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# Indra Sawhney v Union of India (1992): Mandal Case, Creamy Layer

Shruti chauhan · 11 Nov 2026

# Indra Sawhney v Union of India (1992): The Mandal Commission Case

## Indra Sawhney v Union of India - Case at a Glance

Indra Sawhney v Union of India, often spelt "Indira Sawhney" and popularly called the Mandal Commission case, is the 1992 Supreme Court judgment that upheld 27% reservation for Other Backward Classes (OBCs) in central government jobs. It also set the rules that still govern reservation in India: the creamy layer must be excluded, reservations should not ordinarily exceed 50%, and Article 16(4) does not allow reservation in promotions.

| Field | Detail |
|---|---|
| Case | Indra Sawhney v Union of India (also spelt "Indira Sawhney"); the Mandal Commission case |
| Citation | 1992 Supp (3) SCC 217; AIR 1993 SC 477 |
| Bench | 9 judges (majority 6:3) |
| Decided | 16 November 1992 |
| Lead majority opinion | B.P. Jeevan Reddy J. |
| Dissent | T.K. Thommen, Kuldip Singh and R.M. Sahai JJ |
| Outcome | 27% OBC reservation upheld, subject to excluding the creamy layer; the 10% economic reservation struck down |

## Background: the Mandal Commission and the 1990 Office Memoranda

The case grew out of a decade-old report that the government suddenly decided to implement in 1990, triggering nationwide protests.

### The Mandal Commission

In 1979, the Janata Party government set up the Second Backward Classes Commission under B.P. Mandal to identify the socially and educationally backward classes and recommend measures for them. The Commission submitted its report on 31 December 1980. It identified 3,743 castes and communities as backward, estimated that OBCs made up about 52% of the population, and recommended reserving 27% of central government posts for them. It kept the figure at 27% so that, together with the 22.5% already reserved for Scheduled Castes and Scheduled Tribes, total reservation stayed under 50%.

The report lay unimplemented for almost ten years.

### The two Office Memoranda

- **13 August 1990:** the V.P. Singh government issued an Office Memorandum reserving 27% of vacancies in central government civil posts and services for the socially and educationally backward classes (SEBCs). It led to widespread protests, especially by students.
- **25 September 1991:** the P.V. Narasimha Rao government amended the order. It gave preference to the poorer sections within the SEBCs in the 27% quota, and added a further 10% for "economically backward sections" of people not covered by any existing reservation.

Both memoranda were challenged by writ petitions in the Supreme Court.

## Facts of the Case

Indra Sawhney, a Delhi advocate, was among several petitioners who challenged the 1990 Office Memorandum in the Supreme Court. They argued that reservation based on caste would divide society, and that backwardness should be measured by economic criteria instead.

The petitions were first heard by a five-judge bench, which stayed the memorandum. The government then issued the 1991 memorandum adding the economic criteria. Given the constitutional importance of the questions, the matter was referred to a nine-judge bench, which also considered the 1991 memorandum.

The Court was asked to decide how far the State could go under Article 16(4): how backward classes may be identified, whether caste can be used, how much reservation is allowed, and whether it extends to promotions.

## Legal Provisions

The case turned on three clauses of the equality code in the Constitution: Article 15(4), and Articles 16(1) and 16(4).

| Provision | What it says |
|---|---|
| Article 15(4) | The State may make special provision for the advancement of socially and educationally backward classes, or the Scheduled Castes and Scheduled Tribes. Added by the First Amendment, 1951. |
| Article 16(1) | Equality of opportunity for all citizens in matters of public employment. |
| Article 16(4) | The State may reserve appointments or posts for any backward class of citizens that, in its opinion, is not adequately represented in the services under the State. |

Article 15(4) covers special provisions generally, such as education, while Article 16(4) deals only with public employment. The Mandal reservation was made under Article 16(4), so most of the judgment interprets that clause and its relationship with Article 16(1). For more on each provision, see Article 15 and Article 16 of the Indian Constitution.

## Issues Identified

The nine-judge bench framed the questions around Article 16(4). The table gives each issue with the majority's answer.

| Issue | Holding |
|---|---|

| | |
|---|---|
| Is Article 16(4) an exception to Article 16(1)? | No; it is a facet of equality under 16(1) |
| Can caste be used to identify backward classes? | Yes, caste can be a relevant criterion |
| Must the creamy layer be excluded? | Yes, socially advanced persons among OBCs are excluded |
| Can reservations exceed 50%? | Not ordinarily, save in extraordinary situations |
| Is reservation allowed in promotions? | No (operating prospectively for 5 years) |
| Can reservation rest on economic criteria alone? | No; the 10% scheme was struck down |

On promotions, "operating prospectively for 5 years" means existing reservations in promotion could continue for five years from 16 November 1992, so that settled promotions were not disturbed overnight.

