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# Balancing the Scales: Sub-Classification in SC & ST Reservations and the Quest for Equality

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## ABSTRACT

*This article delves into the issues surrounding the subservience of India's Scheduled Castes (SCs) and Scheduled Tribes (STs) and the use of the creamy layer theory in affirmative action laws. It examines court decisions and constitutional changes that have influenced the conversation, highlighting the conflicts between affirmative action and the pursuit of equality among marginalized people. The Chinnaiyah rule, for instance, is discussed, arguing that it ignored empirical data and social realities that justify sub-classification. The article also examines the policy discussions and legal implications of the creamy layer idea, emphasizing its importance in ensuring that benefits from reservations go to individuals who are truly underprivileged in terms of education and social status. The Indra Sawhney Judgement and rulings have also been discussed, highlighting the need for sub-categorisation to account for the different social and economic deprivation levels in these groups. The 102nd Constitutional Amendment, which granted equal treatment to SCs, STs, and OBCs, is also examined, emphasizing the need for streamlining reservation regulations to maintain consistency and prevent monopolization by members who benefit from reservations. The article advocates for a comprehensive strategy to address the disparities between SCs and STs, including ongoing verification of reservation beneficiary lists, a deadline for reservation measures, and educational programs to promote equality and dignity.*

**Keywords:** *sub-classification, SC/ST, heterogeneity, reservation.*

## I. INTRODUCTION

Sub-classification and the creamy layer in India's affirmative action laws have been hot topics of dispute, especially in the Indian Judiciary, which is vital to striking a balance between affirmative action and egalitarian ideals.<sup>2</sup> The *Chinnaiyah* ruling,<sup>3</sup> which affected

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<sup>2</sup> Surendranath, Anup. "Judicial Discourse on India's Affirmative Action Policies: The Challenge and Potential of Sub-Classification." Ph.D. thesis, Balliol College, University of Oxford, 2013.

<sup>3</sup> (2005) 1 SCC 394

subclassification, was superseded by the Davinder Singh case,<sup>4</sup> which was decided recently.<sup>5</sup> It has been said that the *Chinnaiah* decision, which was mostly based on a textual explanation of Art.s 341 & 342,<sup>6</sup> ignored social realities and empirical evidence that cast doubt on the uniformity of Scheduled Castes('SC') and Scheduled Tribes('ST') as defined by these Art.s. The implementation of the creamy layer and sub-classification to SCs and STs is the main topic of this Art.. The *Chinnaiah* ruling has barred the state from reclassifying the list in accordance with the equality principle entrenched in Art. 14,<sup>7</sup> despite extensive empirical data and statistical studies revealing inequities among these groupings. According to the author, the Constitution does not forbid the subclassification of SCs & STs into "backward" and "more backward" classes according to fair standards. Asserting "substantial equality" over "formal equality," Art. 14 permits affirmative action to further the rights of the underprivileged.

Furthermore, the author contends that it is against the equality among equals principle to determine backwardness exclusively on the basis of caste, disregarding the creamy layer.<sup>8</sup> As per the notification provided in Art. 341; SCs & STs do not constitute a homogeneous class until the creamy layer is excluded. Before members can be considered for reservation benefits, it is implicitly required under Art.s 15<sup>9</sup> and 16<sup>10</sup> that the creamy layer be included.

The 102nd Constitutional Amendment granted equal treatment to SC,<sup>11</sup> ST, and Other Backward Castes. Therefore, ideas such as the creamy layer and sub-classification, which were applied to OBCs in the Indra Swahney case,<sup>12</sup> must also be applied to SC and ST.

#### **(A) Research Questions:**

1. Is Art. 14 of the Constitution violated when the "creamy layer" criteria is used to determine backwardness in relation to SCs and STs under Art.s 15 and 16?
2. Does the Constitution allow SCs and STs to be subclassified and to apply the creamy layer?
3. Does the 102nd Amendment to the Constitution require that the "creamy layer" be excluded and that SCs and STs be subject to "sub-classification"?

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<sup>4</sup> (2020) 8 SCC 1

<sup>5</sup> Kumar, Pratik. "State of Punjab v. Davinder Singh: A Step Towards Transfiguration of Sub-Classification of Scheduled Caste." CALQ, vol. 5, no. 2, 2021, pp. 107.

<sup>6</sup> The Constitution of India, Art. 342 and 341.

<sup>7</sup> The Constitution of India, Art. 14.

