



Concept of the Week (PSIR Optional)

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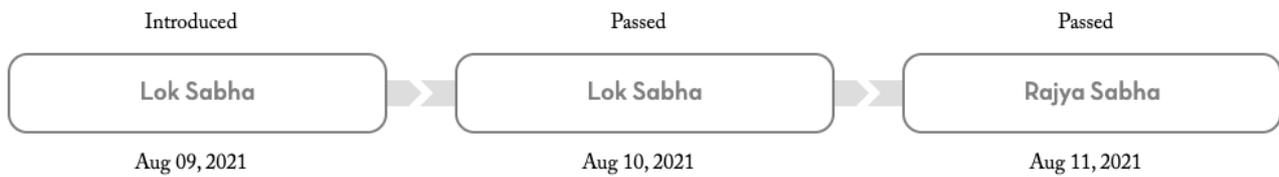
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127th Constitution Amendment Bill

Ministry: Social Justice and Empowerment



- The Constitution (One Hundred and Twenty-Seventh Amendment) Bill, 2021 amends the Constitution to allow states and union territories to prepare their own list of socially and educationally backward classes.
- The Bill seeks to clarify “some provisions in the 102nd Constitutional amendment Act” to restore the power of the states and union territories to to prepare their own list of socially and educationally backward classes (SEBC).
- Provisions of 102nd Constitutional Amendment Act:

Gave National Commission for Backward Castes constitutional status under Article 338 (B).

Article 342 A empowered the President to notify the list SEBCs for any state or union territory.

Need for the amendment?

- The amendment was necessitated after the Supreme Court, in its Maratha reservation ruling in May 2021, upheld the 102nd Constitutional Amendment Act.
- The Apex Court said the President, based on the recommendations of the NCBC, would determine which communities would be included on the State OBC list.
- The 2021 Bill, however, amends this to provide that the President may notify the list of socially and educationally backward classes only of the central government. Thus, the amendment Bill bypasses the SC ruling and restores the powers of the state governments to maintain a state list of OBCs.

Impact of the Bill

- The Bill has political ramifications as restoring powers of the states to identify backward classes has been a demand by many regional parties and even the ruling party’s OBC leaders.
- Furthermore, Article 338B of the Constitution mandates the central and state governments to consult the NCBC on all major policy matters affecting the socially and educationally backward classes.
- The Bill exempts states and union territories from this requirement for matters related to preparation of their list of socially and educationally backward classes.

- Several parties such as Samajwadi Party (SP), the Telugu Desam Party and NDA allies Apna Dal and Janata Dal (U) have also demanded a caste-based census to know the actual idea of the number of OBCs in the country and to remove the 50% cap on reservations in place after the Indira Sawhney judgment.
- There is also the issue of creamy layer in OBCs. Further, the Justice Rohini committee is considering the sub-categorization of OBC quota and if any particular community or group of communities are benefiting most from the OBC quota and how to iron out anomalies.
- Dr. Virendra Kumar said the current Constitutional Amendment Bill was a historic legislation as 671 castes in the country would benefit from it and restore the States' rights to make their own list of OBCs and should be considered as the 105th Constitution Amendment Bill after being renumbered.
- Prof. S. Jodhka justified the move by arguing that the reality of castes is states specific. For example, Jats may be dominant in one state but poor in the other, Valmikis are SC but in Andhra they are OBC and are Brahmins in parts of Maharashtra.
- Further, Jodhka argues that caste is also a relational category which means that it is state specific. State-specific categories should apply only for state jobs.
- JK Bajaj, who is a member of the OBC sub-categorisation commission, said that further clarity was needed on which lists of castes will be considered in order to prepare a sub-categorised list free of anomalies and repetitions.