were inserted. This paper dealt with the Hardship situation faced by Women in our society and also about the Women 's Political Empowerment, Delimitation, women reservation and other crucial aspects.

II. HISTORY OF WOMEN RESERVATION

In India before 100 years women were restricted to go outside the house and their decisions were not considered. Before 75 years women are allowed to leave the home. Before 50 years women started to go to college and 25 years ago women are going to work but women were not empowered in politics. Women suffered several cruelties like harassment, dowry and several crimes¹². They were treated like slaves and dominated by the male society. Even after several years of Independence the women reservation bill was not passed and legal recognition was not given to the women community. The women reservation bill was pending till 27 years after Independence. Why was there a crucial delay on the part of our Indian Government in providing legal recognition for women.

For the first time in Indian history, women reservation was introduced in 1993¹³, where **1/3rd** of seats was granted for women in GRAM PANCHAYATS. This triggered and gave several ideas for providing women reservation in various sectors. Several research scholars and Political ideologies suggested women reservations. In 1996 Deve Gowda Government first time Introduced this women reservation bill, but it failed. Later it was sent to the standing committee of Parliament. On **9th Dec 1996** the standing committee submitted its report in the Lok Sabha in this regard Later this government was dissolved. Next government in 1998, VAJPAYEE govt again introduced the bill in the Lok Sabha under the current law minister Thermidorian, but the bill failed due to insufficient majority support. Then again and again the next govt introduced this bill 1999,2002,2003 the bill did not have a majority but the govt had a majority and even when there was a majority the bill was not passed. And then in 2008, the Rajya Sabha introduced the bill and a recommend the parliament standing committee¹⁴. And to add strength to this bill

⁶ Indian Constitution, Art.239AA clause (2) after sub clause [b] the following clauses shall be Inserted (ba) - Seats shall be reserved for women in the Legislative assembly of the NCT Delhi.

⁷ (bb) As nearly as may be, one-third of the seats reserved for the Scheduled Castes in the Legislative Assembly of the National Capital Territory of Delhi shall be reserved for women.

⁸ (bc) As nearly as may be, one-third of the total number of seats to be filled by direct election in the Legislative Assembly of the National Capital Territory of Delhi (including the number of seats reserved for women belonging to the Scheduled Castes) shall be reserved for women in such manner as Parliament may by law determine.

⁹ Indian constitution, Article **330A** - Reservation of seats for women in the house of the people.

¹⁰ Indian constitution Article 332A – Reservation of seats for women in the legislative assembly of the state.

¹¹ Indian constitution Article **334A** - reservation of seats for woman takes effect.

¹² The first women status report 1974.

¹³ To Insertion 73rd and 74rd Constitution amendment act 1993.

¹⁴ Parliament standing committee report 2009.

was passed in the Rajya Sabha But not passed in the Lok Sabha. It was especially expected that Women reservation bill would be introduced in the winter session of parliament. They introduced the bill to fulfil the expectations and after the bill was successful with the support of the Member of parliament. Special majority passed Lok Sabha 454 Supporting at Similarly Rajya Sabha 214 Members supported.

(A) Research questions:

- 1) What is the need and objective of introducing the Women Reservation Act,2023?
- 2) What are all the Challenges which might be faced after the implementation of Act?
- 3) Whether this Act plays a crucial role in Women Empowerment or not?

III. NEED OF WOMEN RESERVATION

More than 27 years the Women Reservation Bill was pending in the parliament for no reason¹⁵. The importance of women reservation is needed here because their preference in the political empowerment and representative in India is very low. **For 2000 Years Gender Oppression Was More Prevalent Than Caste Based Oppression.** Even though they share the population by half of the country their impact in the political state is very low. India being a feminist country which means of giving equal rights to a woman with compared to a man, they get an equal opportunity of making the government. Woman reservation brings up the woman in the society to a higher state and breaks the gender discrimination which is still prevailing in some parts of the India. Giving women a part of the democracy highlights their needs and it is their voice of the whole women population in India. The **Geeta Mukherjee Committee** Report feels that the women should be encouraged in societies, and reservation is much needed, where the women are traditionally neglected section of the society¹⁶. It feels that the reservation is needed for women belonging to the ST/SC /OBC community to enable Them to have fair competition with women belonging to the forward classes. According to Art.51(A)(E)¹⁷ of the Constitution we have the fundamental duty to protect and promote the dignity of women. Further the committee, Parliament standing committee 2008 said that women's reservation is much needed and the most important aspect in today's society.

