

Creamy layer case referred to Statute Bench

Reopening the debate on the application of “creamy layer” for reservations for the Scheduled Castes and the Scheduled Tribes in government jobs, the Supreme Court on Tuesday referred the question to a Constitution Bench.

A Bench of Justices Kurian Joseph and R. Banumathi said clarity is required on the “application of creamy layer in situations of completing claims within the same races, communities, groups or parts thereof of SC/ST communities notified by the President under Articles 341 and 342”.

This question on the application of creamy layer principle in SC/ST quotas comes 11 years after a five-judge Constitution Bench in the *M. Nagaraj* judgment of 2006 had decided that creamy layer should be excluded from the reservations for the Scheduled Castes and Scheduled Tribes in government jobs. Legal experts note that the Mandal Commission and E.V. Chinniah cases had confined the creamy layer concept to the Other Backward Classes section.

The two-judge Bench’s order is based on a batch of petitions for clarity on Article 16 (4), which deals with the State’s powers for providing for appointments or posts for “any backward class of citizens”; on Article 16 (4A), which arms the State with power to make provisions for quota in promotion with consequential seniority to SC/ST communities; and finally Article 16 (4B) on unfilled reservation vacancies.

END

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