## Arguments Advanced

### Petitioners

The petitioners, with senior advocate Nani Palkhivala among their counsel, argued that caste-based reservation would deepen caste divisions rather than remove them. They said caste could not be a measure of backwardness, that economic criteria should be used instead, and that reserving so many posts would sacrifice merit and efficiency in public administration, contrary to Article 335. They also attacked the Mandal report's data as outdated, being drawn largely from the 1931 census.

### Respondents

The Union and the States argued that in Indian society caste is closely linked to social and educational backwardness, so it is a legitimate starting point for identifying backward classes. Article 16(4) was meant to correct centuries of exclusion, and the 27% quota kept total reservation within 50%. Whether a class is adequately represented was, they argued, a matter for the State's opinion.

## Judgment

By a 6:3 majority, the Supreme Court upheld the 27% reservation for OBCs in the 1990 memorandum, on condition that the creamy layer is excluded. It struck down the 10% reservation for economically backward sections and the preference for poorer sections within the 27%. B.P. Jeevan Reddy J wrote the lead opinion for himself, Kania CJ, Venkatachaliah J and Ahmadi J. Pandian J and Sawant J agreed in separate opinions.

The Court first settled the relationship between the two clauses. Article 16(4) is not an exception to Article 16(1). It is an instance of the classification that 16(1) itself allows, so reservation is a facet of equality, not a departure from it. Article 16(4) is exhaustive of reservations for backward classes. Article 16(1) can still support other reservations, such as for persons with disabilities. This is the origin of the distinction between **vertical** reservations (for SCs, STs and OBCs) and **horizontal** reservations (for groups such as women or persons with disabilities, which cut across the vertical categories).

### Creamy layer

The Court held that the socially advanced members of a backward class, the "creamy layer", must be excluded from reservation. Otherwise, the benefits would be taken by the better-off families, and the genuinely backward would get little. The Court directed the government to fix the criteria for exclusion. An expert committee chaired by Justice R.N. Prasad drew them up, and they were notified by an Office Memorandum of 8 September 1993. The exclusion applies to OBCs; the Court did not apply it to SCs and STs.

**What the creamy layer excludes** (children of persons in these categories):

- Holders of constitutional posts, such as the President, Vice-President, judges of the Supreme Court and High Courts, and chairpersons and members of the UPSC and State PSCs
- Group A (Class I) officers, and Group B (Class II) officers where both parents are Group B
- Officers of the rank of Colonel and above in the Army, and equivalent ranks in the Navy and Air Force
- Professionals and persons in trade, business or industry, such as doctors, lawyers and engineers, who are covered by the income test

- Owners of agricultural land, or vacant land and buildings in urban areas, above the specified limits
- Families with a gross annual income above ₹8 lakh (limit in force since 2017) for three consecutive years, excluding salary and agricultural income

In March 2026, the Supreme Court held that creamy-layer status cannot be decided on parents' income alone. Their post and status must also be considered, since the 1993 scheme is mainly status-based.

## The 50% ceiling

The Court held that reservations under Article 16(4) should not ordinarily exceed 50% of appointments in a year. Reservation is meant to balance equality of opportunity for backward classes with equality of opportunity for everyone else; going beyond half would turn the exception into the rule. The Court allowed one exception: in extraordinary situations, such as people living in far-flung and remote areas outside the mainstream, the limit can be relaxed with extreme caution and a special case made out.

## No reservation in promotions

The Court held that Article 16(4) allows reservation only at the stage of initial appointment, not in promotions. Once a person enters service, the playing field is level, and reservation in promotion would hurt efficiency of administration under Article 335. To avoid disturbing settled promotions, the ruling was made prospective: existing reservations in promotion could continue for five years from 16 November 1992.

## Backward class identification

The Court held that a caste can itself be a backward class, so caste can be used to identify backward classes. Backwardness is not decided by caste alone, though: occupation, income, poverty and other factors can also be used. Economic criteria alone cannot be the sole basis for identifying a backward class under Article 16(4), which is why the 10% economic reservation failed.

The Court also directed the Union and the States to set up a permanent body to examine requests for inclusion in, and exclusion from, the lists of backward classes. This led to the National

Commission for Backward Classes Act, 1993. The 102nd Amendment (2018) later made the Commission a constitutional body under Article 338B.