The term delimitation is act of establishing the territory of constituency¹⁸. The main challenge

¹⁵ <https://indianexpress.com/article/opinion/columns/womens-reservation-bill-after-passing-challenge-now-to-ensure-promise-translates-to-equality-8995227/> (last Visited on 02.11.2023 at 21.33).

¹⁶ Geeta Mukherjee committee report 1996.

¹⁷ ART 51 {A} [E] -to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.

¹⁸ Clear IAS, Delimitation Commission available at <https://www.clearias.com/delimitation-commission/> (last

of women reservation is the delimitation concept. The main reason behind is that the women reservation is implemented after the census of population which is declared to be conducted after the years of 2026. The impact of the delimitation is that the concept is based on the account of the whole country. This affects many states which have population controls methods and the already following states may lose their representatives. The other challenge is that the decisions made by the delimitation commission are neither amended nor can be challenged in any court. The only solution is that they can only conduct debates to solve the issues which is similar to the Rajya Sabha cannot take decisions about the financial matters but can only conduct debates. The other way to de risk the problem is that to make changes in the Delimitation commission act of 2002¹⁹ and people representative act of 1951²⁰. The central government should give assurance and take steps to ensure that there is no reduction in representation in every state. Even if the debate takes place, it is not mandatory that the Delimitation commission should hear the voices that are discussed in the debate, even the political party representation as the member in the debate.

The other challenge in the Women reservation is that there are no seats that are included for the women of the OBC group. In 1980 Mandal Commission report was submitted and, in the report, it is clearly stated that there are more than 52% of women of OBC there in India²¹. So, it is well to be presumed that in the current situation the OBC Women population rate might have increased to 60% in India. Another impact is that this OBC category is not given a major seat reservation in the making of the government which is clearly proved that there are only 3 OBC caste officers out of the total 90 officers²². Further OBC community people who were below the poverty line OBC population was 13.86 crore which is 33% of total OBC population²³.

Another state of challenge is that women are lacking in political interference because they are indulged in traditional ethics of lack of family support and patriarchal values and norms. In the modern period of India criminalization is also a factor that prevents women from interfering in political activities. Women being financially and economically dependent on their husband also plays a major role in making women not to indulge in political activities.

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¹⁹ Delamination commission act 2002.

²⁰ People representation act 1951.

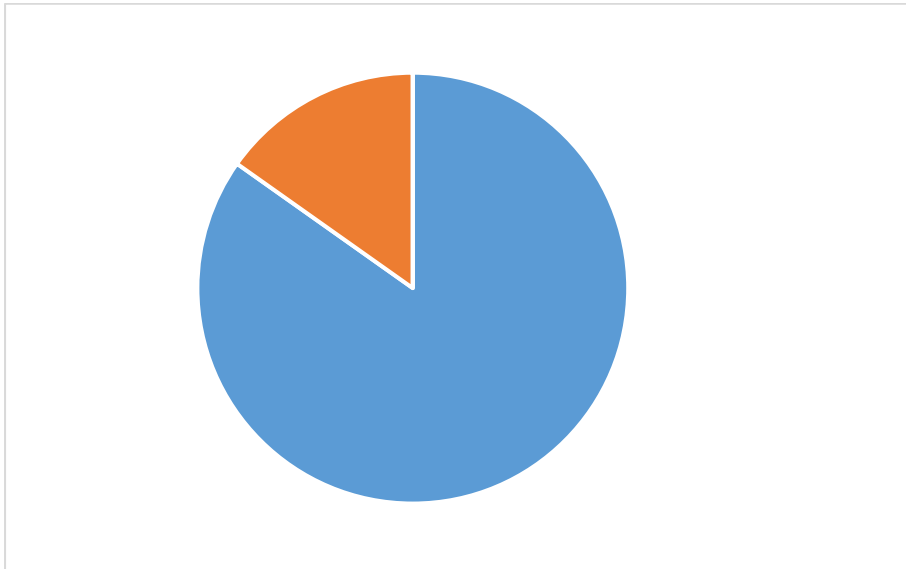
²¹ Mandal commission report submitted by 1980 but implemented in 1993.

