
RESERVATION WITHIN RESERVATION: A CONSTITUTIONAL AND JUDICIAL PERSPECTIVE ON SUB-CLASSIFICATION IN INDIA

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ABSTRACT

India's reservation system aims to promote social justice and redress historic exclusion by providing affirmative action to socially and educationally disadvantaged groups, as enshrined in Articles 15(4), 16(4), and 46 of the Constitution. The principle of affirmative action in India, rooted in the Constitution, aims to address the historical discrimination and socio-economic marginalisation of communities such as the Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). However, persistent disparities within these broad groups have led to the emergence of a demand for sub-classification allocating sub-quotas for the most disadvantaged sub-groups within the larger reserved categories to ensure more targeted and equitable social justice.

The judgment in *Indra Sawhney v. Union of India* (1992) first brought into focus the heterogeneity within OBCs; the Court held that exclusion of the "creamy layer" is constitutionally mandated, creating de facto sub-classification within OBCs for more targeted benefits. Moreover, the SC's 2018 decision in *Jarnail Singh v. Lachmi Narain Gupta* (2018) permitted sub-classification within the SC category by recognising the 'creamy layer' concept. On 1 August 2024, in *State of Punjab v. Davinder Singh* the Supreme Court upheld the validity of sub-classification within the Scheduled Caste and Scheduled Tribe Categories by 6:1 majority. This research paper mainly highlights the concept of "reservation within reservation," focusing on the constitutional and judicial perspectives of sub-classification among reserved categories in India. The paper makes an analysis of the Supreme Court's ruling on the *State of Punjab v. Davinder Singh* Case.

Keywords: Reservation, Sub-classification, Affirmative action, Scheduled Castes, Judiciary, Scheduled Tribes, Other Backward Classes.

I. Introduction

Reservation has been an important component of social justice initiatives in India. The reservation system, also regarded as affirmative action, was introduced in India with an aim to uplift historically disadvantaged groups, primarily the Scheduled Castes (SCs), the Scheduled Tribes (STs), and the Other Backward Classes (OBCs), by providing them with reservations in education, government jobs, and the legislature. More recently, this was extended to the Economically Weaker Sections (EWS) as well. The caste system established a rigid social hierarchy, systematically excluding lower castes and “untouchables” from social, economic, and educational opportunities, leading to entrenched disadvantage. Though in the present time, the Constitution of India guarantees that “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”¹ To achieve the goal of equality, the reservation policy is a great way. This is a way to uplift these marginalized groups by providing them preferential access to education, jobs, and political representation.

The fact that there has not been uniform level of development amidst various castes grouped under the category of Scheduled Castes has given rise to the problem of uneven competition because of which more advanced sections among them are able to get the benefits and the weaker of the weakest are lagging in the race.² This led to the emergence of reservation within reservation. In the Indian socio-legal context, the expression “reservation within reservation” means the practice of sub-classification of castes within the existing reserved categories, such as SCs, STs, or OBCs. The object behind sub-classification is to ensure fair distribution of benefits among subgroups that may have different levels of social or economic disadvantage. This has drawn a lot of judicial attention.

In *Indra Sawhney case*³ the Supreme Court allowed sub grouping of OBCs into less backward and more backward, allowed categorization with different quotas based on population and applied creamy layer test to filter out the advanced individual members. In *Chinnaiah case*⁴, the hon’ble Supreme Court held the Andhra Pradesh Scheduled Castes (Rationalisation of Reservations) Act, 2000 as unconstitutional which made sub-classification of SCs on the ground that the rationale of *Indra Sawhney*, to the extent that it permitted sub-classification of

¹ The Constitution of India 1949, art 15.

² P. Ishwar Bhat, *Law and Social transformation* (2nd edn, Eastern Book Company 2022) 496.

³ *Indra Sawhney and others v. Union of India and Others*, 1992 Supp (3) SCC 217.

⁴ *E.V. Chinnaiah v. State of A.P.* (2005) 1 SCC 394

the Other Backward Classes, did not apply to the Scheduled Castes.⁵ Recently, the Supreme Court in *Davinder Singh case*⁶ has upheld the validity of sub-classification within Scheduled Caste reservation categories and has overruled the *Chinnaiah* Judgement.

The present paper aims to examine the constitutional provisions governing reservations in India; to study the judicial response towards sub-classification within reserved categories, particularly among Scheduled Castes, Scheduled Tribes, and Other Backward Classes; and to analyse the Supreme Court judgment in *State of Punjab v. Devinder Singh*.

II. Reservation Policy in India

Reservation policy in India refers to the affirmative action system that provides certain groups of people, primarily those belonging to historically disadvantaged castes and tribes, with access to educational institutions and government jobs. It is a social justice initiative aimed at correcting historical and ongoing discrimination against marginalized and underprivileged communities, including SCs, STs, and OBCs.⁷ The roots of the reservation policy can be traced back to the colonial era when the British introduced the concept of affirmative action to address the backwardness of certain castes and tribes.⁸ The initial type of reservations was established in the late 1800s and early 1900s during the colonial period.⁹ One of the earliest instances of reservation for lower castes can be traced in 1902 historic order of Shahu Maharaj making reservation for non-Brahmin and backward classes in his princely state of Kolhapur.¹⁰ In addition to being crucial in giving Indians political representation, the Government of India Acts of 1909, 1919, and 1932 planted the seeds of reservation in the political sphere.¹¹

The basic principle behind the reservation was the Caste System and the malpractice of untouchability in India, however, the present prevailing reservation system in India was introduced in 1933 by British Prime Minister Ramsay Macdonald in the form of the Communal

⁵ *ibid* [38] (Justice Hegde).

