

## Plea to exclude SC/ST creamy layer from quota

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The Supreme Court will hear a petition to exclude the affluent members, or the creamy layer, of the Scheduled Castes and Scheduled Tribes from the benefits of reservation.

A Bench, led by Chief Justice of India Dipak Misra, will hear the petition which argues that the rich among the SCs/STs are “snatching away” the benefits, while the deserving and impoverished continue to “bite the dust.” It is this lack of percolation of benefits to the poor and really backward among these communities that has led to social unrest, Naxalite movements and perennial poverty, it says.

This is the first time a petition has been filed, urging the Supreme Court to introduce the creamy layer concept for the SCs/STs. In 1992, a nine-judge Bench of the court in the Indra Sawhney case, or the Mandal case as it was popularly known, upheld the caste-based reservation for the OBCs as valid. The court also said the creamy layer of the OBCs (those earning a specified income) should not get the benefits of reservation. The ruling, however, confined the exclusion of the creamy layer to the OBCs and not the SCs/STs. Now, the petition filed by Samta Andolan Samiti, which represents the poor strata of the SCs/STs in Rajasthan, wants the creamy layer of the SCs/STs excluded from the benefits.

The petition, filed by advocate Shobhit Tiwari, refers to the Constitution Bench’s 2006 judgment in the M. Nagaraj case that the “means test [a scrutiny of the value of assets of an individual claiming reservation] should be taken into consideration to exclude the creamy layer from the group earmarked for reservation.”

“The uplifted/affluent and advanced sections of the SCs/STs snatch away the maximum benefit and the 95% members of these communities are at a disadvantage. The affluent among the SCs/STs are siphoning off the reservation benefits given to them by the State government as well as the Central government... The benefits of the reservation policy are not percolating down to the people who are in actual need of them,” the petition argues. This lack of percolation of quota benefits to the poorest of the poor ensures that the “weak always remains the weak and the fortunate layers consume the whole cake.”

The petition argues that no class or caste remained homogeneously backward across time. Only the backward portion of castes included in the list of SCs/STs alone are constitutionally entitled to the benefits of reservation.

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