²² Data of Central government secretary.

²³ Sinha commission report 2010.

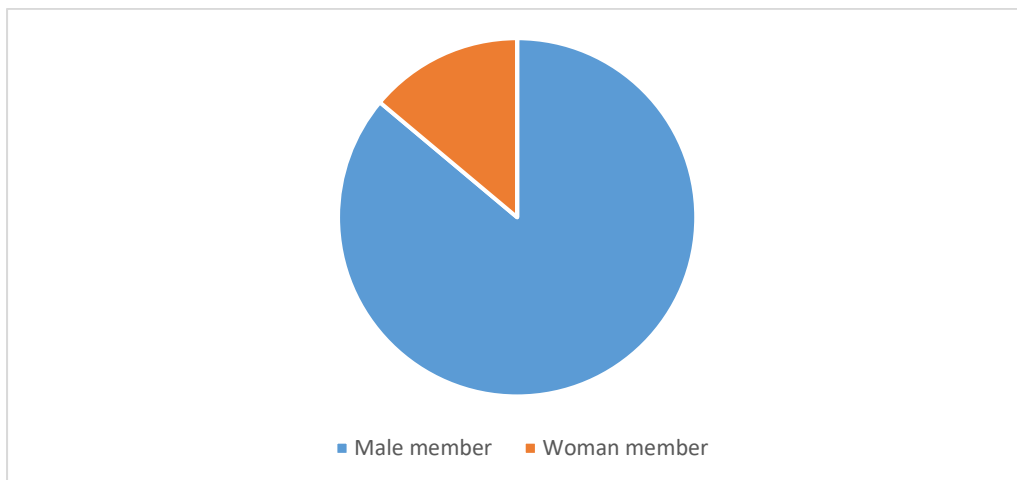
IV. STATISTICAL DATA ANALYSIS

Currently in Lok Sabha Woman Member Percentage at only 82 out of 538 in 15.2%²⁴



Source: IPU Parline [Global data on national parliament] As Per data on October 1,2023

Currently in Rajya Sabha Woman Member Percentage at only 33 out of 238 in 13.9%



Source: IPU Parline [Global data on national parliament] As Per data on October 1,2023²⁵

Currently in Indian View global and regional average ranking of Percentage of Women 142 out of 185.

²⁴ Currently in Lok Sabha Woman Member Percentage at only 82 out of 538 in 15.2% - Source as Per data on October 1,2023. <https://data.ipu.org/> (Last visited on 01.11.2023 at 04:30PM).

²⁵ Supra at 21 -Currently in Rajya Sabha Woman Member Percentage at only 33 out of 238 in 13.9% - Source: As Per data on October 1,2023.

V. PERCENTAGE OF GLOBAL RANKING LEVEL IN WOMEN REPRESENTATION

Ranking	Country	Percentage of women representation in lower house	Percentage of women representation in upper chamber
1	Rwanda	61.3%	34.6%
2	Cuba	55.7%	–
3	Nicaragua	51.7%	–
4	Andorra	50.0%	50.4%
142	India	15.2%	13.9%

Global ranking in women's representation India is 142 Out of 185 countries ²⁶

Source: IPU Parline [Global data on national parliament] As per data on October 1, 2023 Currently in India, State Legislative assembly State wise data Woman Represented percentage. In 20 states and UT'S less than 10% MLA are Woman, at same time Tripura 15%, Chhattisgarh 14.4% are women percentage in assembly at low rate Nagaland 3,3% and Mizoram at Zero are women percentage in assembly.