<sup>8</sup> CONSTITUENT ASSEMBLY OF INDIA DEBATES, vol. 10 (October 17, 1949)

<sup>9</sup> The Constitution of India, Art. 15.

<sup>10</sup> *Id.*, Art. 16.

<sup>11</sup> The One Hundred and Second Amendments to The Constitution of India.

<sup>12</sup> *Indra Sawhney & v Union of India* AIR 1993 SC 477

4. Does the "Sub-classification" of SCs & STs follow the proportionate equality criterion of Art. 14 and is it justified on reasonable grounds?

## **II. NAVIGATING SUB-CLASSIFICATION WITHIN INDIA'S SCHEDULED CASTES AND TRIBES: LEGAL, SOCIAL, AND POLITICAL IMPLICATIONS**

The various states have explored the problem of "sub-classification" among the disadvantageous class on occasion. Post determining the quota for a particular category within the backward class, the Court allowed "sub-classification" within that class on the basis of reasonable grounds, as it did in *Vasant Kumar*,<sup>13</sup> and then reiterated in *Swahney*.<sup>14</sup> Several states used empirical data to "sub-categorize" the Scheduled Castes prior to the E.V. Chinniah decision.<sup>15</sup> The *E.V. Chinniah* created an implausible precedent that forbids sub-classification inside the SCs & STs under the false pretence of "homogeneity" within the SCs, in stark contrast to the logic put forward by the Court in the *Indra Swahney* case.<sup>16</sup> The author highlighted a number of commission and committee reports that were periodically assembled by state governments in order to challenge the assumption of the class's "homogeneity" in the chapter's last section. According to these findings, class distinction is necessary to guarantee "proportional equality" under Art. 14 and to allocate reserve benefits to the "most backward" members of each class.

## **III. EXPLORING SUB-CATEGORIZATION WITHIN INDIA'S SCHEDULED CASTES AND TRIBES: CONSTITUTIONAL PERSPECTIVES AND POLICY IMPLICATIONS**

In the *M.R. Balaji*,<sup>17</sup> court rejected the application of Art. 15(4)'s designation of classes as "backwards" and "most-backwards," arguing that this would have resulted in a categorization of all people into two groups: "most advanced" and the remainder.<sup>18</sup> Since Art. 15(4) seeks to advance the "really backward class," all categories are divided into "advanced" and "less advanced" groups, the court emphasised this point. The court's ruling in *N.M. Thomas* established that additional classification within a class is allowed as long as it adheres to the principle of proportional equality, which treats individuals in similar circumstances equally.<sup>19</sup> For a categorization to be deemed legitimate, it must be founded on reasonable reasons and have a logical connection to the goal it aims to accomplish.

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<sup>13</sup> 1971 (1) SCC 38

<sup>14</sup> AIR 1993 SC 477

<sup>15</sup> (2005) 1 SCC 394

<sup>16</sup> AIR 1993 SC 477

<sup>17</sup> 1963 (1) Supp SCR 439

<sup>18</sup> The Constitution of India, Art. 15(4).

<sup>19</sup> (1976) 2 SCC 310

Art.s 15 and 16 do not forbid classifying the backwards as "backwards class" or "more-backwards class," the court stated in *Vasanth Kumar*,<sup>20</sup> as long as both are appreciably behind the advanced class. The "more backward class" would profit from this split by having access to reservation perks. When examining whether the "backward class" as defined by Art. 16(4) may be separated into "backward class" and "more backward class,"<sup>21</sup> *Indra Swahney* concluded that there was no legal or constitutional barrier to this separation. The Mandal Commission established criteria for evaluating "backwardness," and the court cited these criteria.<sup>22</sup> These criteria involved allocating different castes and groups to different points under the category of "backward class."

However, the court decided in *Chinnaiah* that only Parliament has the authority to further subclassify a Scheduled Caste after they have been notified under Art.s 341 and 342. Davinder Singh questioned this decision,<sup>23</sup> arguing that in order to guarantee that reservation benefits all members of the SCs & STs, sub-classification should be based on acceptable grounds.

