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# THE COMPLEX INTERPLAY BETWEEN PRINCIPLES OF EQUALITY, REPRESENTATION, AND ADMINISTRATIVE EFFICIENCY IN THE CONTEXT OF PROMOTION IN RESERVATION POLICIES

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## ABSTRACT

This research paper provides a comprehensive analysis of the legal framework and jurisprudence surrounding the system of reservation in promotions in India. The paper traces the evolution of the reservation policy, from its constitutional underpinnings in Article 16(4) to the landmark *Indra Sawhney* judgment and the subsequent Constitutional amendment introducing Article 16(4A).

The paper delves into the key judicial decisions that have shaped the discourse on reservation in promotions, including the *General Manager, Southern Railway v. Rangachari* case<sup>1</sup>, the *C.A. Rajendran* case<sup>2</sup>, and the *M. Nagaraj v. Union of India* case<sup>3</sup>. It examines the Supreme Court's interpretation of the scope and limitations of the state's power to implement reservation policies, particularly the requirement to provide quantifiable data on the inadequate representation of Scheduled Castes and Scheduled Tribes in public employment.

The paper also explores the challenges and debates surrounding the introduction of Article 16(4A), including the arguments for and against reservation in promotions. It highlights the evolving legal landscape, with recent judgments such as *Jarnail Singh* and *Mukesh Kumar*, which have further clarified the state's obligations and the conditions for implementing such affirmative action measures.

Overall, the paper provides a comprehensive legal analysis of the reservation in promotions, shedding light on the complex interplay between the principles of equality, representation, and administrative efficiency enshrined in the Constitution. The insights gained from this research can inform policymakers, legal practitioners, and scholars in navigating the

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<sup>1</sup> *General Manager, Southern Railway v. Rangachari*, AIR 1962 SC 36.

<sup>2</sup> *C.A. Rajendran versus the Union of India*, AIR 1968 SC 507

<sup>3</sup> *M. Nagaraj v. Union of India*, AIR 2007 SC 71.

nuances of this critical issue at the intersection of social justice and constitutional law.

## INTRODUCTION

Reservation in India entails supporting specific segments of society through initiatives in education, scholarships, employment, and career advancement. These groups have historically suffered injustices due to their caste affiliations. Reservation, constituting a form of affirmative action, operates through quotas and is regulated by constitutional, statutory, and municipal frameworks. The roots of India's reservation system can be traced to its entrenched caste hierarchy. While based on quotas, reservation can be perceived as a form of favorable discrimination.

Article 16 (4A) of the Indian Constitution allows for reservation in promotions, with a broad interpretation of terms like 'employment' or 'appointment' within the realm of public service. Article 16 guarantees equal opportunity for all Indian citizens in public employment, as articulated in its provisions.

*"16. Equality of opportunity in matters of public employment. —*

*(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favor of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State."*<sup>4</sup>

As per Article 16 (4A) of the Indian Constitution, the State, defined in Article 12<sup>5</sup>, has the authority to establish procedures for reservations in promotions within services under its jurisdiction. However, such provisions can only be made for the benefit of Scheduled Castes (SCs) and Scheduled Tribes (STs) and for categories that the State considers underrepresented in its services. This clause was added to Article 16 through a constitutional amendment act passed in 1995<sup>6</sup>. Subsequent amendments extended reservation privileges in promotions to SCs and STs, along with corresponding adjustments in seniority.<sup>7</sup>

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<sup>4</sup> The Constitution of India, 1950.

<sup>5</sup> Ibid.

<sup>6</sup> The Constitution (Seventy Seventh Amendment) Act, 1995.

<sup>7</sup> The Constitution of India (Eighty Fifth Amendment) Act, 2001.