States	Percentage
Chhattisgarh	14.44%
West Bengal	13.70%
Jharkhand	12.35 %
UP	11.66%
Rajasthan	12%
Delhi	11.43%

²⁶ Percentage of Global ranking level in women representation Source: as per data on oct 1, 2023 <https://data.ipu.org/>; Currently in India, State Legislative assembly State wise data Woman Represented percentage: Source <https://pib.gov.in/PressReleasePage.aspx?PRID=180921> (Last visited on 02-11-2023 at 03:40 PM).

Uttarakhand	11.43%
Punjab	11.11%
Bihar	10.70%
Haryana	10%
Sikkim	9.38%
MP	9.13%
Odisha	8.90%
Maharashtra	8.33%
Manipur	8.33%
Gujarat	7.14%
AP	8.0%
Kerala	7.86%
Goa	7.50%

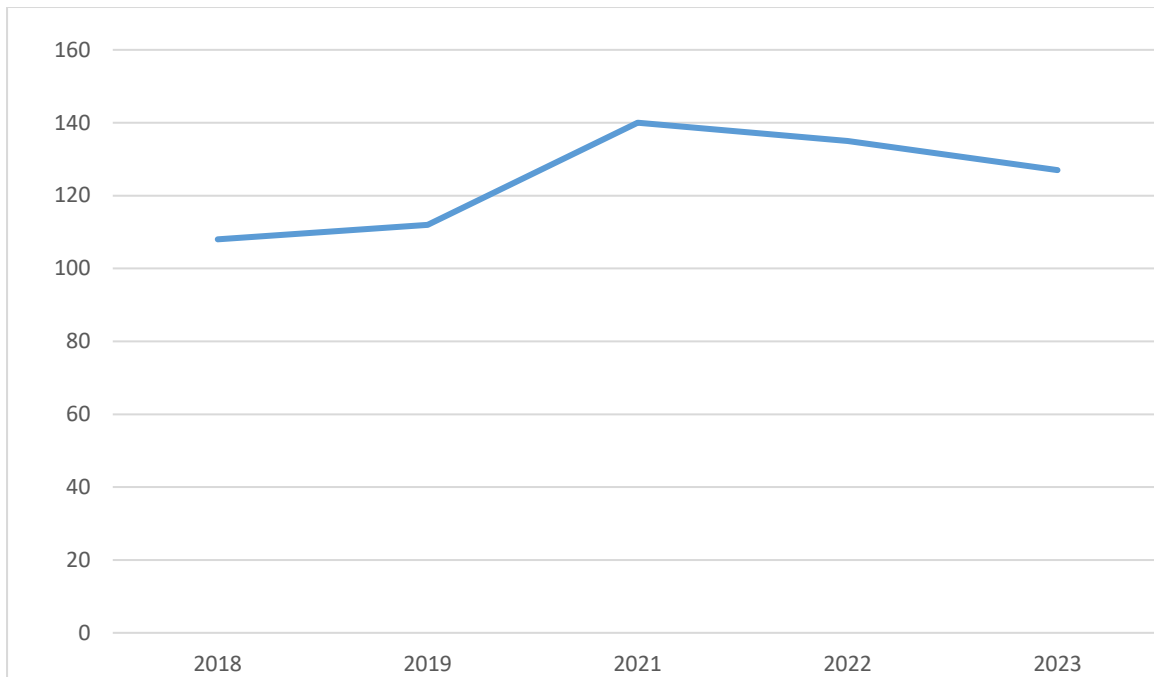
VI. PERCENTAGE OF STATE WISE DATA IN LEGISLATION ASSEMBLY WOMEN REPRESENTATION ²⁷

BUT SOME STATES BELOW LOWER RATE 5%

Tamil Nadu	5.13%
Meghalaya	5.8%
Arunachal	5.0%
Telangana	5.04%
Assam	4.8%
Karnataka	3.14%
Puducherry	3.3%
Himachal Pradesh	1.5%
Nagaland	-
Mizoram	-

[Currently in Placed 127 out of 146 in nations terms of gender parity [Compared to past year]

²⁷ Percentage of women representation in legislative assembly below 5% state wise data Source: <https://pib.gov.in/PressReleasePage.aspx?PRID=180921> (last accessed on 03.11.2023 at 17:51 PM).