#### **(A) E.V. Chinnaiah: Analyzing a Controversial Precedent in Indian Jurisprudence**

A landmark decision in the area of SCs declared that "Caste itself may be seen as a class." Justice Jeevan Reddy's point of view, which indicated the existence of sub-classes, emphasised the differences between different castes, clans, and tribes within the SCs. E.V. Chinnaiah refuted this viewpoint, arguing that there are only slight distinctions between these subclasses and that these castes are homogeneous.<sup>24</sup>

Arun Mishra's statement in the Davinder Singh case,<sup>25</sup> which calls for a revision of the common understanding of SCs as a homogeneous group, is in line with changing viewpoints. The E.V. Chinnaiah ruling has been criticised for having major errors, yet it seems that the court disregarded the changing situation in which many empirical pieces of evidence show notable variations among SCs. There are significant differences within the SCs due to factors like the politicalization of reservation and the progressive development of a caste hierarchy. In order to conduct a comprehensive evaluation of reservation benefits for the lower classes within a class, the court ought to utilise a methodology based on empirical data compiled by government commissions.<sup>26</sup> The E.V. Chinnaiah verdict, however, disregarded a wealth of

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<sup>20</sup> 1971 (1) SCC 38

<sup>21</sup> The Constitution of India, Art. 16(4).

<sup>22</sup> The Mandal Commission, 1980.

<sup>23</sup> (2020) 8 SCC 1

<sup>24</sup> (2005) 1 SCC 394, According to Jeevan Reddy J.

<sup>25</sup> (2020) 8 SCC 1, According to Arun Mishra J.

<sup>26</sup> Sharma, R.S., & Dixit, S. "Scenario of Sanskritization at Shaktipeeths- A step towards empowerment of Marginalized." IJSRP, vol. 4, no. 10, 2014, pp. 1.

statistical evidence suggesting that variations across SCs are no longer exclusively based on minute distinctions and invalidated micro-classifications based on such distinctions. This method could result in limited interpretations.

The equality clause was used to examine the justification for the SCs' justifiable subclassification. The court emphasised that an overly strict categorization system might only jeopardise equality if it fails to respect the equality before the law that is protected by Art. 14<sup>27</sup> or if the classification scheme is flawed. In the *E.V. Chinnaiah* case,<sup>28</sup> none of these conditions applied. Equal protection under the law is guaranteed for the disadvantaged by the state-created inner compartmentalization of SCs, which is also crucial.

The Apex Court's acceptance of a restrictive interpretation and restriction to the textual method was another weakness in the *E.V. Chinnaiah* decision. By holding that the "interpretation of the Constitution is subject to textual consideration," the court disregarded the necessity for a more comprehensive, contextual understanding, particularly when affirmative action clauses are involved.<sup>29</sup>

*E.V. Chinnaiah*, citing worries about the presidential list being interfered under Art. 341, forbade state legislatures from subclassifying inside SCs.<sup>30</sup> While the ruling attempted to preserve the integrity of the list, it disregarded the National Commission for Scheduled Castes' function, which might advise states on such issues.<sup>31</sup>

Moreover, attempts to rectify inequality within SCs are hampered by *E.V. Chinnaiah*'s disrespect for the principles of the federal structure, which give states the authority to pass legislation pertaining to services and education.<sup>32</sup> Because sub-classification is outright prohibited, the ruling might make it more difficult to address injustices that affect this underprivileged population.<sup>33</sup>

### **(B) Inequalities among SCs & STs**

Different educational attainment and access to reservation advantages are experienced by India's Scheduled Castes (SCs) and Scheduled Tribes (STs). While some communities, like the

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<sup>27</sup> The Constitution of India, Art. 14.

<sup>28</sup> (2005) 1 SCC 394

<sup>29</sup> (2005) 1 SCC 394

<sup>30</sup> Bhat, P. Ishwara. "The Means and Limits of Rationalising Reservation: A Critical Comment on *E.V. Chinnaiah v. State of Andhra Pradesh*." CNLU, vol. 1, no. 84, 2010.

<sup>31</sup> (2005) 1 SCC 394 ¶ 4 (Ramachandra Raju Commission)

<sup>32</sup> Yadav, Y. "India needs SC-ST sub-quota and Supreme Court just removed one key roadblock." *The Print*, 9 Sept. 2020, available at <https://theprint.in/opidfnion/india-needs-sc-st-sub-quota-and-supremme-courtremoved-roadblock/498913/>.

<sup>33</sup> *Supra* Note 29.