## ARTICLE 16(4) & ITS JURISPRUDENCE

### ❖ THE LEGISLATIVE POSITION PRIOR TO THE ENACTMENT OF THE (SEVENTY-SEVENTH AMENDMENT) ACT, 1995.

Despite the absence of explicit authorization for states to implement reservation policies in promotions, the esteemed Supreme Court of India, as early as 1961, recognized the implicit power vested in Article 16(4). “This interpretation, considering it an exception to the broader principle of equality enshrined in Article 16, highlights the judiciary's proactive stance in addressing social inequalities and ensuring equitable opportunities in public employment.”<sup>8</sup>

In *General Manager, Southern Railway v. Rangachari*<sup>9</sup> case “the Supreme Court ruled that Article 16(1) ensures equality for citizens not only in initial appointments but also in various aspects of employment, including gratuity, superannuation, terms of service, and promotion.”<sup>10</sup> This decision was one among several instances where the Court made such a determination. Article 16(4), which allows for reservations, must be interpreted narrowly as it presents an exemption to the equality mandated by Article 16(1). The Court suggested that understanding the historical context regarding the promotion of socially and educationally disadvantaged groups is crucial in interpreting this clause. Consequently, the Court concluded that Article 16(4) can be utilized as an exception to Article 16(1), permitting governments to implement reservations in promotions.

The Supreme Court, recognizing the need to balance administrative efficiency and “the adequate representation of backward classes in state services” considered the limitations outlined in Article 335.<sup>11</sup>

Additionally, in the case of *C.A. Rajendran versus the Union of India*<sup>12</sup> a five-judge bench provided further substantiation for this stance. The Court ruled that states possess the authority to implement reservations in promotions under Article 16(4). However, it emphasized the

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<sup>8</sup> P.V. Indiresan, No End to Reservation, <http://www.thehindubusinessline.com/opinion/columns/p-v-indiresan/theres-no-end-toreservation/article2351217.ece> (Prof Indiresan on reservation). Retrieved 31st March 2025.

<sup>9</sup> *General Manager, Southern Railway v. Rangachari*, AIR 1962 SC 36.

<sup>10</sup> *Ibid*

<sup>11</sup> The Constitution of India, 1950.

<sup>12</sup> *C.A. Rajendran versus the Union of India*, AIR 1968 SC 507.

importance of striking a delicate balance between the interests of all employees and the imperative to address the needs of disadvantaged groups to ensure effective administration.

In the Rajendran case,<sup>13</sup> the SC clarified that Article 16(4) does not confer any entitlements to individuals from underprivileged classes, nor does it oblige governments to provide accommodations for SCs and STs either during recruitment or promotions. The decision to offer reservations for SCs and STs is not mandated by the Constitution but is left to the discretion of the states. Article 16(4) empowers the state to reserve appointments for members of underprivileged classes who, according to its assessment, remain inadequately represented in state services. This provision is often referred to as the "Reservation of Appointments in Favor of Backward Classes of Citizens" clause.

#### ❖ **INDRA SAWHNEY CASE (1992)**

In the landmark case of *Indra Sawhney and Others v. Union of India and Others*,<sup>14</sup> a 9-judge Bench significantly altered previous interpretations. The Court addressed various issues related to reservations in its ruling.

After reviewing applicable laws, the Court determined that Clause 1 of Article 16 is integral to Article 14,<sup>15</sup> enhancing the principle of equality in employment affairs. Like Article 14, Article 16 allows for classification and the adoption of beneficial measures for particular groups under specific conditions. This authority is inherent within Article 16 itself. Therefore, Clause (4) does not provide an exemption to Clause (1). Moreover, even in the absence of Clause (4), states could have established such classifications and provisions for reservations in appointments or positions. Clause (4) merely clarifies this matter explicitly.

#### ❖ **REMOVING RESERVATIONS FROM PROMOTIONS**

However, the SC rejected the perspective established in the Rangachari case,<sup>16</sup> which inferred that reservations in promotions are envisaged under Article 16 of the Constitution. "In the Indra Sawhney case, the Court concluded that reservations as per Article 16(1) are applicable solely during the phase of direct recruitment and not during promotions."<sup>17</sup> Any effort to

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<sup>13</sup> Ibid

<sup>14</sup> *Indra Sawhney and Others v. Union of India and Others*, 1992 Supp (3) SCC 218.

<sup>15</sup> The Constitution of India, 1950.

<sup>16</sup> Supra note 6.