⁶ *State of Punjab vs Davinder Singh*. 2024 INSC 562.

⁷ Judith Heyer and Niraja Gopal Jayal, 'The Challenge of Positive Discrimination in India' (2009) Centre for Research on Inequality, Human Security and Ethnicity, University of Oxford 1

⁸ V Santhosh Kumar, *Social Justice and the Politics of Reservation in India* (1st edn, Mittal Publications 2008)

⁹ K.S. Gopalakrishnan, 'Social Justice Through Reservations in India - A Constitutional Analysis' (2022) ShodhKosh: Journal of Visual and Performing Arts < <https://www.granthaalayahpublication.org/Arts-Journal/index.php/ShodhKosh> > accessed 24 July 2025

¹⁰ S. Yesu Raj and P. Gokulraja, 'An Analysis of Reservation System in India' (2015) 2 International Journal of Research < <https://journals.pen2print.org/index.php/IJR/article/view/3090> > accessed 23 July 2025

¹¹ Divya Negi, 'The Evolution of Reservation System in India' (2024) 4 International Journal of Advanced Legal Research < https://ijalr.in/volume-4-issue-4/the-evolution-of-reservation-system-in-india-divya-negi/#_ftnref1 > accessed 31 July 2025

Award.¹² However, it was not until the adoption of the Constitution of India in 1950 that the reservation policy was institutionalized to promote social justice and equality.¹³

The Constitution of India provides for reserving seats in educational institutions and government jobs for SCs, STs, and other socially and educationally backward classes.¹⁴ Initially, the policy was planned to be in place for ten years, however, the same has been extended multiple times and remains in place today system to counter the centuries-old societal and cultural discrimination against certain sections of society.¹⁵

India's reservation policy has experienced a number of modifications over the years. Over time, the reservation policy in India has undergone several changes and modifications. In 1953, the first Backward Classes Commission headed by Sri Kaka Kalelkar was established for identifying socially and educationally backward classes. It submitted its report in 1955, however, the same was not implemented due to lack of clarity and criteria. The Second Backward Classes Commission, chaired by B.P. Mandal, was set up in 1979. In response to the recommendations of the Mandal Commission, in 1990 the government introduced a 27% quota for OBCs 1990 through the 74TH amendment to the Constitution. The hon'ble Supreme Court in *Indra Sawhney v. Union of India*¹⁶ upheld OBC reservation but introduced the “**creamy layer**” exclusion for the advanced among OBCs and capped total reservation at 50%.

The Constitution (One Hundred and Third Amendment) Act, 2019 introduced a 10% reservation for Economically Weaker Sections (EWS) in government jobs and educational institutions in addition to the existing reservations. For the first time, there was a departure from caste-based reservations and reservation was made on the economic criteria. The constitutional validity of the amendment was upheld by the Supreme Court, in *Janhit Abhiyan v. Union of India*.¹⁷ The reservation policy has also been extended to include other disadvantaged groups, such as women, persons with disabilities, and economically weaker

¹² Inderjeet Santoshi and Om Dutt, 'Reservation system in India: Is it indispensable?' (2023) 9 International Journal of Law <www.lawjournals.org> accessed 24 July 2025

¹³ C Basavaraju, 'Reservation under the Constitution of India: Issues and Perspectives' (2009) 51 Journal of the Indian Law Institute <<https://www.jstor.org/stable/43953443>> accessed 31 July 2025

¹⁴ The Constitution of India, 1949, art 15(4) and 16(4).

¹⁵ Md. Altamash Imam, 'Evolution of Reservation System in India: An Overview' (2023) 7 International Journal of Trend in Scientific Research and Development <<https://www.ijtsrd.com/humanities-and-the-arts/political-science/55117/evolution-of-reservation-system-in-india-an-overview/md-altamash-imam>> accessed 31 July 2025

¹⁶ 1992 Supp (3) SCC 217.

¹⁷ (2023) 5 SCC 1.

sections.¹⁸ The current reservation percentages in India is given as under:

Category	Reservation Percentage
Scheduled Castes (SC)	15%
Scheduled Tribes (ST)	7.5%
Other Backward Classes (OBC)	27%
Economically Weaker Sections (EWS)	10%
Persons with Benchmark Disabilities	4%

Reservation system in India lacks uniformity across its states, as each state has framed its policy to depict its distinct socio-political and economic realities. While the central government provides a framework for affirmative action, individual states have expanded, modified, or restructured reservation quotas to address regional disparities.¹⁹ For example, Tamil Nadu has one of the highest reservation quotas, with nearly 69% of seats reserved across various categories. States like Maharashtra and Karnataka have introduced reservations for specific communities such as Marathas and Lingayats, respectively. Rajasthan has witnessed prolonged agitations by Gujjars demanding inclusion under special backward classes, illustrating the evolving and contested nature of state-wise reservation policies.²⁰

¹⁸ Sunil Kumar Jangir, 'Reservation System and Indian Constitution—Special Reference to Mandal Commission' (2013) 3 American International Journal of Research in Humanities, Arts and Social Sciences < https://www.academia.edu/102836585/Reservation_System_and_Indian_Constitution_Special_Reference_to_Mandal_Commission > accessed 25 July 2025

¹⁹ Seema Laxman and Dr. Hanumant T. Kurkute, 'The Indian State-Wise Reservation System: A Comparative Analysis' (2025) 12 Journal of Emerging Technologies and Innovative Research < <https://www.jetir.org/papers/JETIR2502527.pdf> > accessed 25 July 2025

²⁰ S. Deshpande, 'Caste and social mobility: The reservations debate in India' (2013) Economic and Political Weekly