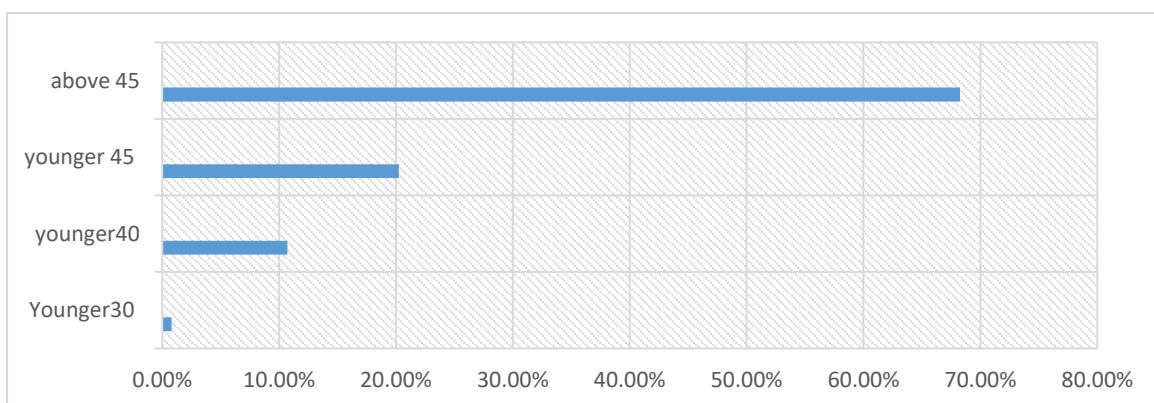
Source: Global Gender Gap Report 2023

Political participate wise Percentage of Women candidate seats on Lok Sabha election 2019

Percentage of MP'S 40 year of age of younger in India at the rate of House of the people 10.71%

Source: IPU Parline [Global data on national Parliament] As per data on October 1,2023

Percentage of MP 'S 30 year of age of younger in India at the rate of House of people 0.79%



Source: IPU Parline [Global data on national Parliament] As per data on October 1,2023²⁹

²⁸ Currently in Placed 127 out of 146 in nations terms of gender parity [Compared to past year] Source: <https://www.clearias.com/global-gender-gap-report/#:~:text=Gender%20Pay%20Parity,India%20and%20Gender%20Gap%20Report,hardly%20a%20reason%20for%20celebration> (last visited on 01.11.2023 at 06:30 PM).

²⁹ Percentage of MP in age wise data in our country] As per data on October 1,2023 Source <https://data.ipu.org/>. (Last accessed on 02.11.2023 at 03:45PM).

VII. RTI REPORT OBC COMMUNITY STATUS

According to the RTI report of Ministry of labour and Employment ³⁰Directorate of General of Employment community wise percentage of central government employees in the year of 2022-2023 state wise list. Government of Uttarakhand regional employment office campus, reply of RTI application received under section 6(3) RTI act 2005³¹

1. FC/OC - 04
2. OBC/DNC - 00
3. SC - 02
4. ST - 00

As per the record of Assistant Director (EMP) Kanpur national career for differently abled, information under the RTI act. Details of Community Wise percentage of Employees NCSC for DA Kanpur U.P.³²

1. SC - 31.25
2. ST- 0
3. OBC - 31.25
4. GENERAL - 37.50

And the information of DGE information sought under RTI act of 2005, Tripura³³

1. OC- 03 NOC
2. OBC – 01 NO
3. SC – 01
4. ST – 03
5. BCM – NIL

Also, with the records of ministry of labour and employment DGE –Ludhiana³⁴

1. FC/OC – 33.3
2. BC - 0

³⁰Govt of India law ministry.

³¹RTI application received under section 6(3) RTI act 2005.

³²Employees NCSC for DA Kanpur U.P.