## After Indra Sawhney: Amendments and Later Cases

Parliament and the Supreme Court have revisited almost every rule laid down in Indra Sawhney since 1992. The 50% ceiling has survived, the bar on promotions has been reversed for SCs and STs by amendment, and the 2019 EWS quota reopened the question of economic criteria.

| Year | Development | Effect |
|---|---|---|
| 1994 | 76th Amendment | Tamil Nadu's 69% reservation law placed in the Ninth Schedule to shield it from the 50% ceiling |
| 1995 | 77th Amendment (Art 16(4A)) | Reservation in promotions for SCs and STs restored |
| 2000 | 81st Amendment (Art 16(4B)) | Carried-forward vacancies kept outside the 50% limit |
| 2006 | M. Nagaraj v Union of India | Amendments upheld; the State must show backwardness, inadequate representation and administrative efficiency |
| 2018 | Jarnail Singh v Lachhmi Narain Gupta | No need to show SC/ST backwardness; creamy layer applies to promotions |
| 2021 | Jaishri Laxmanrao Patil v Chief Minister | Maratha reservation struck down; 50% ceiling reaffirmed |
| 2022 | Janhit Abhiyan v Union of India | 103rd Amendment (10% EWS) upheld 3:2 |
| 2024 | State of Punjab v Davinder Singh | 7 judges, 6:1: States may sub-classify SCs for reservation, on evidence of unequal representation within the list |

For the 2022 EWS judgment, see the constitutionality of the 103rd Amendment. For other leading cases on reservation and equality, see these landmark judgments on Article 15.

## Analysis of the Case

Indra Sawhney is the foundation of reservation law in India because it answered, in one judgment, the questions that every later case starts from: who is backward, how much reservation is allowed, and at which stage of service.

Its most lasting contribution is treating reservation as part of equality rather than an exception to it. That reading of Article 16(4) as a facet of the right to equality under Article 16(1) explains why the Court could uphold caste-based identification while also limiting it, through the creamy layer and the 50% ceiling. Both limits protect the same idea: the benefit should reach those who are actually backward, without shutting out everyone else.

The judgment also started a long dialogue between the Court and Parliament. Within three years of the ruling against reservation in promotions, Parliament added Article 16(4A). The Court accepted the amendments in M. Nagaraj but attached conditions, and later relaxed one of them in Jarnail Singh. In B.K. Pavitra v Union of India (2019), the Court upheld Karnataka's 2018 law on consequential seniority for reserved-category promotees. In Mukesh Kumar v State of Uttarakhand (2020), it held that there is no fundamental right to reservation in promotions, so a State is not bound to provide it.

The judgment has its critics. The 50% ceiling is judge-made, not found in the text of the Constitution, which is why States keep testing it. The Mandal Commission's data rested largely on the 1931 census, the last caste census. The creamy-layer income limit has been revised only occasionally, most recently in 2017. The EWS judgment in 2022 also left open how far the 50% rule binds reservations that are not for backward classes.

## FAQs

### What is the Indra Sawhney case?

Indra Sawhney v Union of India (1992), also known as the Mandal Commission case, is the nine-judge Supreme Court judgment that upheld 27% reservation for OBCs in central government jobs. It required the creamy layer to be excluded, capped reservations at 50% except in extraordinary situations, and held that Article 16(4) does not allow reservation in promotions.

### What is the creamy layer?

The creamy layer is the socially and economically advanced section of the OBCs, which is excluded from reservation so that the benefit reaches the genuinely backward. It includes children of holders of constitutional posts, Group A officers, senior armed forces officers, and families with a gross annual income above ₹8 lakh for three consecutive years.

## Is the 50% ceiling absolute?

No. Indra Sawhney said reservations should not ordinarily exceed 50%, but allowed relaxation in extraordinary situations, such as for people in far-flung and remote areas. The Maratha reservation case (2021) reaffirmed the ceiling, and the EWS judgment (2022) held that it does not apply to the EWS quota.

## Did Indra Sawhney allow reservation in promotions?

No. It held that Article 16(4) allows reservation only at the stage of initial appointment, and let existing promotion quotas run for five more years. The 77th Amendment (1995) then added Article 16(4A), which allows reservation in promotions for SCs and STs.

## How did the EWS judgment treat the 50% rule?

In Janhit Abhiyan v Union of India (2022), the 3:2 majority held that the 50% ceiling is not inflexible and applies to reservations for backward classes, not to the separate 10% EWS quota. The two dissenting judges warned that breaching the ceiling would open the way to further fragmentation.

**Read More:** Article 16 of the Indian Constitution