BLOGS

Constitutional Validity of the 103rd Amendment Act

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Introduction to the 103rd Constitutional Amendment Act

The 103rd Constitutional Amendment brought about a significant transformation in the Indian Constitution. The 2019 amendment, a significant milestone, was designed to enhance and strengthen educational access for historically underrepresented populations. The amendment is centered on the provision of reservation quotas for individuals belonging to economically weaker sections (EWS) in educational institutions. This measure has the potential to effect a constructive transformation and narrow the divide in the availability of higher education.

The present post delves into the fundamental provisions, ramifications, and possible obstacles linked to the 103rd Constitutional Amendment.

Background of 103rd Constitutional Amendment Act

The genesis of the **103rd Constitutional Amendment** can be traced back to India's enduring pledge towards affirmative action and societal integration. In the past, educational and employment reservations were allocated to individuals belonging to Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC). Nonetheless, it was imperative to tackle the educational and economic inequalities experienced by individuals belonging to economically disadvantaged backgrounds who were not included in any reserved categories.

Objective of the 103rd Constitutional Amendment Act

103rd Constitutional Amendment Act was implemented with the objective of mitigating the disparity by allocating a **10% quota** for individuals belonging to the Economically Weaker Sections (EWS) in government employment opportunities and institutions of higher education.

Important Provisions of the Act

The Constitutional Amendment incorporated significant provisions aimed at enabling the effective execution of the reservation policy for the Economically Weaker Sections (EWS).

The Constitution was amended to include **Article 15(6) and Article 16(6)**, which granted the government the authority to offer reservations on the basis of economic considerations. The advantages of reservations are applicable to admission procedures in academic institutions, encompassing privately funded unassisted establishments as well as appointments or designations within governmental services.

Persons with a gross household income of Rs. 8 lakh can avail the benefit of the quota. The aforementioned benefit is **not available** to communities that already have pre-existing reservations for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). The Supreme Court has mandated that each educational institution or public employer must not exceed a **total reservation of 50%**. This measure is put in place to ensure compliance with the aforementioned mandate. Furthermore, the amendment grants state governments the authority to establish the precise standards and methodologies for executing EWS reservations, guaranteeing adaptability and independence in their implementation.

103rd Constitutional Amendment and the Supreme Court

Janhit Abhiyan v. Union of India

The Indian Parliament passed the Constitution (One Hundred and Third Amendment) Act, 2019 in January 2019. This amendment allows for the implementation of reservations in higher education and public employment solely on the basis of economic criteria.

The aforementioned amendment, which brought modifications to Articles 15 and 16 of the Constitution, obtained the approval of the President and was subsequently published in the official Gazette.

According to Article 15(6), the state has the authority to enact specific measures for the progress of economically disadvantaged sections, commonly referred to as economically weaker sections (EWS). These measures may include reservations in educational institutions with a cap of 10% of available seats.

According to Article 16(6), it was permissible to make reservations in public employment, with the condition that the reservations did not exceed a maximum limit of 10%. Nevertheless, a substantial number of petitions were submitted, contesting the constitutionality of the amendment on the grounds that it contravened the fundamental principles enshrined in the Constitution and infringed upon the fundamental right to equality as guaranteed by Article 14.

The petitioners (Youth For Equality, one such petitioner)asserted that the criteria for reservations should not be exclusively grounded in economic factors, contending that the exclusion of SCs, STs, and OBCs from economic reservations contravened principles of equality.

Furthermore, they argued that the amendment exceeded the reservation limit of 50% as set forth in prior judicial decisions, namely Indira Sawhney v. Union of India . Additionally, they asserted that the amendment infringed upon the principle of equality by imposing reservations on privately operated institutions that do not receive government assistance.

Following the preliminary hearings conducted in 2019, the Supreme Court has opted to withhold its decision regarding the referral of the case to a Constitution Bench. In August 2020, the Court made the decision to refer the case to a panel consisting of five judges.

