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The Hindu : _GS 2/Governance–Page-8

On reservations and the OBC creamy layer

What were the recommendations of the Mandal Commission? What is the criteria for exclusion of the 'creamy layer' of the Other Backward Class? Is the concentration of reservation benefits a concern? What can done for a more equitable distribution?

EXPLAINER

Rangarajan, R

The story so far:

The allotment of Indian Administrative Service (IAS) to Pujá Khedkar as an Other Backward Class (OBC) Non-Creamy Layer (NCL) candidate coupled with multiple disabilities has raised issues surrounding the creamy layer in OBC reservation.

What is the history of reservation?

Articles 15 and 16 guarantee equality to all citizens in any policy of the government and public employment respectively. In order to achieve social justice, they also enable special provisions for the advancement of socially and educationally backward classes or OBC, Scheduled Castes (SC) and Scheduled Tribes (ST). Reservations for SC and ST are fixed at 15% and 7.5% respectively, in jobs, educational institutions and public sector undertakings (PSU) at the central level. It was in 1990, when V. P. Singh was Prime Minister, that 27% reservation for OBC was implemented in central government employment based on Mandal Commission (1980) recommendations. Subsequently in 2005, reservation was enabled for OBC, SC and ST in educational institutions including private institutions. In 2019, 10% reservation was enabled for the Economically Weaker Sections (EWS) among the unreserved category.

What is the creamy layer?

The 27% reservation for OBC was upheld by the Supreme Court in the Indra Sawhney case (1992). It opined that caste is a determinant of class in the Indian context. However, in order to uphold the basic structure of equality, it fixed a cap of 50% for reservation unless there are exceptional circumstances. The court also provided for exclusion of creamy layer from OBC.



High stakes: Aspirants look for their roll numbers before the UPSC civil services exam, on June 16. PTI

The criteria for identifying a person as part of the creamy layer is based on the recommendations of the Justice Ram Nandan Prasad Committee (1993). It is determined by the position, income of an applicant's parents alone. The criteria for belonging to creamy layer is parental income, excluding income from salary and agricultural income, being more than ₹8 lakh in each year in the last three consecutive financial years. Further, the following categories of applicants are also considered as belonging to creamy layer : (a) parents, either of whom entered government service (centre or State) as Group A/Class I officer or parents, both of whom entered as Group B/Class II officers or father, who was recruited in Group B/Class II post and promoted to Group A/Class I before 40 years of age; (b) either of the parents employed in a managerial position in PSUs; (c) either of the parents

holding constitutional posts.

What are the issues?

The recent controversy has raised issues surrounding the inadequacies in the process. There are allegations that some applicants manage to obtain NCL or EWS certificate through dubious means. The same may also be true with respect to disability certificates in order to take benefit of the 4% of seats reserved for persons with disabilities in central government jobs. There are also allegations of applicants and their parents adopting strategies to get around the creamy layer exclusion like gifting of assets, taking premature retirement etc., since the applicant's or his/her spouse's income is not considered for such exclusion. Another contentious issue relates to concentration of reservation benefits. The Bhalal Commission, that

was set up for providing recommendation on sub-categorisation among OBC castes, has estimated that 97% of reserved jobs and seats in educational institutions have been garnered by just around 25% of the OBC castes/sub-castes at the central level. Close to 1,000 of around 2,600 communities under the OBC category had zero representation in jobs and educational institutes. Similar issue of concentration of reservation benefits persists in the SC and ST category as well. There is neither any exclusion based on 'creamy layer' for these communities.

The reservation at present stands at 60%, including the reservation for EWS. Considering societal realities, this higher percentage of reservation is required. It is pertinent to note that as per government replies in Parliament, 40-50% of seats reserved for OBC, SC and ST in the central government remain unutilised.

What can be the way forward?

The foremost requirement is to plug the loopholes in the issue of NCL, EWS and disability certificates. There must be thorough scrutiny to ensure that only eligible applicants obtain these benefits.

The vacancies for reserved communities should be filled without backlogs. Sub-categorisation of reservation may be essential to address the under-representation or non-representation of various communities. Similarly, creamy layer exclusion in SC and ST category, at least for children of Group I/Class A government officials may be considered. These are sensitive matters in which for every argument in favour of such a proposal, there are valid counter arguments that can be advanced. Nevertheless, a discussion should begin on these aspects with all stakeholders to implement them. This would ensure that benefits of reservation reach the more marginalised among underprivileged in successive generations.