III. Reservation within Reservations: Sub-Classification of SCs

Over the years, an important component has been added in the shape of sub-classification within SCs and STs, which, with time, came to define India's framework regarding reservations.²¹ Sub-categorisation' refers to the process of dividing a broad category into smaller, more distinct and internally coherent sub-groups. The rationale is to ensure equitable distribution of welfare benefits, allowing the most marginalised within a broad group to access opportunities often dominated by its advanced sections.²²

In 1975, the Punjab government has released a notification notifying that out of the total seats reserved for SCs in the State, 50% of the vacancies would be offered to Balmikis and Mazhabi Sikhs and the other half would be open to the remaining groups in the SC Category.²³ The notification remained in force for 30 years, until the Supreme Court's (SC) five-judge bench decision in *E.V. Chinnaiah v. State of Andhra Pradesh (2004)* set aside a similar law in Andhra Pradesh. The Government of Haryana on 9 November 1994 issued a notification²⁴ by which the Scheduled Castes in the State were classified into two categories for the purposes of reservation. The constitutional validity of the said notification was challenged before the Punjab & Haryana High Court. The State of Andhra Pradesh passed the Andhra Pradesh Scheduled Castes (Rationalisation of Reservations) Act, 2000 whereby 57 SCs were divided into four groups and separate quotas of reservation were made for each group. The validity of the Act was challenged in *E.V. Chinnaiah case*²⁵ before the High Court of Andhra Pradesh at Hyderabad. The court held Act as unconstitutional.

On the basis of *E.V. Chinnaiah*²⁶, the Punjab & Haryana High Court in 2006 struck down the Punjab's 1975 notification²⁷ and Haryana's 1994 notification²⁸. Through the Punjab Scheduled Caste and Backward Classes (Reservation in Services) Act, 2006, the Punjab government re-enabled the subcategorization. However, the Act was struck down as unconstitutional in 2010

²¹ Purnima Tyagi and Dr. Rajesh Bahuguna, 'Analysis of the Reservation System in India: A Study of the Recent Judgment on Sub-Classification under SCs and STs' (2024) 18 *Frontiers in Health Informatics* < <https://healthinformaticsjournal.com/index.php/IJMI/article/view/1943> > accessed 25 July 2025

²² Surya Bhorla, 'Deciphering Sub-Categorisation in Scheduled Castes: Redefining Equity or Reinforcing Division?' < <https://clsnuo.com/2025/06/11/deciphering-sub-categorisation-in-scheduled-castes-redefining-equity-or-reinforcing-division/> > accessed 25 July 2025

²³ Circular No. 1818-SW-75/10451 dated 5.5.1975.

²⁴ Notification No.22/5590-3-GS/111.

²⁵ *E.V. Chinnaiah* (n 4).

²⁶ *ibid.*

²⁷ Circular No. 1818-SW-75/10451 dated 5.5.1975.

²⁸ Notification No.22/5590-3-GS/111.

by the Punjab and Haryana High Court. This decision was challenged before the Supreme Court in *State of Punjab v. Davinder Singh*²⁹.

The State of Tamil Nadu also made sub-classification of SCs by enacting the Tamil Nadu Arunthathiyars (Special Reservation of seats in educational institutions including private educational Institutions and of appointments or posts in services under State within the Reservation for the Scheduled Castes) Act 2009. A writ petition under Article 32 of the Constitution was filed to challenge the Tamil Nadu Act's constitutionality on the grounds that it conflicts with *Chinnaiah*³⁰ ruling. The batch of matters challenging the Tamil Nadu Act along with the Special Leave Petitions challenging the judgment of P&H High Court regarding Haryana's Notification³¹ making sub-classification\ were tagged with the appeals involving the challenge to the Punjab Act³². In 2014, a three-Judge Bench referred the correctness of *Chinnaiah* for consideration by a larger Bench of five judges. However, 5-Judge Bench of the Court in the case of *The State of Punjab & Ors. v. Davinder Singh & Ors.*³³ has doubted the view in *E.V. Chinnaiah* and referred the matter to a larger Bench. Finally, in 2024 the constitutional Bench by 6:1 majority overruled *Chinnaiah* and allowed the States to make sub-classification among SCs/STs.³⁴

After the judgment delivered in *Davinder Singh Case*³⁵, the state of Telangana becomes the first state to implement a sub-classification of Scheduled Castes. This is done through the Telangana Scheduled Castes (Rationalisation of Reservations) Act, 2025, which divided SCs into three groups for reservations. The state officially notified the implementation on April 14, 2025, coinciding with Dr. B.R. Ambedkar's birth anniversary.³⁶ This came after recommendations from Justice Akhtar Commission headed by retired Justice Shameem Akhtar, where the commission recommended for sub-categorisation of 59 Scheduled Castes for the purpose of reservation of SCs.³⁷

²⁹ 2024 INSC 562.

³⁰ *E.V. Chinnaiah* (n 25).

³¹ Notification No.22/5590-3-GS/111

³² The Punjab Scheduled Caste and Backward Classes (Reservation in Services) Act, 2006.

³³ (2020) 8 SCC 1.

³⁴ *Davinder Singh* (n 29).