<sup>17</sup> Ibid.

implement reservations for promotions would diminish administrative efficiency and contravene the principle of equality enshrined in Article 16 of the Constitution. As stated by the Court:

*“107...While it is certainly just to say that backward class citizens should be given a handicap at the stage of initial appointment, it would be a serious and unacceptable inroad into the rule of equality of opportunity to say that such a handicap should be provided at every stage of promotion throughout their career. This would violate the rule of equality of opportunity in a way that is both serious and unacceptable. This would necessitate the establishment of a permanent separate category that is distinct from the general population - a hierarchical separation within the administrative structure. Members of reserved categories do not have to compete with members of other categories; rather, they only compete with members of their own category. There would be no desire or motivation among them to work, compete, or excel... After they have entered the service, it is necessary for the efficiency of administration that these members too compete with others and earn promotion like all others; no further distinction can be made thereafter with reference to their "birth-mark," as one of the learned Judges of this Court has said in another connection. Reservations can be made in favor of backward class citizens during the initial stage of recruitment. However, once they have entered the service, efficiency of administration demands that these members too compete with others and earn promotion like all others. They are held to the same standards as everyone else when it comes to their performance.”*

The Court reached a verdict that the Rangachari majority's argument, suggesting that Article 16(4) permits discrimination even in promotion matters, lacked principled justification and was thus overturned. Essentially, the Court disagreed with the majority decision. “It clarified that while maintaining administrative efficiency, the state had the authority to offer concessions and relaxations, such as carrying forward vacancies or providing in-service coaching/training, to individuals belonging to reserved groups in terms of promotions.” However, it emphasized that setting lower qualifying criteria or standards of review for individuals from reserved groups during promotions would undermine the effectiveness of administration. This is because such practices would decrease the pool of qualified candidates eligible for promotions.

#### ❖ CONSTITUTIONAL AMENDMENT ACT OF 1995 (SEVENTY-SEVENTH

**AMENDMENT)<sup>18</sup>**

While the Court ruled that the directive from the Indira Sawhney case would be applied prospectively, it clarified that promotions already granted whether temporary, officiating, or regular/permanent would not be affected. Additionally, any reservations made for promotions that had already occurred were mandated to be upheld for a period of five years from the date of the ruling. In order to ensure the objectives of Article 16 were met during this transitional period, authorities were authorized to promptly and professionally update, amend, or reissue relevant regulations.

It was recognized that individuals from disadvantaged backgrounds had previously received promotions with restrictions, and altering this would significantly harm their interests. Consequently, the Parliament introduced Clause (4A) into Article 16 through the Constitutional (Seventy-Seventh Amendment) Act of 1995 to enable reservations in promotions. The rationale behind this amendment is outlined in the following list:

Since 1955, members of the Scheduled Castes and Tribes have been eligible to benefit from reservation in promotions. However, a ruling on November 16, 1992, by the Supreme Court of India in the case of Indra Sawhney and Others vs. Union of India and Others<sup>19</sup> specified that the reservation of positions or posts under Article 16(4) of the Constitution is limited to initial appointments and does not extend to promotions. This decision, rendered in the case of Indra Sawhney vs. Union of India, is considered unfavourable to the interests of the Scheduled Castes and Tribes.

Due to the insufficient representation of Scheduled Castes and Scheduled Tribes in state services the current practice of providing reservations in promotions for these groups needs to be upheld. This is attributed to the ongoing underrepresentation of SC and ST in state government roles. The government has determined that maintaining the existing reservation policy for promotions is in the best interest of these communities, reflecting its commitment to safeguarding their rights. Consequently, it is imperative to amend Article 16 of the Constitution by introducing a new clause (4A) to ensure reservations in promotions for

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<sup>18</sup>77<sup>th</sup> Constitution Amendment, <https://www.sconline.com/blog/post/tag/77th-constitution-amendment>, last accessed on 31<sup>st</sup> March 2025.

<sup>19</sup>Supre note 11.

Scheduled Castes and Scheduled Tribes, thereby fulfilling this objective.

