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Women Reservation in India

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ABSTRACT

India's reservation framework may be a special kind of positive activity aiming to assist truly underprivileged and marginalized communities. The presentation and execution of women's reservations in India are inspected in this exposition, with specific consideration paid to the protected arrangements, administrative activities, case laws, and social and political consequences. The ponder, which is constrained to India, looks at how well reservations work to engage ladies and progress the balance between men and ladies within the country. Women's representation in legislative issues has long been a disagreeable subject in India. Talks around it date back numerous a long time. The notion of women's reservation relates to the allocation of a particular extent of seats within the legislative body exclusively to female contenders. Tending to the long-standing sexual orientation crevice in representation in legislative issues and empowering ladies to require a more dynamic part in decision-making are the objectives of these reservations. To begin with, presented in 1996, the Women's Reservation Charge points to designate one-third of all seats for ladies in state administrative gatherings and the Lok Sabha, the lower house of Parliament. In any case, the charge has experienced significant resistance and has however ended up law despite numerous endeavors to pass it. The bill's opponents contend that gender-based reservations alone seem to demolish the meritocracy guideline and result in tokenism, in which ladies are seen as bumbling pioneers instead of competent substitutions. Women's reservation defenders fight that such approaches are required to evacuate auxiliary impediments that have customarily kept ladies out of legislative issues. They cite information from nations like Norway and Rwanda, where comparable laws have moved forward administration results and brought about outstanding picks in women's representation. The subject of women's reservations in India could be a microcosm of bigger dialogs encompassing social justice, political representation, and sex balance. Although reservations have the potential to bring positive alter, their adequacy eventually rests on supplementary activities attending to the fundamental causes of disparities in sex and cultivating a political scene that's comprehensive of women.

Keywords: *Women Reservation, Female Representation, Gender, Social Justice.*

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I. INTRODUCTION

In India, the thought of reservations was displayed as a protection against separation to ensure that underrepresented bunches were reasonably spoken to in legislative issues, the workforce, and the Educational System. To address separation based on sexual orientation and empower female association in decision-making forms, the women's reservation was particularly set up. India took an enormous step toward sex uniformity in 1993 when the 73rd and 74th Amendments to the structure were passed, requiring a reservation of 33 percent for ladies within the local government. In any case, there's still contradiction over the arranged reservation of 33% for ladies in State and Parliament congregations. It has long been caught on that having more ladies within the political decision-making prepare is basic to majority rule administration and the progression of society. In India, ladies are underrepresented in positions of political authority indeed despite striking progressions towards balance between men and ladies in a few spaces. Reservation Policies were presented in response to this dissimilarity to boost women's inclusion in appointive legislative issues. India, the greatest vote-based system i.e. Democracy in the world, has worked difficult to develop women's strengthening and sex uniformity. In any case, the determined challenge of women's underrepresentation in political bodies holds on. One stark distinction in the Indian vote-based system is the small number of ladies in chosen positions. Ladies make up nearly half of humankind, however, they have a small rate of seats in national assemblies. In a landmark case,³ the Supreme Court has stated that Article 16(2) prohibits discrimination on the grounds on the ground of sex in public employment. Further, the court has also stated that the reservation to women should be provided horizontally and not vertically **reservation**. The thought of women's reservations in India has produced strong talk on political, financial, and social levels. Defenders fight that these reservations are approximately more than fair numbers; they're too almost engaging ladies to definitively take part in the future of the nation and advancing comprehensive administration. India has confronted numerous deterrents on its way to accomplishing sexual orientation equality in legislative issues. Indeed, even though ladies have accomplished awesome advances in a few zones, such as work and education, their representation in authoritative bodies is still dreadfully. India slacks behind numerous of its partners, ranking 148th within the world for female representation in the governing body, based on the Inter-Parliamentary Union. The systemic Obstacles that prevent ladies from going into Politics, such as imbued manliness, social standards, money-related disparities, and restricted access to openings and assets, are reflected