Balmiki, Musahars, Domas, and Arunthaiyars, have benefited greatly from reservations and had early access to modern education, many others have difficulty receiving these benefits.<sup>34</sup>

The president of any state or Union territory may notify the SCs and STs list pursuant to Art. 341 of the Indian Constitution.<sup>35</sup> The diverse growth rates among the various SCs and STs are reflected in this announcement. For example, in Bihar, members of the Dhobi group are well-represented in government jobs and have reservations, whereas members of the Mushar community continue to work in manual scavenging and other stigmatised vocations.<sup>36</sup>

A number of committees have suggested dividing SCs and STs into smaller categories. The Justice M.S. Janarthanam Committee argued that Arunthaiyars,<sup>37</sup> should have special reservations in Tamil Nadu as they make up 16% of the SCs but are not fairly represented.<sup>38</sup> Comparably, out of all the Scheduled Castes, the Reli Community was found to be the most disadvantaged in the Justice Ramchandra Raju Commission Report.<sup>39</sup> Subdivision of the SCs and STs is necessary to guarantee that benefits from reservations reach underrepresented communities, as several states have acknowledged. The Punjab Act, passed in 2006, allots 50% of seats in direct recruitment for Scheduled Castes to underrepresented groups, such as Balmikis and Mazhabi Sikhs.<sup>40</sup>

The most destitute SCs and STs have been lifted up thanks to internal classification as "depressed" and "more depressed" among the SCs in Haryana and Punjab between 1975 and 2005.<sup>41</sup> The Gurnam Singh Commission for Haryana reports that these castes' representation in a variety of job sectors has significantly increased.<sup>42</sup>

The report by Justice Ramchandra Raju,<sup>43</sup> which divided the 57 Scheduled Castes into four categories according to their "inter-se backwardness" and set their reservation quota,<sup>44</sup> was

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<sup>34</sup> *Supra* Note 31.

<sup>35</sup> The Constitution of India, Art. 341.

<sup>36</sup> "Tables on Individual Scheduled Caste (SC) and Scheduled Tribe (ST) 2002." Census of India, available at [https://censusindia.gov.in/tables\\_published/SCST/scst\\_main.html](https://censusindia.gov.in/tables_published/SCST/scst_main.html).

<sup>37</sup> Government of Tamil Nadu. "Tamil Nadu Arunthathiyars (Special Reservation of Seats in Educational Institutions including Private Educational Institutions and of Appointments or Posts in the Services under the State within the Reservation for the Scheduled Caste) Act 2009."

<sup>38</sup> Government of Tamil Nadu. "Tamil Nadu Backward Classes Commission." Government Order Ms. No. 30, Backward Classes, Most Backward Classes & Minorities Welfare Department, 14 July 2006.

<sup>39</sup> Government of Andhra Pradesh. "Andhra Pradesh Scheduled Castes (Rationalization of Reservations) Act 2000."

<sup>40</sup> Government of Punjab. "The Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act 2006." Punjab Act No. 22 of 2006.

<sup>41</sup> Jodhka, Surinder S. & Kumar, Avinash. (2007). Internal Classification of Scheduled Castes: The Punjab Story. *Economic and Political Weekly*. 42. 20-23. 10.2307/40276592.

<sup>42</sup> *Id.*

<sup>43</sup> Government of Andhra Pradesh. "Andhra Pradesh Scheduled Castes (Rationalization of Reservations) Act 2000."

<sup>44</sup> Advisory Committee. "Revision of List of Scheduled Castes and Scheduled Tribes." Report of Advisory

adopted by Andhra Pradesh. But in the E.V. Chinnaiah case, the Andhra Pradesh-passed Scheduled Castes (Rationalisation of Reservations) Act, 2000, was found to be unconstitutional.<sup>45</sup>

#### IV. CREAMY LAYER APPLICATION IN SCS AND STS: LEGAL IMPLICATIONS AND POLICY DEBATES

The *Indra Swahney* Judgement played a crucial role in resolving reservations difficulties,<sup>46</sup> specifically for OBCs, by instituting the "means test." Scheduled Tribes and Scheduled Castes were not, however, included in this test. The M. Nagaraj Bench then extended the notion of the creamy layer to SCs & STs, which is an element of equality under Art. 14<sup>47</sup> and a principle supported by the Jarnail Singh decision as inherent in Art. 16.<sup>48</sup>

The Rangachari ruling,<sup>49</sup> which had supported reservations for SCs & STs, was overturned by the Court in the *Indra Swahney* case. It stressed that Art. 335 should be construed in conjunction with Art. 16(4).<sup>50</sup> The "Catch-up Rule," which states that a member of a Scheduled Caste or Scheduled Tribe will be given seniority over an unreserved candidate in the feeder job if they are promoted earlier due to reservation, was first implemented in the Virpal Singh Chauhan case.<sup>51</sup> The unreserved applicant would, however, acquire seniority over the reserved candidate in the event that they were later promoted.