#### ❖ CHALLENGES IN INTRODUCING OF CLAUSE 4A TO ARTICLE 16

In *M. Nagaraj v. Union of India*,<sup>20</sup> case the introduction of Clause 4A into Article 16 was challenged. However, the Court upheld the amendment, asserting that it solely impacts reservation laws and does not violate the fundamental right to equality enshrined in the Constitution's core principles. It was noted that Clause 4 of Article 16 serves as the basis for Clause 4A, which specifically extends protection to members of Scheduled Castes and Scheduled Tribes (SCs and STs) and follows the same standards as Clause 4. Consequently, the Court endorsed the practice of implementing reservations in promotions. Nevertheless, it recognized that for such affirmative action to be justified, the state must present quantitative evidence demonstrating the underrepresentation of these groups while also maintaining administrative efficiency. This is seen as a constitutional limitation on the state's authority to implement reservations, as outlined in Article 335, and is essential for ensuring fair affirmative action.

#### ❖ AMIDST THE GROWING DEMAND FOR QUANTITATIVE DATA COLLECTION

In *Jarnail Singh and Ors v. Lachhmi Narain Gupta and Others*,<sup>21</sup> case the judgment in the Nagaraj Singh case<sup>22</sup> was challenged by a five-judge bench. It was argued that the Nagaraj decision, which required the state to provide quantitative evidence of backwardness for SCs and STs and introduced the concept of the creamy layer for SCs and STs, contradicted the ruling in *Indira Sawhney*. It was contended that since the Supreme Court had already recognized SCs and STs as among the most disadvantaged groups in the *Indira Sawhney* case, reiterating their disadvantaged status after they have been listed in the Presidential List under Articles 341 and 342 of the Indian Constitution was unnecessary. The court's finding in *Indira Sawhney*, which identified SCs and STs as the most underprivileged among backward groups, prompted this argument.

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<sup>20</sup> M. Nagaraj v. Union of India, AIR 2007 SC 71.

<sup>21</sup> Jarnail Singh and Ors v. Lachhmi Narain Gupta and Others, (2018) 10 SCC 396.

<sup>22</sup> M. Nagaraj & Ors. v. Union of India & Ors. (2006) 8 SCC 212.

The court agreed with the argument that requiring states to compile statistical data on backwardness specifically for SCs and STs, as demanded in the Nagaraj case, would contravene the principles established in Indra Sawhney and therefore should be deemed unlawful. However, the court decided to uphold the other two criteria set out in the Nagaraj case, namely, the need to demonstrate insufficient representation and the importance of preserving administrative efficiency. Nevertheless, the court clarified that it is evident when Nagaraj mandates states to provide statistics on backwardness related to SCs and STs.

In this judgment, the court also affirmed the exclusion of individuals from the creamy layer within SC and ST groups from receiving reservations for promotions. It was argued that such exclusion strengthens the concept of equality. The court emphasized that the state must gather quantifiable data regarding the lack of representation according to the standards established in Nagaraj, which the courts can also assess.

The criteria outlined have been diligently enforced by both the high courts and the Supreme Court when assessing laws and notifications allowing reservations in promotions, along with subsequent seniority considerations. In the case of *B.K. Pavitra & Ors. v. Union of India*<sup>23</sup> and Ors, the SC ruled that the mere absence of a proportional number of SC/ST individuals in promotional posts is insufficient grounds to automatically confer seniority upon those who would otherwise be promoted. The state must convincingly demonstrate to the court the justifiable necessity for exercising this authority, supported by evidence, such as studies indicating that overall productivity would not be adversely affected.

Subsequently, in *B.K. Pavitra and Ors v. The Union of India (UOI) and Others*, the Supreme Court upheld Karnataka's laws in response to the court's decision in *B.K. Pavitra* (2017). The state government, in compliance with the court's ruling, established the Ratna Prabha Committee to meticulously gather and analyze data on the compelling factors outlined by the Constitution Bench in the Nagaraj case.

In the recent instance of *Mukesh Kumar and Anr. v. State of Uttarakhand & Ors*,<sup>24</sup> heard on February 7, 2020, this previously disputed issue was finally settled. “The Bench for divisions addressed the question of whether the State Government is obligated to create reservations in public positions or if such a decision can only be made based on measurable

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<sup>23</sup> B.K. Pavitra & Ors. v. Union of India, (2017) 4 SCC 620.

