

JANHIT ABHIYAN V UNION OF INDIA: BALANCING EQUALITY AND AFFIRMATIVE ACTIONS

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Date of the case: 7 November 2022

Bench: U.U. Lalit (CJI), Justice S.R. Bhat, Justice Dinesh Maheshwari, Justice B.M Trivedi, and Justice J.B. Pardiwala.

INTRODUCTION

The case titled Janhit Abhiyan V Union of India primarily focuses on the issue relating to the reservation of seats. Here, the reservation has been extended for one section, EWS, which stands for economically weaker sections. It was believed that they have fewer opportunities available, and they are lagging in terms of education and employment. Therefore, it focuses on bringing EWS into mainstream society, curtailing the inequalities existing in our society, and achieving the ideals enshrined in our constitution. Reservation is one of the soft issues in our society, which, when initiated and later when several efforts are made in this context, is also subjected to controversies opposing views, and clashing opinions. This scheme was initiated after the making of our constitution, and the main focus was to bring the marginalized sections of society who don't have recognition and are deprived of educational, economic, social exclusion, etc., into mainstream society. The aim of equality in every aspect, be it social, economic, etc., was the sole purpose. Achieving or making great efforts to achieve the ideals enshrined in our constitution, including equality, justice, etc., was the sole purpose behind the reservation system. So, we need to focus on having a society free of all discrimination, and heading toward social mobility is the need of the hour. Hence, the 103rd amendment to the constitution has been of greater help to the economically weaker section who are financially unstable and cannot come to the mainstream society and stand equally with the more privileged person. So this 10 percent reservation enables them to access educational institutions and go for a good education and also helps in employment opportunities. Therefore, this amendment has broken all the shackles of the constitution by upholding a 10 percent EWS Quota¹. For the

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¹ Aditi Priyadarshi, 'Janhit Abhiyan V Union of India: Tracing the history of 103rd amendment', Prime legal, <[Janhit Abhiyan v. Union of India: Tracing the History of 103rd Constitutional Amendment - Prime Legal](#)>

first time, the Supreme Court has shown concern for the disadvantaged sectors of society who have been denied access to decent education due to economic inability in its EWS Judgment. Such people are not qualified for reservations and do not have the financial means to acquire the most excellent education. The Amendment Act was passed correctly to represent the marginalized class of people and eventually achieve an equal society².

FACTS OF THE CASE

- On the 9th of January 2019, amendments were made to the articles of the constitution with the insertion of clauses in the articles. These include articles 15 and 16. Articles 15(6) and 16(6) were added to the existing articles 15 and 16.
- It extended the reservation up to 10 percent in the educational institutions and employment opportunities for EWS, which stands for Economically Weaker Section³. This amendment is called the 103rd Amendment of the Constitution, which allows the state to create special provisions in both educational institutions and employment opportunities for the economically weaker sections.
- With such an amendment, the state was empowered to impose particular restrictions on reservations for members of the economically weaker class with a maximum of 10 percent⁴.
- The EWS criteria for employment opportunities and admission to educational institutions were notified on 31 January 2019 by the Department of Personnel and Training.⁵

ISSUES INVOLVED IN THE CASE

- Whether caste on its own constitutes a different class and whether economic criteria could by itself be the determinant of a class⁶.

² Sidharth Acharya, 'EWS AMENDMENT JUDGMENT: THE UNENDING CLOSURE ON RESERVATION' (5 January 2023) <[EWS AMENDMENT JUDGMENT: THE UNENDING CLOSURE ON RESERVATION – India Foundation](#)>

³ [Janhit Abhiyan vs. Union Of India on 7 November 2022 \(indiankanoon.org\)](#)

⁴ {Saumya Tripathi}, {team attorneylex}, {13 April, 2023}.

⁵ <https://indianexpress.com/article/explained/explained-law/quotas-poor-forward-castes-supreme-court-rule-8254179/>.

⁶ Aditi Priyadarshi, 'Janhit Abhiyan V Union of India: Tracing the history of 103rd amendment', Prime legal, <[Janhit Abhiyan v. Union of India: Tracing the History of 103rd Constitutional Amendment - Prime Legal](#)>.

- Whether article 16(4) was an exception to article 16 (1) and is exhaustive in itself of the rights of reservation⁷.
- Does Article 16(4) allow the classification of backward classes based on economic or other considerations⁸

ARGUMENTS BY THE PETITIONER

The petitioners, in this case, included Janhit Abhiyan Akhil Bhartiya Kushwaha Mahasabha; Youth for Equality; SC/ST Agricultural Research and Education Employees Welfare Association; Peoples Party of India (Democratic), represented by Rajeev Dhawan; Gopal Sankaranarayanan; MN Rao; Meenakshi Arora.

