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AGAINST EXCESS: THE HINDU EDITORIAL ON SUPREME COURT RULING MARATHA QUOTA LAW UNCONSTITUTIONAL

Relevant for: Developmental Issues | Topic: Rights & Welfare of STs, SCs, and OBCs - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

In striking down the separate reservation given to Maharashtra's Maratha community, the Supreme Court has underscored the importance of adhering to the 50% limit on total reservation, as well as the need to justify any excess by showing the existence of exceptional circumstances. In a decision that will be quite unpalatable to mainstream parties, the Court has not only found no merit in the Maratha claim to backwardness but also said the community is adequately represented in public services. It is no surprise that the Maratha quota, given by Maharashtra through a 2018 law, did not survive judicial scrutiny by a Constitution Bench. The 16% quota in admissions to educational institutions and jobs in public services — later brought down to 12% in admissions and 13% in jobs through a 2019 amendment — took the total reservation in the State beyond the 50% ceiling imposed by earlier verdicts. The five-Judge Bench has held that the State has not shown any exceptional circumstance to justify exceeding the limit. The Bombay High Court had upheld the validity of the Maratha reservation in principle, but ruled that the law could not have fixed the percentage above what was recommended by the State Backward Classes Commission headed by M.G. Gaikwad. The Court has now set aside this ruling, rejecting the HC's reasoning that the denial of backward class status to the Marathas had pushed them deeper into social and educational backwardness, and that this constituted a special circumstance in support of their claim to separate reservation.

The second limb of the judgment, however, may cause political concern. The Court's categorical refusal to reconsider the 50% limit set down by a verdict in *Indra Sawhney* (1992) may threaten the continuance of different kinds of reservation in States. The Court's interpretation of the 102nd Constitution Amendment, by which a National Commission for Backward Classes was created, has proved right fears that the national body's role and power may impact the rights of States. The Court has ruled that, henceforth, there will only be a single list of socially and educationally backward classes with respect to each State and Union Territory notified by the President of India, and that States can only make recommendations for inclusion or exclusion, with any subsequent change to be made only by Parliament. Several MPs had argued that the Amendment would denude the States of their power, but the Centre had assured them that it was not so. The Court has now ruled that Parliament's intent was to create a scheme to identify SEBCs in the same manner as SCs and STs. The President alone, to the exclusion of all other authorities, is now empowered to identify SEBCs. A clamour for yet another constitutional amendment to undo the effect of this verdict may be in the offing.

From the abrogation of the special status of Jammu and Kashmir, to the landmark Ayodhya verdict, 2019 proved to be an eventful year.

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