<sup>24</sup> Mukesh Kumar and Anr. v. State of Uttarakhand & Ors, 2020 SCC OnLine SC 148.

evidence linked to the adequate representation of SCs and STs.”<sup>25</sup> The Apex Court ruled that the State Government is not compelled to reserve public employment positions. “Articles 16(4) and 16(4A) are deemed enabling clauses, indicating that the government is not mandated by law to allocate funds for SCs and STs in promotions.” The Court specified that the entitlement to seek reservation for promotions is not unconditional, and one of the conditions for the government to consider implementing promotion reservations is the collection of quantifiable data indicating the insufficient representation of SCs and STs in public administration. Under Articles 16(4) and 16(4A) of the Constitution, the State Government is obligated to gather data to substantiate any reservations made in the appointment and promotion to public positions. Consequently, the collection of such data was unnecessary when the State Government opted not to provide reservations. Additionally, the Court concluded that it could not issue a mandamus to a State to enforce reservations, and therefore, no mandamus could be issued to the State to collect data regarding the quantity of SCs and STs represented in public services.

## **TABLE ADVANTAGES & DISADVANTAGES OF RESERVATION IN PROMOTIONS**

### **❖ ARGUMENTS IN AGAINST<sup>26</sup>**

- Articles 16(4), 16(4)A, and 16(4)B of the Constitution are considered enabling provisions rather than fundamental rights.
- Attaining employment and status does not necessarily eliminate social discrimination and should not be the sole criterion for determining backwardness.
- Implementation of reservations can diminish administrative efficiency, particularly in specialized fields such as medicine, nuclear research, and space programs.
- Critics argue that like reservations, a few specific castes and tribes could dominate promotions, leading to the concentration of benefits.
- Given the existing reservation policies, there may not be a need for quotas in

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<sup>25</sup> Ibid

<sup>26</sup>Prasanna, “What is Reservation System in India? Advantages and Disadvantages of Reservation System in India” <https://www.aplustopper.com/advantages-and-disadvantages-of-reservation-system-in-india/#:~:text=Equal%20opportunities%20are%20given%20to,layer%20gets%20the%20entire%20benefit>, last accessed on 31st March 2025.

promotions to higher positions, as indicators of backwardness for SC/ST employees tend to decrease once they secure government employment.

#### ❖ ARGUMENTS IN FAVOR

- The misconception surrounding "efficiency" primarily stems from a narrow interpretation of "merit," which dictates that individuals must receive a favorable rating on their annual confidential report to be eligible for promotion.
- There is a significant imbalance in the representation of SCs/STs at senior levels, largely due to existing prejudices. Despite a substantial number of SCs/STs being recruited at lower levels, their progression to higher positions remains disproportionately low. For example, in 2017, there were only four SC/ST government secretaries, despite STs constituting 40% of employees in "Group D" agencies.
- Following the Nagraj case, reservations for promotions were challenged on the grounds of lacking measurable evidence of "backwardness," a term left undefined, resulting in many vacant positions remaining unfilled.

#### CONCLUSION

In modern societies, there's a widespread agreement on the importance of ensuring equal opportunities for everyone. However, the concept of equal opportunity encompasses various nuanced ideas, some of which may conflict with each other. By law, states are obligated to gather measurable data regarding the representation of scheduled castes and scheduled tribes (SCs and STs) within specific service cadres. Based on this data, states must form an opinion about the inadequacy of representation. If a state intends to implement reservations for SCs and STs, it must adhere to these legal requirements, which are now established principles.

Moreover, despite the potential challenges involved, states are also mandated to assess the impact of reservations on the efficiency of administrative processes. Only when these two conditions are met—adequate data collection and a thorough evaluation of efficiency—can a state justify its decision to implement reservations in promotions. Prior to fulfilling these conditions, such actions cannot be deemed justifiable or acceptable. Therefore, this underscores the importance of a comprehensive and meticulous approach to implementing reservation

policies, ensuring that they are both legally compliant and effectively contribute to the goal of equal opportunity.

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