AILET

The EWS Verdict: Unpacking Janhit Abhiyan v. Union of India (2022)

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For decades, the concept of “reservation” in India has been tied to social and educational backwardness, a tool to remedy historical injustices faced by communities like the Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC). But what about poverty? Can economic status, by itself, be a basis for affirmative action? And can this be done by excluding the communities already covered by reservation?

This was the monumental question before the Supreme Court in the case of **Janhit Abhiyan v. Union of India (2022)**. The case challenged the validity of the **103rd Constitutional Amendment**, which introduced a 10% reservation for the “Economically Weaker Sections” (EWS). The 3:2 split verdict that upheld the amendment has fundamentally reshaped India’s constitutional law on reservation. For any law student, this case is non-negotiable.

What is the 103rd Constitutional Amendment?

In January 2019, Parliament passed the 103rd Amendment to the Constitution. This amendment introduced two new clauses:

1. Article 15(6): This empowers the State to make special provisions (including reservation in educational institutions, both private and public) for the advancement of any “economically weaker sections” of citizens.
2. Article 16(6): This empowers the State to make provisions for the reservation of appointments or posts (up to a maximum of 10%) in favour of these EWS.

There were two revolutionary features in these clauses. First, the *only* criterion for this new reservation was **economic**. Second, both clauses explicitly stated that this reservation would be for those **“other than the classes mentioned in clauses (4) and (5)”** meaning, it specifically *excluded* the SC, ST, and OBC communities from its benefit.

The Core Legal Challenge

A batch of petitions, led by *Janhit Abhiyan*, challenged this amendment, arguing it was unconstitutional and violated the "basic structure" of the Constitution. The petitioners' main arguments were:

- Violates the Basic Structure: The petitioners argued that reservation was always meant to correct social backwardness, not economic status. By making poverty the sole basis for reservation, the amendment attacked the core principle of social justice as envisioned by the Constitution.
- Breaches the 50% Ceiling: The landmark case of Indra Sawhney v. Union of India (1992) (the Mandal case) had firmly established a 50% ceiling on all reservations. This new 10% EWS quota, being in addition to the existing 49.5% (for SC/ST/OBC), would push the total reservation to 59.5%, directly violating this 30-year-old legal precedent.
- Discriminatory Exclusion: This was the most contentious point. The petitioners argued that the amendment was deeply discriminatory. By excluding the SC, ST, and OBC communities from the EWS quota, the government was essentially creating a reservation only for the "forward castes." They argued that poverty exists in all communities, and excluding the poor from SC/ST/OBC communities from this benefit was a violation of the Right to Equality under Article 14.

The Government's Defence

The Union of India defended the amendment as a necessary and valid exercise of Parliament's power.

- Enabling the Poor: The government argued that the amendment was an "enabling provision" that empowered the state to address a genuine social problem: poverty among those in the general category who had no access to any form of affirmative action.
- Economic Criteria is Valid: They contended that using economic criteria as the sole basis for reservation does not violate the basic structure. Parliament, they argued, has the power to amend the Constitution to create new forms of affirmative action to meet evolving social needs.

- Justifying the Exclusion: The government's logic for excluding SC/ST/OBCs was that these communities already had the benefit of existing reservation schemes. The 103rd Amendment was intended to be a separate, non-overlapping category for the poor who were not covered by any other reservation policy.
- 50% Ceiling is Not Inviolable: The government argued that the 50% ceiling from the Indra Sawhney case was not a rigid, unbreakable rule. They claimed it applied only to reservations for socially and educationally backward classes (SC/ST/OBC) and did not prevent Parliament from creating a new, separate quota for a different class of beneficiaries (EWS).

The Supreme Court's Verdict (A 3:2 Majority)

On November 7, 2022, a five-judge Constitution Bench delivered a 3:2 split verdict, upholding the 103rd Amendment.

The Majority View (Justices Maheshwari, Trivedi, and Pardiwala)

The three judges in the majority upheld the amendment on all counts.

- On Economic Criteria: They held that reservation based solely on economic criteria is not a violation of the basic structure. They saw it as a valid tool for affirmative action.
- On the 50% Ceiling: The majority ruled that the 50% ceiling is not inflexible or inviolable and does not form part of the basic structure. They agreed with the government that the ceiling from Indra Sawhney applied only to the "backward classes" and did not stop Parliament from making a new provision for the EWS category.
- On the Exclusion of SC/ST/OBC: This was the most critical finding. The majority held that excluding these communities from the EWS quota is not discriminatory or a violation of Article 14. They reasoned that since these groups are already beneficiaries of "special provisions" (their own reservations), Parliament was justified in creating a separate class for the EWS poor who were not covered by any other affirmative action.

The Dissenting View (CJI Lalit and Justice Bhat)

Chief Justice U.U. Lalit and Justice S. Ravindra Bhat delivered a powerful dissent.

- While they agreed that reservation based on economic grounds is permissible, they found the amendment unconstitutional on the second point.
- Exclusion is Unconstitutional: The dissent held that the exclusion of SC/ST/OBC communities from the EWS quota is a violation of the basic structure. Justice Bhat argued that this exclusion strikes at the “heart of the equality code” and introduces a form of discrimination that the Constitution has never permitted.
- He argued that while the EWS quota is for a new class, you cannot exclude people from that class based on their caste or social origin. Poverty, he noted, is a universal affliction, and barring the poor from SC/ST/OBC communities from this benefit is unconstitutional.

Why This Case is a Must-Know

The *Janhit Abhiyan* judgment is a watershed moment in the history of Indian constitutional law.

1. A New Basis for Reservation: It is the first time the Supreme Court has given a final stamp of approval to reservation based purely on economic status, marking a significant departure from the traditional focus on social and educational backwardness.
2. The 50% Ceiling is Breached: The judgment effectively dismantles the 50% ceiling on reservation, a principle that held the field for three decades. This opens the door for states to potentially expand reservation quotas further.
3. The “Exclusion” Debate: The sharp 3:2 split on the issue of exclusion shows a deep judicial divide. It leaves open a critical debate: Does equality mean creating separate, mutually exclusive buckets for affirmative action, or must all affirmative action be open to all disadvantaged groups, regardless of their background?