Supreme Court’s Maratha quota verdict

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(MAINS GS 2 : Government policies and interventions aimed at development in various sectors and issues arising out of their design and implementation.)

Context:

- The Supreme Court on Wednesday struck down the provisions of a Maharashtra law providing reservation to the Maratha community, which took the total quota in the state above the 50 per cent ceiling set by the court in its 1992 Indra Sawhney (Mandal) judgment.
- Court said that the 50% rule is to fulfill the objective of equality as engrafted in Article 14 of which Articles 15 and 16 are facets and to change the 50% limit is to have a society which is not founded on equality but based on caste rule.

Maratha quota law background:

- In 2018, Maharashtra passed the Socially and Educationally Backward Classes Act which provided 16% reservations to the Maratha community.
- This effectively raised the total percentage of quotas in the state from the existing 52% of public jobs and education seats to 68%.
- The law was immediately challenged before the Bombay High Court.
- In 2019, the High Court upheld the law but, based on the recommendations of the State Backward Class Commission (Justice M G Gaikwad Commission), reduced the Maratha quota to 12% in employment and 13% in education.
- The High Court held that the quotas satisfied the criteria of “extraordinary circumstances” the Supreme Court had carved out in its 1992 judgement.
- In Indra Sawhney vs Union of India in 1992, the Supreme Court had held that quotas should ordinarily be restricted to 50% but exceptions are possible if extraordinary circumstances could be established.

The wider perspective of the Supreme Court verdict:

- The Supreme Court observed that providing reservation for advancement of any socially and educationally backward class in public services is not the only means and method for improving the welfare of backward class.

- The State ought to bring other measures including providing educational facilities to the members of backward class free of cost giving concession in fee, providing opportunities for skill development to enable the candidates from the backward class to be self-reliant.
- In view of the privatisation and liberalisation of the economy, public employment is not sufficient to cater the needs of all
- There was a need for “more avenues for providing opportunities to weaker sections and backward class to develop skills for employment, not necessarily the public service”.
- The court agreed that society, law, and people change – “but that does not mean that something which is good and proven to be beneficial in maintaining equality in the society should also be changed in the name of change alone”.

On revisiting the Indra Sawhney ruling:

- One of the key issues before the court was to examine whether the 1992 landmark ruling in Indra Sawhney v Union of India had to be revisited.
- The ruling by a nine-judge Bench, in which the Mandal Commission report was upheld, laid down two important precedents.
- First, it said that the criteria for a group to qualify for reservation is “social and educational backwardness”.
- Second, it reiterated the 50% limit to vertical quotas reasoning that it was needed to ensure “efficiency” in administration.
- However, the court said that this 50% limit will apply unless in “exceptional circumstances.”
- In a unanimous opinion on Wednesday, the court held that there is no need to revisit the case.
- The court said that the 50% ceiling, although an arbitrary determination by the court in 1992, is now constitutionally recognised.
- It added that “the Constitution (Eighty-first Amendment) Act, 2000 by which sub-clause (4B) was inserted in Article 16 makes it clear that the ceiling of 50% “has now received constitutional recognition”.

On whether the Maratha law can be saved under the exception

- Since the 50% ceiling is held valid, the court looked into whether the Maratha quota law falls under the exceptional circumstances contemplated by Constitution Bench in Indra Sawhney’s case.
- The court also looked into the Maharashtra State Backward Commission report that the Maharashtra government had relied on to see if a case can be made out for exceptional circumstances.

- On the Maharashtra Act, which was under challenge, the court said: “No extraordinary circumstances were made out in granting separate reservation of Maratha Community by exceeding the 50 per cent ceiling limit of reservation” as this “clearly violates Article 14 and 16 of the Constitution which makes the enactment ultra vires”.
- Court also disapproved the findings of the Justice M G Gaikwad Commission on the basis of which Marathas were classified as a Socially and Educationally Backward Class.
- The Supreme Court said “the data collected and tabled by the Commission as noted in the report clearly proves that Marathas are not socially and educationally backward class”.
- In fact, “the Marathas are the dominant forward class and are in the mainstream of national life”.

On state’s power to identify SEBCs, and 102nd Amendment:

- The Constitution (One Hundred and Second Amendment) Act, 2018 inserted Articles 338B and 342A in the Constitution.
- Article 338B deals with the structure, duties and powers of the National Commission for Backward Classes, while 342A speaks about the power of the President to notify a class as Socially and Educationally Backward (SEBC) and the power of Parliament to alter the Central SEBC list.
- Several states raised questions on the interpretation of the Amendment and argued that it curtails their powers.
- The Bench unanimously upheld the constitutional validity of the 102nd Amendment but differed on the question whether it affected the power of states to identify socially and economically backward classes (SEBCs).
- Attorney General K K Venugopal argued that it is inconceivable that no State shall have power to identify backward class.
- Attorney general explained that the state government will have their separate list of SEBCs for providing reservation in state government jobs and education, whereas Parliament will only make the central list of SEBCs which would apply for central government jobs.
- Court further observed that “In the task of identification of SEBCs, the President shall be guided by the Commission set up under Article 338B and its advice shall also be sought by the state in regard to policies that might be framed by it.
- If the commission prepares a report concerning matters of identification, such a report has to be shared with the state government, which is bound to deal with it, in accordance with provisions of Article 338B.
- However, the final determination culminates in the exercise undertaken by the President
- Court also mandated that while the identification of SEBCs will be done centrally, state governments retain power to determine the extent of reservation and make specific policy in the spirit of “cooperative federalism”.

Conclusion:

- Democracy is an essential feature of our Constitution and part of our basic structure.
- If the reservation goes above 50% limit it will be slippery slope, the political pressure, make it hardly to reduce the same
- When more people aspire for backwardness instead of forwardness, the country itself stagnates which situation is not in accord with constitutional objectives.