³³Information received from RTI Ref: - DGEAT/R/E/23/00111/2 dated 14.04.2023.RTI act of 2005, Tripura

³⁴Ministry of labor and employment DGE – Ludhiana

3. BCM - 0
4. OBC/DNC – 11.1
5. SC – 33.3
6. ST – 22.3

Deputy director of employment and labour the below information under RTI act of 2005³⁵

1. FC/OC - NULL
2. BCM - NULL
3. OBC - 21
4. SC - 26
5. ST - 10
6. UR – 42

Finally, the above information is from a report of RTI act of 2005 Director of labour and employment from different states of India under the control of govt of India.

VIII. IMPACT OF WOMEN RESERVATION ACT

On allotting the seats for women in major positions, their respect, duties and other roles improves in a society. The seats at the Lok Sabha for the women increases for 180 out of 543, which creates the opportunity among women's society.

Delimitations:

- There is a chance for reduction of representatives when delimitation implemented. Also, political irrelevant issues occur.
- The bitter news is that 50% of the panchayat raj are women but, all the decisions were taken by their husbands. Undue influence by their Husband. Women's empowerment increases and all the corruption will be erased.
- With the coming into force of this law's impact, for so long women have been used by this society as a mere Vote bank, but now I expect that situation to change.

IX. SUGGESTION

I will recommend 43% reservation for women due to the fact that half of the population in India is women which increases women's representation. Also, I recommend adding the OBC's

³⁵Information received from RTI Ref: - DGEAT/R/E/23/00111/2 dated 14.04.2023, RTI act of 2005

reservation for women. Then, Muslim women should be added as there is a 14.2% % of the population in India is Muslims.³⁶ One thing that comes to my mind is that women's reservation can be implemented in the Lok Sabha 2024 Election. Also, there should be seat allotment for every woman in a party itself. After 2026, there will be a collection of data Census for population. At the same time, the central government can take a caste Wise census, to ensure the positions for all caste women to increase un-representation groups. Recently, the State of Bihar took a caste survey, so every state government can take a caste survey accordingly. According to union list entry 69 talks that the census must be taken by the central government, but recently the state of Bihar took a Caste.

Survey³⁷ can be taken but, in practice today, many state govt have started caste wise survey and if so, a caste wise survey should be conducted to find out which majority communities in the state are un-representation and un-adequate And, Implementation of delimitation must me put it away. It was told that, the reservation for women expires after 15 years, but I come to say is it should be last until when there is a gender equality exists. If 33% of reservation is implemented, Also I need a seat for women to fill for cabinet ministry and for the state assembly ministry which can be important sectors. The seats must be providing reserved constituency, here the men discrimination must be abolished and equal seats should be allotted for women to prove their rights and duties. At same time, Legislative council and Rajya Sabha should be implementation for women reservation

X. CONCLUSION

Women should not only be treated as a citizen; they should be encouraged in all political activities and public life without an elimination from society activities. The most important view of the bill is to bring proper reservation without any interference of the caste system. The constitution of India mainly deals with anti – discrimination of women in many articles and power to the government to enact a law for woman welfare. As per the thought of socialist and to make a support of feminist people. Quota is a not solution for the women's problems and results, but it leads to solution only for the basis of gender, violation of the democratic rights of people to conduct elections; this bill through by common woman benefit but not repeatedly go to those who have the opportunity. Therefore, the government should take appropriate action to protect the rights of women and the reservation percentage of women must want to be

³⁶

Source: [https://pib.gov.in/newsite/printrelease.aspx?relid=126326#:~:text=Total%20Population%20in%20in%202011%20is,Stated%200.29%20crores%20\(0.2%25\)\(last%20visited%20on%2030.11.2023%20at%2004:35%20PM\).](https://pib.gov.in/newsite/printrelease.aspx?relid=126326#:~:text=Total%20Population%20in%20in%202011%20is,Stated%200.29%20crores%20(0.2%25)(last%20visited%20on%2030.11.2023%20at%2004:35%20PM).)

³⁷ Bihar caste wise case name: Youth equality VS UOI. Case no 16970/2023.

implemented as soon as possible.