Rangarajan, R is a former IAS officer and author of 'Poity Simplified'. Views expressed are personal.

THE GIST

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In midnight reshuffle, President appoints six new Governors

BJP veteran Om Mathur has been appointed Governor of Sikkim, and former IAS officer K. Kailashnathan Lieutenant-Governor of Puducherry

The Hindu Bureau
NEW DELHI

President Droupadi Murmu appointed six new Governors and reshuffled three others, a Rashtrapati Bhavan communique has said.

The communique was issued past Saturday midnight.

BJP veteran Om Mathur has been appointed Governor of Sikkim, and Manipur Governor Anusuiya UIkey has been replaced by Lakshman Prasad Acharya, who has been moved from Sikkim to Assam and given additional charge of Manipur.

Mr. Mathur's appointment comes amid speculation that he is a contender for the post of BJP president.

Another significant appointment is that of former IAS officer K. Kailashnathan – a close aide of PM Narendra Modi when he was



Om Mathur

the Chief Minister of Gujarat – as the Lieutenant-Governor of Puducherry. On June 30, Mr. Kailashnathan stepped down as the Chief Principal Secretary to the Gujarat Chief Minister.

The Rashtrapati Bhavan communique said the incumbent Governor of Assam, Gulab Chand Kataria, will now be the new Governor of Punjab as Banwarilal Purohit's resignation has been accepted. He has also been appointed Administrator of the Union Territory of Chandigarh.

Jharkhand Governor C.P. Radhakrishnan, who

was also holding additional charge of Telangana, has been appointed Governor of Maharashtra.

Former Union Minister for Labour and Employment Santosh Kumar Gangwar will be the new Jharkhand Governor, while former Deputy Chief Minister of Tripura Jishnu Dev Varma will be the new Telangana Governor.

A former Lok Sabha member from Assam, Ramen Deka, has been appointed Governor of Chhattisgarh, while a former Lok Sabha member from Mysore in Karnataka, C.H. Vijayashankar, will be the Meghalaya Governor. In Rajasthan, a BJP leader from Maharashtra, Haribhau Kisanrao Bagde, has been appointed Governor to succeed Kalraj Mishra.

"The above appointments will take effect from the dates they will assume charge of their respective offices," a statement said.

- President Droupadi Murmu has appointed six new governors and reshuffled three others
- **Article 155. Appointment of Governor :** The Governor of a State shall be appointed by the President by warrant under his hand and seal.
- Only Indian citizens above 35 years of age are eligible for appointment to this office. Executive power of the State is vested in Governor.
 - Governor appoints the Chief Minister after an election and the Council of Ministers on the advice of the CM (Article 164).
- The Governor can also summon, prorogue, and dissolve the Legislative Assembly (Article 174)
- The Governor of a state may reserve any Bill for the consideration of the President.

For more details ,please click

here<https://www.nextias.com/blog/governor-of-state/>

The Hindu –Environment(GSIII)-Page-12

CITES eases norms for agarwood export; move to benefit lakhs of farmers from the Northeast

Shiv Sahay Singh
KOLKATA

India has successfully prevented the inclusion of agarwood (*Aquilaria malaccensis*) in the Review of Significant Trade (RST) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The CITES also notified a new export quota of the highly valuable and aromatic resinous wood and oil of the tree from India from April 2024.

Since agarwood is cultivated in different parts of India, especially in the northeastern States, this development is going to benefit lakhs of farmers in certain districts of Assam, Manipur, Nagaland, and



Agarwood extract is used in the preparation of incense, air fresheners, purifiers as well as medicines. SPECIAL ARRANGEMENT

Aquilaria malaccensis was listed in Appendix II of the CITES (a category of species that are not necessarily threatened but whose trade must be controlled) for the first time in 1995 based on India's proposal at CoP9 in 1994.

from the RST for *Aquilaria malaccensis* was achieved based on a non-detriment findings (NDFs) study of the plant species by the Botanical Survey of India (BSI) and the Ministry of Environment Forest and Climate Change (MoEFCC).

the BSI suggested that the harvest of plants should be allowed from home, community gardens, plantations on leased/patta lands, private or community plantations, or any other types of small-scale or large-scale plantations.