³⁵ *ibid.*

³⁶ M. Rajeev, 'Telangana becomes first State to notify categorisation of Scheduled Castes after Supreme Court verdict' *The Hindu* (Hyderabad) 14 April 2025

³⁷ Surya Bhorla, 'Deciphering Sub-Categorisation in Scheduled Castes: Redefining Equity or Reinforcing Division?' <<https://clsnuo.com/2025/06/11/deciphering-sub-categorisation-in-scheduled-castes-redefining-equity-or-reinforcing-division/>> accessed 25 July 2025

IV. Constitutional Provisions relating to Reservation in India

The Constitution, as the supreme law of the land, provides the overarching legal basis for reservation, enshrining the principles of equality, social justice, and affirmative action. The constitutional provisions governing reservation policies in education, employment, and political representation for SCs, STs, OBCs, and more recently, EWS are given under:

- Article 15(4) of the Indian Constitution empowers the State to make special provisions for the advancement of any socially and educationally backward classes of citizens, or for the SCs and the STs.
- Article 15(5): This article also empowers the State to make special provisions for the advancement of socially and educationally backward classes of citizens, SCs, and STs. Specifically, this clause allows the government to provide reservations in educational institutions, including private institutions that are not minority-run, to improve the conditions of these groups.
- Article 15(6): It enables the State to make special provisions for the advancement of EWS of citizens. This clause was introduced by the 103rd Amendment in 2019 to provide up to 10% reservation in education and government jobs for economically disadvantaged individuals who are not covered under other categories like Scheduled Castes, Scheduled Tribes, or Other Backward Classes. The goal is to promote equal opportunity for EWS, recognizing that economic disadvantage can impede access to education and employment opportunities.
- Article 16(4): It allows the State to reserve appointments or posts in public employment for any backward class of citizens that it considers not adequately represented in State services. This provision aims to promote substantive equality by enabling the State to take affirmative action for social inclusion and representation of disadvantaged groups in government jobs.
- Article 16(4A): It provides for reservation in matters of promotion for SCs and STs in public employment. This clause empowers the State to grant reservations in promotions to SCs and STs if it believes these groups are underrepresented in higher posts within the State services. The provision seeks to ensure adequate representation of SCs and

STs in promotions, thus addressing historical and structural disadvantages they face in public employment.

- Article 16 (4B): This clause ensures that the reservation benefits are not lost due to lack of suitable candidates in a particular year. It allows the unfilled reserved vacancies to accumulate and be filled in future recruitment drives, thus maintaining fair representation of SC and ST communities in public employment. It allows the carry-forward of unfilled reserved vacancies for SC/ST in government jobs.
- Article 16(6) of the Indian Constitution, introduced by the 103rd Constitutional Amendment in 2019, empowers the State to make provisions for reservation in appointments or posts for EWS of citizens. This reservation is independent and additional to the existing reservations provided for SCs, STs, and OBCs. The reservation under Article 16(6) is capped at a maximum of 10% and is aimed at promoting social equity for economically disadvantaged citizens who are not covered by traditional caste-based reservations.
- Article 46 directs the State to promote with special care the educational and economic interests of the weaker sections of society, particularly the SCs and STs. It also mandates the State to protect these sections from social injustice and all forms of exploitation. Although it is a directive principle and is not legally enforceable in court, it guides the state in formulating policies that promote social justice for these weaker sections.
- Article 243D focuses on the reservation of seats in Panchayats to ensure representation for SCs, STs, and women. It mandates proportional reservation of Panchayat seats for SCs and STs in accordance with their population in the Panchayat area. Reservation must be not less than one-third of these reserved seats for women from those categories.
- Article 243T mandates reservation of seats in every municipality for SCs, STs, and women to ensure their representation in urban local bodies. Not less than one-third of the seats reserved for SCs and STs must be allocated to women from these categories. The offices of chairpersons in municipalities are also reserved for SCs, STs, and women as determined by state legislatures.

- Article 330: It provides for the reservation of seats in the House of the People (Lok Sabha) for SCs and STs. Seats are reserved in proportion to the population of SCs and STs in each state or Union territory. Thus, Article 330 institutionalizes inclusive representation of Scheduled Castes and Scheduled Tribes in the Lok Sabha based on their population.
- Article 330A: It provides for the reservation of one-third of the seats in the Lok Sabha (House of the People) for women, including one-third of the seats reserved for SCs and STs women. This article mandates that as nearly as possible, one-third of the total seats filled by direct election in the Lok Sabha shall be reserved for women, ensuring gender representation at the central legislative level.
- Article 330A was inserted by the 106th Constitutional Amendment Act, 2023, also called the Nari Shakti Vandan Adhiniyam, which aims at increasing women's representation in Parliament and state legislatures.
- Article 332: It provides for the reservation of seats for SCs and STs in the Legislative Assemblies of the States.
- Article 332A: It mandates the reservation of one-third of the total seats filled by direct election in every State Legislative Assembly for women. This includes reserving one-third of the seats that are themselves reserved for SCs and STs women.
- Article 335: This Article states that the claims of SCs and STs must be taken into consideration in appointments to public services and posts, but this must be done consistently with the maintenance of administrative efficiency. This means while affirmative action for SC/ST communities is important, it should not compromise the effectiveness or performance standards of public administration.
- Article 338: This Article establishes the National Commission for Scheduled Castes (NCSC), a constitutional body dedicated to safeguarding the rights and interests of SCs in India. The Article mandates the formation, composition, powers, and functions of this Commission which plays a crucial role in monitoring and investigating the implementation of constitutional safeguards provided for SCs.