³ Indira Sawhney & Others v. Union of India AIR 1993 SC 477;1992 SUPP 2 SCR 454

in this striking underrepresentation. In this respect, the women's reservation proposition, which needs a specific number of seats over ladies in governing bodies, points at tending to these auxiliary incongruities. The Women's Reservations Charge, which looks for to save one-third of seats for ladies within the Administrative Gathering of India and state administrative congregations, gave the thought more footing. The truth that the charge has experienced solid resistance and is still pending despite various endeavors to pass it highlights the complicated flow at work. Women's reservation rivals habitually bring up issues with its practicality, troubles in execution, and conceivable results. A few fight that gender-based reservations disintegrate the values of equal representation and meritocracy, coming about in tokenism instead of important alter. Others stress that these shares might compound already-existing lessons and caste divisions in society or cause other marginalized bunches to become indeed more marginalized. These reactions, in the meantime, overlook the more critical prerequisite of sex equality as well as the progressive conceivable outcomes of women's inclusion in legislative issues. Ponders have shown that expanding the representation of ladies in political decision-making strategies comes about in more comprehensive approaches, expanded centers on social issues like instruction, healthcare, and sexual badgering, and improved administration results in common. Ladies' pioneers improve open-to-talk and bolster more comprehensive and evenhanded policymaking by bringing an assortment of viewpoints, real-world encounters, and objectives to the table. Besides, women's reservations energize the destruction of long-standing impediments and the addressing of set-up control frameworks. Reservations send a solid message of incorporation and strengthening, empowering the following wave of ladies to look for careers in legislative issues by giving roads for ladies to enter the field and rise to authority positions.

II. HISTORICAL PERSPECTIVE AND DEVELOPMENT IN REGARDS WITH WOMEN RESERVATION

Women's representation in legislative issues has long been a disagreeable subject in India. Before India gained independence in the year 1947, women were not allowed to participate much in politics because of the rules set by society and due to colonial rulers. Although in small numbers, there were important times when women were actively involved in social and political campaigns. Women played an important role in making positive changes in India during the late 1800s and early 1900s. Leaders like Sarojini Naidu, Annie Besant, and Kamaladevi Chattopadhyay were particularly influential. They tried to help more women get involved in politics and society, make sure women could go to school, and prohibit immoral rituals like

child marriage, the sati paratha, and the devadasi system. Early, Involvement in Lawmaking Some women managed to join but mostly it was a male-dominated world in politics, even though there were not many chances provided for them to do so.

Begum Jahanara Shahnawaz was one of the first women who was chosen to be in the Central Legislative Assembly in 1927. However, these cases were not common and did not show consistent inclusion. After India gained independence from Britain, the new democratic government wanted to promote the principles of equality, liberty, and fraternity, and to provide every form of rights to all citizens of the nation. However, only a few women were involved in politics because society favored men and their traditions. In the Constitution of India, **written in 1950**, provisions⁴ were provided for fair treatment to everyone, without any discrimination on the grounds of sex, gender, caste, religion, and place of birth. Basic rights in the constitution should make sure that everyone is treated equally by the law and that no one can be treated badly because of their gender. In the beginning of our country, people tried to include more women in politics. In 1952, the first Lok Sabha had 22 women elected as Members of Parliament (MPs), which was about 5% of all the seats. However, there were still not enough women in the representation compared to how many there are in the population. Women's groups and activists have been very important in pushing for more women to be included in political decision-making after India became independent. Formation of Women's Groups: Groups like the All-India Women's Conference (AIWC), the National Federation of Indian Women (NFIW), and the Women's Indian Association (WIA) became important supporters of women's rights and empowerment. They worked to change the law, improve education, and give women a bigger role in politics. In the 1970s and 1980s, there was a strong push to change the laws to give women more representation in government. The need for reservation increased because it was realized that just asking people to join was not enough to fix the problem of unequal representation of women in politics. Mobilization for the Women's Reservation Bill: Different women's groups, non-profit organizations, and political leaders worked to get support for the Women's Reservation Bill. The bill aimed to set aside one-third of seats for women in the Lok Sabha and State Legislative Assemblies. Even though there were people against it and it took a long time, this advocacy work helped create new laws to support women's rights. The history of women's reservations in India shows that women have been fighting for a long time to be treated equally and have a say in politics. Before independence, people fought for change. After independence, laws were made to bring change. The women's movement also played a role in getting women the right to be in government. The rights related to women in India have

⁴ India constitution; art 15,cl 1

not evolved in a single year it has taken a lot of time, effort, political debate, and public opinion on it. Some of the steps that have been for the evolution of women's rights in India are as follows:

- *Pre-Independence Era:* Women played crucial roles in various social and political movements during the pre-independence era, but the formal representation in legislative bodies was limited. The cultural and social beliefs in the pre-independence era did not support women to participate in any field other than the household. The Indian National Congress, for instance, had prominent and privileged women leaders like Sarojini Naidu and Annie Besant, but they were exceptions rather than the norm.
- *Post-Independence Period:* In the initial decades after independence, the focus was primarily on nation-building and socio-economic development of the nation. This ideology was promoted between 1950 to 1970. While women participated in politics, their representation in formal decision-making bodies remained very low. The political landscape was predominantly male-dominated, with few women holding significant positions. It does not focus on literacy, education, equality, and equal participation of women in India at that time.
- *Panchayati Raj Institutions (PRI):* The 73rd and 74th Amendments of the Indian Constitution were introduced in the year 1992, which mandated the reservation of seats for women in Panchayats and Municipalities, respectively. This move was one of the significant steps towards grassroots democracy and aimed to empower women at the local level. It resulted in a substantial increase in women's participation in rural and urban governance structures. Further, this amendment has also established the three-tier government system in India which are on the central level, state level, and the local level.
- *Women's Reservation Bill (108th Amendment):* The Women's Reservation Bill was first introduced in the year 1996 by the government of BJP under the leadership of Shri Atal Bihari Bajpayee and proposed to reserve one-third of seats in the Lok Sabha and State Legislative Assemblies for women. The bill aimed to address the gross under-representation of women in India's higher decision-making bodies. However, it faced opposition from several political parties, with concerns raised about its implementation and potential impact on existing power structures.

III. WOMEN RESERVATION BILL 2023

The Women Reservation Bill, 2023, is a significant legislation aimed at enhancing the political representation of women in India. This essay provides a comprehensive analysis of the bill, examining its background, provisions, potential impacts, and challenges. The Women Reservation Bill, 2023, is an amendment to the Constitution of India, seeking to reserve 33% of all seats in the Lok Sabha and all state legislative assemblies for women (The Constitution (One Hundred and Eighth Amendment) Bill, 2023). The bill is the latest in a series of efforts to increase women's representation in India's political landscape, following the 73rd and 74th Constitutional Amendments in 1993, which reserved 33% of seats in local bodies for women. The first-ever discussion took place on the issue related to the reservation of women's reservation bill was in the year 1996, during the tenure of Former Indian Prime Minister Shri Atal Bihari Vajpayee. At that time the Government of Shri Atal Bihari Vajpayee had allied with the other party and lacked a majority in both of the houses due to the differences in their objective, which resulted in the rejection of the Bill. Later, the government introduced this bill four times in the Indian parliament between the years 1998 to 2003 but was rejected every time. In 2008, the bill was again introduced in the parliament, and concerning this bill the protests occurred in the society in the year 2009. Finally, in the year of 2010, the Women's Reservation Bill was passed by the Rajya Sabha and the Union Cabinet also passed this bill in the same year. In 2014, the bill was expected to be introduced in the Lok Sabha but it was not. Over the period, this bill has been introduced multiple times in the Parliament but has not been passed due to political disagreement and resistance. At last, the 128th Amendment Bill 2023, was introduced in both houses and has been also passed by both houses of the parliament. This bill proposes a 33% reservation in Lok Sabha, state legislative assemblies, and the legislative assembly of Delhi. However, the effectiveness of the bill in achieving these ends depends on several factors, including the political will for its implementation and the societal attitudes toward women's political participation. This Bill adds a new provision which is Article 330A, to the constitution that borrows provisions of Article 330, that reserves seats in the Lok Sabha for SCs/STs. The Bill said that they could give seats for women in different places, like states or Union Territories, by taking turns. The Bill wanted to make sure one-third of the seats reserved for SCs/STs were given to women on a rotating basis. The Bill makes a new rule called Article 5⁵. It says that there must be seats set aside for women in every state Legislative Assembly. Also, a portion of the seats for SCs and STs must be given to women, as well as a

⁵ India constitution; art 332, cl 1

portion of the total seats in the Legislative Assemblies. Article 239AA in the Constitution gives special rights to Delhi as the national capital for its government and laws. The bill changed Article 239AA(2)(b) to say that the laws made by the parliament will apply to Delhi.

Advantages of Women Reservation Bill, 2023:

- Improves the status of women in Indian society.
- Encourages affirmative action for women's political empowerment.
- Addresses socio-political barriers hindering women's equal representation.
- Increases women's participation in the legislative process.
- Promotes women's deliberate inclusion in political participation.
- Fosters gender equality in political representation.
- Enhances women's political empowerment.
- Boosts women's representation in the Lok Sabha and state assemblies.
- Encourages women's participation from historically underrepresented groups.
- Facilitates rotation of seats for women in elections.
- Strengthens independent decision-making for women in politics that increases awareness and education on women's rights and participation in politics
- Addresses gender-based violence and harassment in politics.
- Implements reforms in the electoral process to increase women's representation.