A three-judge panel that dissented from Virpal Singh Chauhan<sup>52</sup> in Jagdish Lal case,<sup>53</sup> held that a reserved category applicant who receives an early promotion as a result of "accelerated promotion" ought to retain seniority in the higher cadre. In Ajit Singh,<sup>54</sup> a five-judge bench was established to settle the dispute because of the divergent interpretations. The validity of the 77th and 85th Constitutional Amendments was contested in M. Nagaraj,<sup>55</sup> which upheld the amendments, stating that Catch-up rule and Consequential Seniority are "judicially evolved concepts" that can be modified through constitutional amendments. The 85th Amendment Act introduced reservation for promoting "Consequential Seniority," based

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Committee, 'Revision of List of Scheduled castes and Scheduled Tribes'.

<sup>45</sup>(2005) 1 SCC 394, Advisory Committee. "Revision of List of Scheduled Castes and Scheduled Tribes." Report of Advisory Committee, 'Revision of List of Scheduled castes and Scheduled Tribes'.

<sup>46</sup> AIR 1993 SC 477

<sup>47</sup> The Constitution of India, Art. 14.

<sup>48</sup> Supra Note 46, Art. 16.

<sup>49</sup> The General Manager, Southern Railway vs Rangachari 1962 SCR (2) 586

<sup>50</sup> The Constitution of India, Art. 335, 16(4).

<sup>51</sup> (1996) SC 448

<sup>52</sup> *Id.*

<sup>53</sup> (1997) 6 SCC 538

<sup>54</sup> (1999) 7 SCC 209

<sup>55</sup> (2006) SCC 212



on the principle of "Continuous Officiation."<sup>56</sup> In conclusion, the interpretation and implementation of reservation laws in India have been greatly impacted by the *Indra Swahney* Judgement and related judgements.

#### **(A) Evolution and Implications of Creamy Layer Concept for SCs and STs in India**

SCs & STs are not affected by the creamy layer idea, which does not change the list as per Art. 341 and 342. In accordance with the tenets of Art.s 14 and 16, it only denies the benefits of reservation to those who have reached a particular degree of achievement. To guarantee that people who actually belong to socially and educationally disadvantaged strata receive the benefits of the reserve, the creamy layer is excluded.<sup>57</sup>

E.V. Chinnaiah explained that although the courts can remove the creamy layer from the presidential list by using the equality criteria found in Art. 14 and 16, the state is not allowed to alter the list.<sup>58</sup> This exclusion is consistent with the implied restrictions outlined in Art. 14 and 16, including the 50% reservation cap, "inadequate representation," and "efficiency of administration." When granting reservations to any community, including SCs & STs, states must present sufficient evidence to show that these conditions have been satisfied.

In the *M. Nagaraj* case, the court used the basic structure doctrine's creamy layer principle to uphold the constitutionality of Art. 16(4A) and 16(4B).<sup>59</sup> This idea keeps people from abusing reservation advantages intended for the truly impoverished by prohibiting those who have reached a particular level of achievement from doing so.<sup>60</sup> The court underlined that in order for reservation benefits to be granted to people who actually need them, the creamy-layer principle is a crucial part of Art. 14 and 16.

The *Jarnail Singh* case had two concerns that the court referred to a larger bench: the obligation for states to gather quantitative data to indicate the backwardness of these people before giving reservation, and the application of the creamy layer SCs & STs.<sup>61</sup> In light of the ruling in *Indra Swahney*, the court sought clarification on these points.<sup>62</sup>

In summary, the scheduling of castes and tribes under the creamy layer principle is consistent with the equality standards outlined in Art.s 14 and 16. By excluding individuals who have

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<sup>56</sup> The Constitution of India, Eighty Fifth Amendment Act, 2002.

<sup>57</sup> (2018) 10 SCC 396

<sup>58</sup> (2005) 1 SCC 394

<sup>59</sup> AIR 1993 SC 477

<sup>60</sup> Rao, Manish, 'Sub- Categorization of Backward Classes for the Purpose of Reservation: A step Towards equitable Appointment' Vol. 4, Issue I, 2021.