- Article 338A: It establishes the National Commission for Scheduled Tribes (NCST), a constitutional body dedicated to protecting, safeguarding, and promoting the interests of STs in India.
- Article 338B: It establishes the National Commission for Backward Classes (NCBC) as a constitutional body for the socially and educationally backward classes, commonly known as OBCs. This article was inserted by the 102nd Constitutional Amendment Act, 2018, which granted constitutional status to the previously statutory NCBC.
- Article 341: It empowers the President of India to specify certain castes, races, or tribes, or parts/groups within them, as SCs for a particular State or Union Territory by public notification, after consultation with the Governor of that State (if applicable). This notification determines which groups will be recognized officially as Scheduled Castes for the purposes of constitutional provisions such as reservations in education, employment, and political representation.
- Article 342: It empowers the President of India to specify tribes or tribal communities, or parts/groups within them, as STs for a particular State or Union Territory through an official public notification, after consulting the Governor of that State (if applicable). This specification defines which tribes are recognized constitutionally as Scheduled Tribes in that region.
- Article 342A: It empowers the President of India to specify the socially and educationally backward classes (SEBCs), commonly known as OBCs, with respect to a particular State or Union Territory by public notification. This specification forms the Central List of SEBCs for the purpose of the Constitution. It was inserted by the Constitution (One Hundred and Second) Amendment Act, 2018.
- Article 366(24) defines the term "Scheduled Castes" for the purposes of the Constitution. Article 366(24) links the definition of Scheduled Castes directly to the notification issued by the President under Article 341, which officially specifies which communities are recognized as Scheduled Castes in each State or Union Territory.
- Article 366(25) defines the term "Scheduled Tribes" for the purposes of the

Constitution. The definition of Scheduled Tribes under Article 366(25) is directly linked to the notification issued by the President under Article 342, which specifies the tribes recognized as Scheduled Tribes in particular States or Union Territories. This definition ensures uniformity and clarity in the application of constitutional provisions related to Scheduled Tribes, including reservations and protections.

V. Judicial Evolution on Sub classification

The judicial evolution on sub-classification within reserved categories in India, particularly for SCs and STs, has been a complex and evolving journey, marked by shifting interpretations by the Supreme Court. It has played a crucial role in shaping the discourse on sub-classification. It depicts a gradual shift away from strict formality and towards a more nuanced understanding of equality. Recent decisions have recognized the need for a more equitable distribution of reservation advantages, whereas earlier decisions opposed differences among SCs and STs. The judicial evolution on sub-classification is discussed under two heads:

- Early Position: Journey from *M.R. Balaji and others v. State of Mysore (1963)* to *Jarnail Singh v. Lachhmi Narain Gupta (2018)*
- Turning Point: *State of Punjab v. Davinder Singh (2024)*

A. Early Position: Journey from *M.R. Balaji and others v. State of Mysore (1963)* to *Jarnail Singh v. Lachhmi Narain Gupta (2018)*

For the first time the issue of whether the state can further sub-classify within a class for the purpose of reservation arose in *M.R. Balaji and others v. State of Mysore*³⁸. The State of Mysore appointed the Mysore Backward Class Committee to advise it on the adoption of criteria for the determination of the socially and educationally backward class. Based on the report of the Committee, the State recommended the sub-classification of the Backward Class into the Backward Class and More Backward Class based on educational backwardness.³⁹ In this case, the criterion for the determination of social and educational backwardness was in question. The Court held that caste is a relevant consideration for determining social backwardness. However,

³⁸ 1963 Supp. (1) SCR 439.

³⁹ The criterion for the sub-classification was whether the standard of education in the community is less than 50% of the State Average. If it is, the community must be regarded as a more backward community. If it is not, then the community must be regarded as the backward community.

the Court observed that caste cannot be the sole basis for determining the beneficiary class under Article 15(4) because it would perpetuate the vice of castes

The Constitution Bench held the sub-classification of the backward class to be unconstitutional because it:

- (a) was solely based on caste⁴⁰; and
- (b) it appeared to be a measure devised to benefit all the classes of citizens who were less advanced when compared with the most advanced classes in the State, and that was not the scope of Art. 15(4).

In *K.C. Vasanth Kumar and another v. State of Karnataka*⁴¹, Justice Chinnappa Reddy famously said reservations were intended for parity, not charity⁴². In the said case, the Court was invited not so much to deliver judgment but to express its opinion on the issue of reservations in the context of Articles 15(4) and 16(4), which would serve as a guideline to the Commission which the Government of Karnataka had proposed to appoint, for examining the question of affording better employment and educational opportunities to Scheduled Castes, Scheduled Tribes and Other Backward Classes.

The Learned C.J. observed that for a further period of 15 years, the reservation in favour of SCs and STs must continue. He further observed that the means test, i.e., the test of economic backwardness ought to be made applicable even to the SCs and STs after the period of 15 years.⁴³ Insofar as the OBCs are concerned, the Learned C.J. observed that the twin tests should be applied; one, that they should be comparable to the Scheduled Castes and Scheduled Tribes in the matter of their backwardness; and two, that they should satisfy the means test such as a State Government may lay down in the context of prevailing economic conditions. It is also observed that the policy of reservations in employment, education and legislative institutions should be reviewed every 5 years or so.⁴⁴

In his concurring opinion, Justice Chinnappa Reddy observed that as a matter of principle, sub-

⁴⁰ AIR 1963 SC 649 [25].

⁴¹ 1985 (Supp) SCC 714 <<http://indiankanon.org/doc/1759197//>> accessed 22 July 2025

⁴² Alok Prasanna Kumar, 'Charity, Not Parity' (2022) 57 Economic & Political Weekly <<https://www.epw.in/journal/2022/47/comment/charity-not-parity.html>> accessed 25 July 2025

⁴³ *K.C. Vasanth Kumar and another v. State of Karnataka*, 1985 (Supp) SCC 714 (24) <<http://indiankanon.org/doc/1759197//>> accessed 22 July 2025

⁴⁴ *ibid.*

classification within a reserved class is valid provided that both the classes are far behind the advanced class and that one of the classes is ahead of the most backward class.⁴⁵ The learned Judge observed that the validity of the classification of the Backward Class into Backward and More Backward Classes may be open to adjudication on the facts of each case.