However, the NDF added that "harvesting of plants or collection of seeds/seedlings/saplings and other propagules should not be allowed from the existing wild populations or plants in the protected areas and reserve forests".

The export quota recommended by the NDF for 2024-2027 for agarwood chips and powder/sawdust is 1,51,080 kg a year and agarwood oil is 7,050 kg a year.

port quota for a long period and other trade-related restrictions in India caused an increase in informal trade/export of agar chips, oil, powder etc. to the Middle East and other foreign countries. It also caused an increase in costs of agarwood chips and oil in the global market as India is a major agarwood trading nation with which most importing countries have long trade records," the NDF report said.

Despite the export ban, the illegal trade of agarwood and its derivatives has continued in India, with more than 1.25 tonne of chips and six litres of oil/derivatives reportedly seized in six States between 2017 and 2021, a report by TRAFFIC, an NGO,

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- The removal of India from the RST for *Aquilaria malaccensis* was achieved based on a non-detriment findings (NDFs) study of the plant species by the Botanical Survey of India (BSI) and the Ministry of Environment Forest and Climate Change (MoEFCC).

HEADLINES OF THE DAY



Indian Express—Education(GSII)-Page 1

SECONDARY SCHOOL REFORMS

Factor in Class 9-11 performance for Class 12 report card: Govt proposal

State boards' views sought; report to look at classwork too

ABHINAYA HARIGOVIND
NEW DELHI, JULY 28

A STUDENT'S performance — based on both exams and continuing classwork — in Classes 9, 10, and 11 should be counted towards their final marks at the end of Class 12, according to a report recently submitted to the Education Ministry by PARAKH, a unit set up in NCERT last year to standardise assessment by school boards

COMBINED EVALUATION				
Weight	Class 9	Class 10	Class 11	Class 12
Formative	70%	50%	40%	30%
Summative	30%	50%	60%	70%

■ Formative are classroom assessments through holistic progress cards, projects, group discussions, etc; summative are end-term examinations

■ Each class will have two terms for assessment

Weighted marks at the end of higher secondary stage			
Class 9	Class 10	Class 11	Class 12
15%	20%	25%	40%

across the country.

In line with the National Education Policy, PARAKH's man-

date included capacity development, achievement surveys,

CONTINUED ON PAGE 4

A student's performance — based on both exams and continuing classwork — in Classes 9, 10, and 11 should be counted towards their final marks at the end of Class 12, according to a report recently submitted to the Education Ministry by PARAKH, a unit set up in NCERT last year to standardise assessment by school boards across the country.

- National Assessment Centre- PARAKH (Performance Assessment, Review and Analysis of Knowledge for Holistic Development) was set up in NCERT as an independent constituent unit to fulfil the basic objectives of setting norms, standards, guidelines and implement activities related to student assessment along with other tasks as mandated by Para 4.4.1 of the National Education Policy (NEP) 2020. There are four major areas of focus for PARAKH:
 - Capacity Development in Competency Based Assessment
 - Large-Scale Achievement Survey
 - Equivalence of School Boards
 - Holistic Progress Cards for the Foundational, Preparational, Middle and Secondary Stages.

Indian Express—Polity and Governance –GSII–Page 11

Right to be forgotten

India does not have a statutory framework that prescribes the right to be forgotten. The SC has now agreed to hear a case that will likely shape the contours of this right

EXPRESS NEWS SERVICE
NEW DELHI, JULY 28

LAST WEEK, the Supreme Court agreed to hear a case whose outcome will likely shape the contours of the “right to be forgotten”, known in European information privacy regulation as the “right to erasure”, in India. The top court now has to decide whether the right to be forgotten is a fundamental right and, if so, how it relates to other fundamental rights guaranteed by the Constitution of India.

A three-judge Bench headed by Chief Justice of India (CJI) D Y Chandrachud will hear a challenge against a Madras High Court ruling that on February 27 directed legal search portal Indian Kanoon to take down a judgment in a 2014 rape and cheating case. The acquitted man had moved the Madras HC in 2021, saying that he had been denied the citizenship of Australia because his name appears in the judgment that is publicly available on the legal portal.

What is the right to be forgotten?

