

Bharat is a developing country situated in South Asia, with a population of more than 1.3 billion. It, has a Quasi federal nature of Government and is the largest democracy in the world. It has the lengthiest written Constitution. The Constitution of Bharat declares Bharat as a sovereign socialist secular democratic republic. Part III of the Constitution provides for certain elementary and fundamental rights to the people of Bharat which cannot be taken away except under exceptional circumstances. In a democracy, the State owes certain responsibilities towards all its citizens. All these responsibilities are enshrined in Part IV of the Bharat's Constitution under the title Directive Principles of State Policy.

On the 9<sup>th</sup> of January, 2019 the Parliament of Bharat enacted the 103<sup>rd</sup> Amendment to Bharat's Constitution thereby enabling reservations in higher education and public employment solely on the basis of economic criteria. The Amendment sought to amend Article 15 and 16 of Bharat's Constitution. The Constitutional Amendments is as follows -

<https://egazette.nic.in/WriteReadData/2019/195175.pdf>

A number of petitions have been filed in the Apex Court, challenging the amendment's validity and terming it as violative of the Indian Constitution. The primary argument of the petitioners was that the amendment was violative of the Right to Equality granted under Article 14 by

Bharat's Constitution. After hearing the matter, the Supreme Court of Bharat referred the matter to a Constitution bench on 5<sup>th</sup> August, 2020.

Among other things, the Petitioners argued that

1. Reservations cannot be based solely on economic criteria, given the Supreme Court's judgment in *Indra Sawhney v. Union of India* (1992).
2. SCs/STs and OBCs cannot be excluded from economic reservations, as this would violate the fundamental right to equality.
3. The Amendment introduces reservations that exceed the 50% ceiling-limit on reservations, established by *Indra Sawhney*.
4. Imposing reservations on educational institutions that do not receive State aid violates the fundamental right to equality.

The Respondent in the case was the Union of Bharat and its Ministries. The Respondent framed 3 issues, which the Supreme Court of Bharat accepted and held that it would decide the matter based on these issues.

The matter is pending for the final hearing in the Court on 27<sup>th</sup> September 2022 i.e. today.

## **ISSUES**

1. Can reservations can be granted solely on the basis of economic criteria?
2. Can states can provide reservations in private educational institutions which do not receive government aid, as provided in the Amendment?
3. Are EWS reservations invalid for excluding Scheduled Castes, Scheduled Tribes, Other Backward Classes, and Socially and Economically Backward Classes from its scope?

**NOTE**

1. **The Laws of India are pari materia to that of Bharat.**
2. **Teams cannot frame new issues however they can frame sub-issues.**