- The petitioners contended that the amendment made in articles 15 and 16, The 103rd amendment to the constitution, was unnecessary because the category of people included doesn't require such reservations because they aren't sidelined or didn't face any discrimination.
- They also contended that the judgment in *Indira Sawhney's case*⁹ in which the reservation was given a 50 percent limit, this precedent is being violated as well. It was to be changed that exceeding or reducing only in extraordinary circumstances; therefore, no exceptional or extraordinary circumstance arose in this case. Instead, the reservation wasn't required for that particular group and held that it is violative of the principles of the constitution because the sole purpose of the reservations and the purpose of granting the power to the state is to aim at curtailing the discrimination faced by the economically disadvantaged. However, this amendment doesn't comply with this purpose and is discriminatory and violative.
- They contended that economic factors alone couldn't be considered for the reservation and held that the addition of class into the amendment is discriminatory and unnecessary because the section for whom the reservation is made is not marginalized. The purpose and aims of the reservation aren't fulfilled as the constitution says. As in the case of *M.R. Balaji V State of Mysore*, it was agreed that reservation should be essentially provided to the weaker sections of the society to uplift them.

⁷ Aditi Priyadarshi, 'Janhit Abhiyan V Union of India: Tracing the history of 103rd amendment', Prime legal <[Janhit Abhiyan v. Union of India: Tracing the History of 103rd Constitutional Amendment - Prime Legal](#)>

⁸ *Ibid*

⁹ *Indira Sawhney v Union of India*, AIR1993, SC477.

- They also contended that this reservation of EWS is perpetuating the monopoly of certain sections of the society because they are never historically oppressed, marginalized, or discriminated against, leading towards individual-centric reservation and, therefore, against the goal of bringing equality among classes of society.¹⁰
- Therefore, the reservation cannot be the measure to alleviate poverty and held that people would remain in poverty which is against the goals as given by B.R. Ambedkar.

CONTENTIONS FROM THE RESPONDENTS' SIDE

The respondents in the case of *Janhit Abhiyan v Union of India* included the Union of India; the Ministry of Social Justice & Empowerment; The State of Maharashtra; the Ministry of Personnel, Public Grievances, and Pensions, represented by Attorney General KK Venugopal and Solicitor General Tushar Mehta.

- The respondent contended that the reservation is made to curtail economic inequality and strengthen the preambular vision of our constitution, that is, of economic justice and walking on the path and directions, and also, the goal of the constitution is to make a caste-free society. Therefore, this amendment is fulfilling the objectives and vision of the constitution and making the distinctions based on class and not caste and, hence, trying to eliminate caste and attempting for a caste-free society and highlighting the ideals of the constitution.
- They also held that the supreme court itself held poverty as an indicator of Backwardness in the cases *M.R. Balaji V State of Mysore* and *R . Chitralekha V State of Mysore*¹¹ and *K.C Vasanth Kumar v. State of Karnatka*¹². And held that poverty itself leads one toward social and educationally backwardness¹³.
- Hence, the respondent entirely focused on the dynamic interpretation and focused on strengthening the preambular vision of the constitution and also highlighting the ideals and vision of the constitution. Even the directive principle of state policy in our constitution directs the state towards eliminating economic disparities and

¹⁰ Ojaswini Gupta, 'Janhit Abhiyan vs. Union of India, 2022: Case comment', < [Janhit Abhiyan vs. Union of India, 2022: Case comment \(lawbhoomi.com\)](#)>.

¹¹ *R. Chitralekha v. State of Mysore & Ors*, AIR 1823.

¹² *K . C Vasanth Kumar v. State of Karnataka*, AIR 1985.

¹³ Ojaswini Gupta, 'Janhit Abhiyan vs. Union of India, 2022: Case comment', < [Janhit Abhiyan vs. Union of India, 2022: Case comment \(lawbhoomi.com\)](#)>.

rendering economic justice; therefore, the amendment is entirely in consonance with the constitution and is not discriminatory and violative.

RATIONALE: A 3:2 majority upheld the amendment, and the five bench judges unanimously took the decisions and held the constitutional amendment as constitutional against all the applications, pleas, etc., which rendered it unconstitutional. Five bench judges held that the EWS reservation doesn't affect the basic structure of the constitution and is not violative of the principles of the constitution. They gave their viewpoints and rationally opposed the issues raised against this reservation.

DEFECTS OF LAW

However, with the 3:2 majority, the amendment was upheld as constitutional because it focuses on the preambular vision of the constitution, and it aims at achieving economic justice by giving the economically weaker sections that are deprived of basic amenities and face challenges of discrimination in society and are also financially down. However, society still faces poverty, and people are still deprived of opportunities. Despite all the efforts made and even after the declaration of the amendment as constitutional based on some rational and logical grounds, one of which was to strengthen the vision of the constitution and head towards economic justice by making these people involved in educational institutions and employment opportunities, the economic justice or the preambular vision has not yet achieved and hence, much needs to be done. Therefore, there is a need to take robust measures to uplift people and curtail poverty to the greatest extent possible.