The court scheduled the matter for hearing on August, 2022, along with four other Constitution Bench matters, commencing in September. The five-judge Constitution Bench, under the leadership of the Chief Justice, indicated its intention to consider this case in conjunction with the legal challenge to Andhra Pradesh’s reservation Act pertaining to Muslims.

Subsequently, the court made a determination to prioritise the hearing of the case pertaining to the reservation of Economically weak Sections (EWS). On September, 2022, the court acknowledged the matters presented by the Attorney General, encompassing an analysis of the permissibility of reservations solely based on economic criteria, the ability of states to implement reservations in private educational institutions without government assistance, and the potential invalidity of EWS reservations due to the exclusion of specific groups.

Following the presentation of arguments from all relevant parties, the judicial panel refrained from issuing a verdict on September 27, 2022. The verdict was finally delivered by the Bench on November 7th, 2022, with a split decision of 3:2, affirming the constitutionality of the Amendment and reservations for Economically disadvantaged Sections (EWS).

The concurring opinions were authored by Justices Maheshwari, Trivedi, and Pardiwala individually, whereas Justice Bhat and Chief Justice U.U. Lalit expressed a dissenting viewpoint in their joint opinion.

Subsequent to the verdict, the Society for the Rights of Backward Communities lodged a petition on December 6th, 2022, with the aim of initiating a reassessment of the ruling that permits reservations for Economically weak Sections (EWS).

The petition was dismissed on May 9th, 2023, by a five-judge Constitution Bench, presided by Chief Justice D.Y. Chandrachud. The bench opined that there were no valid grounds to warrant a review.

Repercussions and Benefits

The 103rd Constitutional Amendment carries significant implications and benefits for Indian society as a whole. The amendment seeks to promote equality of opportunity among individuals, regardless of their social background, by expanding reservation to include economically disadvantaged sections. The implementation of this measure is anticipated to provide millions of students who are facing economic challenges with the ability to obtain a high-quality education, which in turn may enhance their socio-economic standing.

Criticisms and Challenges of 103rd Constitutional Amendment Act

1. The Amendment represents a significant measure towards achieving social integration by promoting a perception of inclusiveness and parity. It acknowledges that poverty and limited financial means may impede access to educational and occupational prospects, thus contributing to the persistence of social inequity.Additionally, the Amendment aims to establish an equitable environment for all segments of society by granting reservations to the Economically Weaker Sections (EWS), thereby interrupting this recurring pattern.

2. The Constitutional Amendment has received commendation for its forward-thinking stance; however, it has encountered opposition and obstacles as well. A counterargument to the proposed amendment posits that it has the potential to result in a surplus of enrolees and concomitant resource constraints in academic institutions, thereby potentially undermining the calibre of education provided.
3. Developing the standards for defining economic backwardness is a fundamental obstacle that the legislation must overcome. Many experts argue that the income criterion was set arbitrarily high without acquiring or taking into account any relevant studies or research.
4. An additional critique that has been put forth pertains to the potential marginalisation of certain meritorious individuals who do not satisfy the financial prerequisites but encounter societal hindrances.Detractors contend that such individuals could potentially be deprived of adequate assistance or avenues for development. The challenge for policymakers lies in reconciling the imperative of economic reservation with the objective of mitigating social inequalities.
5. The Constitutional Amendment Act, according to several people, undercuts the core tenets of Indian democracy. They argue that rather than focusing primarily on economic underachievement, reservation should instead target social marginalisation.

Conclusion

The Constitutional Amendment represents a noteworthy advancement towards fostering equitable access to education and opportunities for individuals belonging to economically disadvantaged segments of the population.

The proposed amendment aims to foster a more equitable and inclusive society by expanding the scope of reservations. The effective execution of this amendment necessitates a meticulous equilibrium between economic considerations and the resolution of societal inequities. Through persistent endeavours and deliberate policy interventions, the Amendment holds the capacity to revolutionise livelihoods and establish a pathway towards a more equitable and fair India.