<sup>61</sup> (2018) 10 SCC 396

<sup>62</sup> AIR 1993 SC 477

attained a certain degree of advancement, it guarantees that reserve benefits are directed towards those who are actually socially and educationally behind.

### **(B) Diversity Within Scheduled Castes and Tribes: Exploring Creamy Layer Dynamics and Sub-Classification**

In order to improve their circumstances, SCs & STs India, who have historically been marginalised and subjected to prejudice, need affirmative action and non-discriminatory treatment.<sup>63</sup> Cases such as *M.R. Balaji* have recognised caste as a significant contributing factor to social backwardness but have emphasised that the primary source of this backwardness is economic.<sup>64</sup> It was decided in *Triloki Nath* that it would be unconstitutional to administer a test only on the basis of caste, community, or other grounds.<sup>65</sup>

In *K.S. Jayasree*, the court emphasised that social backwardness is frequently accentuated by poverty and might be made worse by caste factors.<sup>66</sup> *Indra Swahney* established the creamy layer notion to keep the wealthy out of these classes so that benefits go to those who deserve them, even if the case acknowledged caste as a social class in India and a part of the backward classes under Art. 16(4) of the Constitution.<sup>67</sup>

The court in *Akhil Bharatiya Soshit Karamchari Sangh* underlined the significance of Art. 338,<sup>68</sup> which mandates the establishment of an official to look into and advance the interests of SCs and STs. The court disregarded the idea that OBCs and SCs and STs are in comparable situations, pointing out that different groups have varied rates of social advancement and growth. India's quota policy largely targets those who are monetarily well-off and benefit from reservations—the creamy layer within castes.<sup>69</sup> This policy, though, has come under fire for being too high for OBCs. Benefits from reservations should be extended to worthy SCs and STs, as demonstrated by the *Cherbolu* case,<sup>70</sup> which brought to light internal issues impeding their growth.

The creamy layer idea guarantees that benefits reach people who are actually in need, and reservations shouldn't be a permanent tag. There are glaring differences between SCs and STs after 70 years of freedom; some are thriving while others continue to play lowly duties. Without

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<sup>63</sup> Singh, Paramanand. *Equality, Reservation, and Discrimination in India: A Constitutional Study of Scheduled Castes, Scheduled Tribes, and Other Backward Classes*. Deep & Deep, 1982.

<sup>64</sup> (1) Supp SCR 439

<sup>65</sup> (1969) 1 SCR 103

<sup>66</sup> (1976) AIR SC 231

<sup>67</sup> AIR 1993 SC 477

<sup>68</sup> (1981) SCC 246

<sup>69</sup> (2002) AIR SC 1644

<sup>70</sup> (2020) SCC Online SC 383

the "creamy layer" idea, the caste-based reservation policy falls short of helping the most vulnerable.<sup>71</sup> The Supreme Court has come under fire for failing to establish guidelines for designating eligible groups among SCs and STs, which prevents benefits from reaching those who are actually underprivileged.

The creamy layer was upheld by the Court in *B.K. Pavitra* is an equality principle under Art. 14; however, the Central Government's request to reexamine *Jarnail Singh*<sup>72</sup>—which requires the creamy layer to be excluded from SCs and STs—was denied. This shows the Court's position against reservation benefits being used as a political tool by making sure they reach the lower strata within SCs and STs.<sup>73</sup>

### **(C) Effect of the 103<sup>rd</sup> Constitutional Amendment, 2018.**

The 102nd Amendment of the Constitution added Art. 342A, which was construed by the SC in the landmark *Davinder Singh case*.<sup>74</sup> The court likened the recently included Art. 342A, which deals with the identification of SEBCs, to Art. 341 and 342, which deal with the identification of SC & ST, respectively. The court concluded that Art. 342A's identification requirements for SEBCs are comparable to those of Art. 341 and 342 for SCs and STs, respectively.

Although distinct standards may be used to classify SCs, STs, and SEBCs, the court pointed out that Art.s 16(4) and 342A make it clear that doing so is prohibited. The court considered how the 102nd Amendment affected the states' authority to notify SEBCs within their borders in *Jaishree Laxmanrao Patil*.<sup>75</sup>

The Supreme Court's Constitution Bench decided that the President of India should notify only one list of SEBCs under Art. 342A, following consultation with the state governor. This is further reinforced by Art. 366(26C), which states that the President may only inform one "Central list" in accordance with Art. 342A. This essentially eliminates the state's ability to notify SEBCs following the 102nd Amendment.