Then next comes the 9-Judge Bench judgment of the Supreme Court in the case of *Indra Sawhney and others v. Union of India and others*⁴⁶, also known as Mandal Commission Case, which could be considered as an important judgment on reservations which specifically addressed the issue of sub-classification within backward classes. The Court held that there is no constitutional or legal bar in classifying the backward class into backward and most backward class.⁴⁷ It recognized that not all OBCs are equally backward, and some may have benefited more than others. Therefore, the state can further categorize the backward classes to ensure that the benefits of reservation reach the “more backward” sections within the OBC category. The court held that sub-classification is valid for two reasons. First, there may be inter-se backwardness within same class and in such a situation, sub-classification ensures that the more backward of the class can secure the benefit.⁴⁸ Second, the constitutional scheme expressly provides for sub-classification. Article 16(4) only identifies the beneficiary class as the “backward class” unlike Article 15(4) which expressly identifies the socially and educationally backward class, the Scheduled Castes and the Scheduled Tribes⁴⁹

The Court held that within the OBCs there exists a segment that is socially, economically, and educationally advanced. These individuals or families are known as the “creamy layer”. The Court emphasized that reservation is meant for those who have been historically and socially oppressed, not those who have already benefited from upward mobility. The Court did not lay down specific criteria but directed the government to specify guidelines based on income, education, and occupation and to review the same periodically and update the criteria.

In the case of *E.V. Chinnaiah v. State of A.P.*⁵⁰ the validity of the Andhra Pradesh Scheduled Castes (Rationalisation of Reservations) Act, 2000 was challenged which sub-classified Scheduled Castes (SCs) into four categories (A, B, C, D) for the purpose of reservations in

⁴⁵ *Indra Sawhney* (n 16) 55.

⁴⁶ *ibid.*

⁴⁷ *ibid* 802.

⁴⁸ *ibid.*

⁴⁹ *Ibid* 803.

⁵⁰ (2005) 1 SCC 394.

education and public employment. The issue before the court was whether the State legislature has the power to sub-classify Scheduled Castes, which are listed in the Presidential list under Article 341 of the Constitution, for purposes of reservation benefits. The five-judge Constitution Bench of the Supreme Court struck down the Act as unconstitutional, by a 4:1 majority. The court held that the castes once included in the Presidential List (Article 341), form a class by themselves. If they are one class under the Constitution, any division of these classes of persons based on any consideration would amount to tinkering with the Presidential List.⁵¹ The Court held that whatever may be the object of the sub-classification and apportionment of the reservation, the State cannot claim legislative power to make a law dividing the Scheduled Castes List of the State by tracing its legislative competence to Entry 41 of List II or Entry 25 of List III. The Court held that, in pith and substance the enactment is not a law governing the field of education or the field of State public services.⁵² It was held that the conglomeration of castes given in the Presidential Order should be considered as representing a class as a whole and they are not to be subdivided or sub-classified further. Such sub-classification would be violative of Article 14 of the Constitution.⁵³

In *M. Nagaraj and others v. Union of India and others*,⁵⁴ the constitutional validity of the Constitution (77th, 81st, 82nd, and 85th Amendments), which allowed the State to provide reservation in promotions for SCs and STs in public employment was challenged. The Court upheld all four constitutional amendments as valid and **not** violating the basic structure. The Court held that even within SCs and STs, the creamy layer should be excluded from the benefits of reservation in promotions. The Court applied the test of creamy layer and the requirement for collection of quantifiable data showing backwardness of the class and inadequacy of representation of that class even insofar as the Scheduled Castes and Scheduled Tribes are concerned.⁵⁵

The correctness of the decision in *M. Nagaraj* was referred to the Constitution Bench in the case of *Jarnail Singh and others v. Lachhmi Narain Gupta and others*.⁵⁶ This case introduced the concept of the creamy layer within SCs permitting sub-classification. The key issues before the court were: (i) Whether the *M. Nagaraj* judgment, which required States to collect

⁵¹ *ibid* 26.

⁵² *ibid* 31.

⁵³ *ibid* 41.

⁵⁴ (2006) 8 SCC 212.

⁵⁵ *ibid* 122.

⁵⁶ (2018) 10 SCC 396.

quantifiable data on backwardness, representation, and administrative efficiency before granting reservation in promotions, needed reconsideration; and (ii) whether SCs and STs need to prove “backwardness” again to avail of reservation in promotions. The Court partially overruled the *M. Nagaraj* judgment. It was held that there is no requirement for the State to collect quantifiable data to prove the backwardness of SCs and STs before providing reservation in promotions. This is because the Constitution presumes SCs/STs to be backward, and requiring proof again was contrary to Articles 341 and 342. However, the Court upheld the need to collect quantifiable data on inadequate representation in services and administrative efficiency as per Article 335.

B. Turning Point: *State of Punjab v. Davinder Singh (2024)*

The verdict in *State of Punjab v. Davinder Singh and Others*⁵⁷ represents a paradigm shift, recognizing diversity and disparity within historically marginalized groups and reorienting the scope of affirmative action towards a more equitable and nuanced policies. The judgement in the case was delivered on 1st August 2024 by a seven-judge Constitution Bench headed by Chief Justice D.Y. Chandrachud, with a 6:1 majority. It allowed reservation within reservation, overturning the 20-year precedent established in *E.V. Chinnaiah. v. State of Andhra Pradesh*⁵⁸. The Bench was comprised of D.Y. Chandrachud CJI, B.R. Gavai J, Vikram Nath J, B. M. Trivedi. Pankaj Mithal J, Manoj Mishra J and S.C. Sharma J. The judgement has six different opinions. The Chief Justice wrote on behalf of himself and Justice Manoj Misra. Justices B. R. Gavai and Pankaj Mittal authored separate, concurring opinions. Justices Vikram Nath and S. C. Sharma authored opinions agreeing with the Chief Justice and Justice Gavai.⁵⁹ Justice Bela Trivedi wrote a dissenting opinion.