Disadvantages of Women's Reservation Bill, 2023:

- Potential underrepresentation of southern states: The linkage of the Women's Reservation Bill with delimitation could lead to underrepresentation of southern states like Telangana, which have implemented population control measures
- Perpetuation of narrow outlook: Opponents argue that separate constituencies for women could narrow their outlook and lead to the perpetuation of gender-based discrimination.
- Merit-based representation concerns: Critics contend that reservation based on gender could compromise merit-based political representation.
- Affluent women's disproportionate benefit: There are concerns that affluent women may disproportionately benefit from the reserved seats, underrepresenting marginalized

women.

- Difficulty in expressing influence: Despite reserved seats, women may still face difficulty expressing their influence in a patriarchal political environment.
- Discrimination against women from the general category: The bill guarantees a third of seats for women in the lower house of parliament and state assemblies for the next 15 years, which could lead to discrimination against women from the general category.
- Challenges in implementation: Implementing the new bill without making compromises could be a herculean task, given the timeframe for delimitation and political consensus on redrawing constituencies or adding new ones.
- Possible election stunt: Critics have called the passage of the bill an election stunt, as its implementation is at least 4-5 years away

IV. LANDMARK JUDGEMENT

- *Indira Sawhney v. Union of India*⁶

-In this case, the Supreme Court has stated that Article 16(2) prohibits discrimination on the grounds on the ground of sex in public employment. Further, the court has also stated that the reservation to women should be provided horizontally and not vertically reservation. The meaning of horizontal reservation is a type of reservation in which there is a promotion of fixed seats or positions in the course of employment, education, and reservation in the political section. It has been considered in the field of socially and economically backward groups. This comes under the ambit of Article 15(3) of the Constitution of India.

- *Saurav Yadav v. the state of Uttar Pradesh*⁷

-The court ruled against the state of Uttar Pradesh stating that if a person belonging to an intersection of the vertical-horizontal reserved category had secured scores high enough to qualify without the vertical reservation the person would be counted as qualifying and could not be excluded from the horizontal quota.

- *K. Krishnamurthy (Dr.) v. Union of India*⁸

-This case is related to the Tripple test Formula in which the state government has to formulate a commission, collect the data on who is qualified for the community, and then allocate reservations to the local bodies. The reservation should be provided concerning Articles 15(4)

⁶ AIR 1993 SC 477

⁷ AIR 2021 SC 233

⁸ 2010 AIR SCW 3368

and 16(4) of the Indian Constitution, which provides grounds for the reservation in the field of education and employment. Further, the court has stated that the triple test formula must be qualified to get women's reservations.

- *Smt. Rajani Dubey v. State of Uttar Pradesh*⁹

-In this case, the state government has provided 20% reservation for the women in public services which was challenged. Further, the court has stated that the reservation is constitutional under Article 15(4) of the Indian Constitution but is unconstitutional to the post related to be filled by promotion. The women candidates who are selected on merit shall not be counted in the provided reservation issued by the state reservation. Further, the court has also stated that the reservation should not exceed the limit provided by the parliament.

V. CONCLUSION

In conclusion, the study of reservations in India, particularly about women, reveals a complex and evolving landscape shaped by historical, legal, social, and political factors. From the grassroots level to national legislative bodies, efforts to ensure greater representation of women in decision-making processes have been ongoing. The implementation of reservation for women in Panchayati Raj Institutions (PRIs) and urban local bodies through the 73rd and 74th Amendments marked a significant milestone, fostering women's participation in governance at the local level. These initiatives aimed to empower women economically and politically, challenging traditional gender roles and promoting inclusive development. However, the journey towards reservation at the national level, as envisaged in the Women's Reservation Bill, has been marked by challenges and debates. Despite repeated attempts to pass the bill, it has yet to become law, reflecting deep-seated resistance and differing perspectives within the political landscape. Meanwhile, voluntary quotas within political parties and state-level initiatives have contributed to incremental progress in increasing women's representation in legislatures. Yet, concerns about tokenism, intersectional representation, and broader socio-economic empowerment persist, underscoring the need for comprehensive strategies to address gender disparities in politics. The landmark Vishaka case, while not directly related to reservation, highlights the judiciary's role in safeguarding women's rights and promoting gender equality in the workplace. Its legacy underscores the importance of creating safe and inclusive environments for women, complementing efforts to enhance their participation in governance. In the pursuit of gender equality and women's empowerment, the study of reservation in India serves as a critical lens through which to examine the intersection of law, politics, and society.

⁹ 2024: AHC: sss53699

It underscores the ongoing struggle for gender parity and the imperative of collective action to dismantle barriers and ensure meaningful representation for women in all spheres of public life.