The majority opinion focused on how Art. 341, 342, and 342A are worded similarly, pointing out that the 102nd Amendment's definition of SCs and STs is consistent with that of SEBCs

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<sup>71</sup> Singh, Parmanand. "SOME REFLECTIONS ON INDIAN EXPERIENCE WITH POLICY OF RESERVATION." *Journal of the Indian Law Institute*, vol. 25, no. 1, 1983, pp. 46–72. JSTOR, <http://www.jstor.org/stable/43950855>. Accessed 28 Feb. 2024.

<sup>72</sup> (2018) 10 SCC 396

<sup>73</sup> Sangal, Anant. "Whipping up the 'Cream' – Indian Supreme Court and its decision in *B.K Pavitra* –II." *Comparative Constitutional Law and Administrative Law Quarterly*, vol. 4, no. 4, 2020, pp. 68.

<sup>74</sup> (2020) 8 SCC 1

<sup>75</sup> (1976) AIR SC 231

under Art.s 366(24) and (25); 105<sup>th</sup> Amendment Act, 2021, aims to amend Art. 342A to restrict the President's authority to designate SEBCs to the "Central list for the purpose of Central Government."<sup>76</sup> Additionally, it amends Art. 342A by adding Clause (3), which expressly gives State Governments and UTs the power to designate and recognise SEBCs for their own purposes—which may or may not align with the "Central List."<sup>77</sup> The 127th Amendment Bill's main goal is to protect the federal system by giving state governments the authority to once again identify SEBCs because they are in a better position to do so.

## V. CONCLUSION

This essay investigates the idea of subclassification within India's SCs & STs and looks at the court's position on the matter. It examines significant instances that have addressed the issue of permitting sub-classification within these categories. Contrary to prior reasoning, the E.V. Chinniah ruling forbade sub-classification based on empirical evidence, despite preceding instances like Indra Swahney and K.C. Vasant Kumar permitting it.

Sub-classification, according to the author, is essential to guaranteeing that the most worthy members of these communities receive the benefits of reservations. There are differences between SCs and STs, including distinct castes having differing rates of literacy, according to the 2001 Census of India. Various states have established a number of committees and commissions to address these inequities.

One argument against subclassification is that reservations are intended to address social rather than economic backwardness, and being a member of a backward class conveys intrinsic backwardness. It is apparent, therefore, that not every member of a Scheduled Tribe or Scheduled Caste experiences the same degree of oppression.

Within these societies, there is also an increasing hierarchy as well, with members of the affluent classes desiring higher social position. Because of this hierarchy, it is difficult to attain equality if the less fortunate members of SCs and STs are viewed as having a lower status than the more developed members of the same group.

The "creamy layer" test's applicability to SCs and STs is also covered in the study, with emphasis placed on how crucial it is to keep the economically favoured members of these groups from monopolising reservation benefits. It looks at how the 102nd Amendment, which treated all three classifications equally—OBCs, SCs, and STs—affected SCs and STs. The

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<sup>76</sup> (1976) AIR SC 231

<sup>77</sup> The 105<sup>th</sup> Amendment Act, 2021, The Constitution of India.

102nd Amendment introduced insertions in Art.s 338 B, 342A, and 326 B.

To guarantee that benefits are received by worthy members of the class, the author suggests rationalising reservation rules for Scheduled Tribes and Scheduled Castes. To preserve uniformity, they advise keeping those from the "creamy-layer" out of the class. Since not every subgroup has the same level of social disadvantage, inner-classification is required after calculating the quota of each subgroup. It is important to regularly check the list of reservation beneficiaries in order to remove individuals who have improved socially and academically within the group. A more comprehensive system for classifying people into backward classes is required, along with nationwide research that examines the social, educational, and economic norms of these groups.

In keeping with the goals of the constitution, the author also proposes a time limit for reservation measures since continuing them indefinitely could result in institutionalised reservation. In order for SCs and STs to compete with the advanced class without receiving special treatment, the state should supply them with all educational resources, including books, financial aid, scholarships, and hostels or residences. In order to help the underprivileged and lessen prejudice by the affluent, a suitable sensitization programme should be carried out to increase knowledge of the "equality and dignity" ideal found in the Constitution.

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