The Constitution Bench has to adjudicate upon whether the sub-classification of Scheduled Castes for the purpose of providing affirmative action, including reservation is valid.⁶⁰ In this context, the following issues arise for consideration⁶¹:

⁵⁷ 2024 INSC 562.

⁵⁸ (2005) 1 SCC 394.

⁵⁹ R. Sai Spandana, ‘Sub-Classification Within Reserved Categories | Judgement Summary’, Supreme Court Observer, <<https://www.scobserver.in/reports/sub-classification-within-reserved-categories-judgement-summary/>> accessed 02 August 2025

⁶⁰ *Davinder Singh* (n 57) 31.

⁶¹ *ibid* 31.

1. Whether sub-classification of a reserved class is permissible under Articles 14, 15 and 16;
2. Whether the Scheduled Castes constitute a homogenous or a heterogeneous group;
3. Whether Article 341 creates a homogenous class through the operation of the deeming fiction; and
4. Whether there any limits on the scope of sub-classification

The analysis of the judgment is explained under the following heads:

a) Article 14 permits sub-classification

The court held that Article 14 of the Constitution permits sub-classification of a class which is not similarly situated for the purpose of the law. It was stated that it is established precept that Article 14 guarantees factual and not formal equality.⁶² Therefore, classification is permissible if persons are not similarly situated in reference to the purpose of the law. The same logic of classification equally applies to sub-classification. The law can further classify a class that is already created by law for a limited purpose if it is heterogeneous for another purpose.⁶³ In this context, the CJ noted that “sub-classification is a facet of equality.”⁶⁴ The judgement highlights that the test to determine whether sub-classification within a class is justified under Article 14, it needs to be assessed whether the class is homogeneous. If the answer is no, then sub-classification is permissible.⁶⁵

b) Indra Sawhney did not exclude sub-classification within the Scheduled Castes

The court held that in *Indra Sawhney case*⁶⁶, it did not limit the application of sub-classification only to the Other Backward Class. This Court upheld the application of the principle to beneficiary classes under Articles 15(4) and 16(4).⁶⁷

⁶² *ibid* 55.

⁶³ *ibid*.

⁶⁴ *ibid*.

⁶⁵ *ibid* 138.

⁶⁶ *Indra Sawhney and others v. Union of India and Others*, 1992 Supp (3) SCC 217.

⁶⁷ *Davinder Singh* (n 65).

c) *Scheduled Castes do not constitute a homogeneous group*

The holding in *Chinnaiah* case that SCs were a homogeneous group and their sub-classification is impermissible was overruled by the court. The CJ stated that the inclusion in the Presidential List “does not automatically lead to the formation of a uniform and internally homogenous class which cannot be further classified.”⁶⁸ There was historical, empirical evidence to show that the SCs were a heterogeneous group with an inter-se backwardness. Justice Gavai held that the “hardships and the backwardness which these categories have suffered historically would differ from category to category.”⁶⁹

d) *Article 341 does not create a deeming fiction*

The respondents in this case had argued that the SC group was a "legal fiction" and that sub-classification under this legal fiction was not permitted, citing the President's listing of Scheduled Castes under Article 341. The court held that Article 341(1) does not create a deeming fiction. The phrase “deemed” is used in the provision to mean that the castes or groups notified by the President shall be “regarded as the Scheduled Castes. Even if it is accepted that the deeming fiction is used for the creation of a constitutional identity, the only logical consequence that flows from it is that castes included in the list will receive the benefits that the Constitution provides to the Scheduled Castes. The operation of the provision does not create an integrated homogenous class.”⁷⁰

e) *No violation of Article 341 by Sub-classification*

The court held that sub-classification within the SCs does not violate Article 341(2) because the castes are not per se included in or excluded from the List. Sub-classification would violate the provision only when either preference or exclusive benefit is provided to certain castes or groups of the SCs over all the seats reserved for the class.⁷¹

⁶⁸ *ibid* 79.

⁶⁹ *ibid* 260.

⁷⁰ *ibid* 138.

⁷¹ *ibid* 139.

f) States have the power to sub-classify under Articles 15 and 16

The court held that there is historical and empirical evidence available demonstrating that the SCs are a socially heterogeneous class. Thus, the State in exercise of the power under Articles 15(4) and 16(4) can further classify the SCs if (a) there is a rational principle for differentiation; and (b) the rational principle has a nexus with the purpose of sub-classification.⁷²

g) Criteria for Sub-classification of SCs

The court laid down the following principles for identifying the beneficiary class under Articles 15(4) and 16(4):

1. The beneficiary class in Article 15(4) must be a socially and educationally backward class. “Socially and educationally backward” are not mutually exclusive concepts and they must be seen together.⁷³
2. Article 15(4), unlike Article 16(4), provides that the beneficiary class for the purposes of the provision must be socially and educationally backward.⁷⁴ The phrase “backward class” under Article 16(4) is wider than that under Article 15(4). Article 16(4) applies to a much larger class; it subsumes the socially and educationally backward classes under Article 15(4). The purpose of both Articles is “to ensure substantive equality by uplifting the socially backward class.”⁷⁵
3. The qualifier of inadequate representation in Article 16(4) is not mutually exclusive of the requirement of backwardness. The inadequate representation of the class in the services of the State must be because of social backwardness.⁷⁶
4. The adequacy of representation must be determined based on the standard of effective representation and not numerical representation.⁷⁷

⁷² *ibid* 101.