The right to be forgotten can be loosely described as the right to remove one’s digital footprint (from Internet searches, etc.) where it violates the right to privacy. In May 2014, the Luxembourg-based Court of Justice of the European Union (CJEU), the highest court in matters concerning the application and interpretation of EU law, affirmed that there exists a right to be forgotten.

In what is commonly referred to as the “Google Spain case”, the court ruled on the plea of Spanish lawyer Mario Costeja González to have Google remove information from 1998 regarding the forced sale of his property due to social security debt.

Cite Articles 7 (respect for private and



A restaurant in Pescara, Italy, where a man stabbed his brother in 2008. In 2019, the ‘right to be forgotten’ privacy law was used to force a former editor of an Italian news website to delete a story about the incident. *The New York Times*; (left) In 2014, the EU’s top court ruled in favour of Spaniard Mario Costeja González who asked for Google to remove information about him dating back to 1998. *Reuters*



“revenge porn” to individuals whose personal cases are on the Internet, the right to be forgotten is a crucial remedy.

How is the right interpreted in India?

In India, there is no statutory framework that prescribes the right to be forgotten. However, not all constitutional rights need to be written in black and white. Until the 2017 judgment in Justice K S Puttaswamy v Union of India – in which the apex court explicitly recognised the right to privacy as a fundamental right, it was seen as a facet of the

right without his consent whether truthful or otherwise...” the SC had said. But the ruling drew a distinction between the right to be left alone and the publication of public records, such as court decisions. “This is for the reason that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by press and media among others,” the two-judge Bench had held.

More recently, several High Courts have passed rulings that often conflict with one another.

■ In *Dharamraj Bhanushankar Dave vs State Of Gujarat* (2017), the petitioner had asked the Gujarat HC to remove details of his acquittal in a murder and kidnapping case, saying that it had come up during background checks while he was applying for an Australian visa. The court refused to grant him relief, holding that court orders are allowed to be in public domain.

■ However, in *[Name Redacted] vs The Registrar General, the Karnataka HC* in 2017 ensured that the name of the petitioner would be protected in an annulment case. Although the court did not substantially engage with jurisprudence on the right to be forgotten, it said that the ruling is in keeping “with the trend in the Western countries where they follow this as a matter of rule...in sensitive cases involving women in general...”

■ In 2021, the Delhi HC extended the right to be forgotten to even a criminal case by allowing a ruling involving Jorawat Singh Mundy, an American law student, to be taken down from search results. Mundy was acquitted in a customs case involving narcotics. The HC cited “the irreparable prejudice which may be caused to the Petitioner, his social life and his career prospects” as reason for taking down the details of the case.

- the Supreme Court agreed to hear a case whose outcome will likely shape the contours of the “right to be forgotten”, known in European information privacy regulation as the “right to erasure”, in India.

What is the right to be forgotten?

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- In India, there is no statutory framework that prescribes the right to be forgotten
- the 2017 judgment in Justice K S Puttaswamy v Union of India — in which the apex court explicitly recognised the right to privacy as a fundamental right, placing it as a facet of the right to life, right to equality, and the right to freedom of speech and expression — there were also questions on the right to privacy. A concurring opinion in the Puttaswamy ruling by Justice S K Kaul mentions the right to be forgotten.

HEADLINES OF THE DAY



PIB-IR(GSII)

Prime Minister's Office

India- Saudi Arabia hold first meeting of the High-Level Task Force on Investments

The High-Level Task Force was constituted following the decision taken by PM Modi and Saudi Crown Prince and PM in September 2023

Principal Secretary to PM reiterates the firm intention of the Government of India to provide active support to Saudi investments of the order of US\$ 100 billion

Constructive discussions held on investments opportunities in public and private sector in areas like petroleum, renewable energy, telecom and innovation

Posted On: 28 JUL 2024 11:37PM by PIB Delhi

- India- Saudi Arabia hold first meeting of the High-Level Task Force on Investments
- The High-Level Task Force is a special body to facilitate bilateral investments following the decision taken by Prime Minister Shri Narendra Modi and Crown Prince and Prime Minister His Royal Highness Prince Mohammed bin Salman bin Abdulaziz Al Saud during the latter's State Visit to India in September 2023. It comprises of senior officials from both sides, including CEO Niti Aayog, Secretaries for Economic Affairs, Commerce, MEA, DPIIT, Petroleum and Natural Gas, Power from India.