⁷³ *ibid* 119.

⁷⁴ *ibid* 104.

⁷⁵ *ibid* 119.

⁷⁶ *ibid* 119.

⁷⁷ *ibid*.

h) Yardstick for sub-classification within the beneficiary classes

The court observed that since the purpose of Articles 15(4) and 16(4) is to ensure equality of opportunity of the socially backward classes, the criterion for sub-classification within a class (be it the Other Backward Classes or the Scheduled Castes or Tribes) must be an indicator of social backwardness. The yardstick for classification must differentiate the class based on inter-se social backwardness.⁷⁸

i) Limits of Sub-classification

After holding that sub-classification of the SCs for the purposes of reservation is valid and having laid down the yardstick for sub-classification, the CJ stated that there are two models of reservations which the State may employ while reserving seats for the sub-classified castes: the preferential model and the exclusive model.

In the first model, preference is given to the more socially backward classes in respect of all the seats reserved for the SCs. This model comes in two variants. In the first variation, certain castes are given a preference over all the seats reserved for the category of SCs, in the sense that they will get the first bite at the apple. In the second variation, the sub-categorized class will have a preference over a certain percentage of seats. Any unfilled seats will be available to the other categories.⁷⁹ In the second approach, seats are reserved solely for specific castes. This **exclusive model** contrasts with the **preference model** in a key way: under the exclusive model, any unfilled seats are carried forward to the next year to be filled by the same caste group, whereas in the preference model, the unfilled seats can be allocated to other castes within the broader category in the same year. This exclusive model also has two variations. In the first, a fixed percentage of seats is reserved for the sub-classified group, and any unfilled seats will have carried over to the following year for the same group. In the second variation, all the seats are exclusively available to a certain caste from the category and the State shall carry forward the unfilled seats.⁸⁰

The court held that the constitutionality of either the **preference** or **exclusive** model

⁷⁸ *ibid* 120.

⁷⁹ *ibid* 123.

⁸⁰ *ibid* 123.

hinges on whether the model, in practice, results in the exclusion of any caste that has been recognized as a Scheduled Caste for that State under Article 341(1) of the Constitution. Therefore, the first variation of the preferential model and the second variation of the exclusive model would be unconstitutional, as they effectively exclude certain castes from availing the benefits of reservation in a particular year.⁸¹ The Chief further held that the State is empowered to adopt either of the two permissible models for seat reservation through sub-classification; however, such a decision remains open to judicial review.⁸²

j) States to collect data before making sub-classification

The court held that the State, in order to exercise power of sub-classification validly under Article 16(4), must gather quantifiable data demonstrating the inadequate representation of sub-groups within the State services. The State, in assessing whether a group is adequately represented, must evaluate adequacy in terms of effective rather than merely numerical representation.⁸³

k) Dissenting Views

Justice Bela Trivedi gave the dissenting views. She held that the etymological history of the term “Scheduled Caste” coupled with the Presidential List published under Article 341 made the “Scheduled Caste” a homogenous class.⁸⁴ This cannot be tinkered with by state governments. A “bare reading of Article 341” suggests “that Scheduled Castes is an amalgam of castes, races, groups, tribes, communities.” Even if members within the Scheduled Caste category belong to different races or castes, they all acquire a “special status by virtue of Presidential Notification under Article 341.”⁸⁵

VI. Conclusion

As India progresses on its path from a developing to a developed nation, it becomes increasingly vital to refine and adapt its reservation policies to meet emerging challenges. Introducing sub-categorization within existing reserved groups is a commendable move toward

⁸¹ *ibid* 124.

⁸² *ibid* 127.

⁸³ *ibid* 137.

⁸⁴ *ibid* [51-52] (Justice Bela M. Trivedi).

⁸⁵ *Ibid*.

fostering greater inclusivity by addressing internal disparities within these broader categories. The Constitution of India specifically under Articles 15(4) and 16(4) provides for affirmative action to uplift socially and educationally backward groups. However, the Constitution lacks specific provisions regarding sub-classification of these socially and educationally backward groups for the purpose of affirmative action. It raises concern for judiciary. The judiciary in India has played a critical role in interpreting the constitutional validity of sub-classification within reserved categories. The judicial approach to sub-classification in India reflects a gradual move from rigid formalism to a more nuanced understanding of equality. The hon'ble Supreme Court in *Indra Sawhney case (1992)* permitted sub-classification within OBCs to ensure benefits reach the most backward among them. However, in *Chinnaiah case (2004)* the Supreme Court struck down a State law sub-dividing SCs into categories for reservation. Recently, the Supreme Court in *Davinder Singh case (2024)* marks a significant shift, empowering states to sub-classify SCs and STs to ensure more equitable distribution of reservation benefits. The resulting decision requires comprehensive surveys to ensure equitable reservation benefits for all sub-categories. While sub-classification may provide a road to more fair outcomes, it is critical to approach it with prudence and avoid accidentally perpetuating more differences.⁸⁶ The future success of India's reservation system will depend on continued cooperation between the government, judiciary, and civil society.

⁸⁶ Dr. Devanshi Singh, 'Revisiting sub classification of scheduled castes and scheduled tribes for affirmative action through judicial lens: Insights from State of Punjab v Davinder Singh' (2024) 4 International Journal of Law, Justice and Jurisprudence <https://www.lawjournal.info/article/135/4-2-24-750.pdf> > accessed 05 August 2025.