

The Creamy Layer Concept for SC/ST Quotas

Context: The Union Government filed an affidavit in the Supreme Court opposing a Public Interest Litigation (PIL) that sought to extend the creamy layer income-based exclusion to Scheduled Castes (SCs) and Scheduled Tribes (STs).



The Creamy Layer Concept for SC/ST Quotas

- The creamy layer refers to a social and economic filter used in India's affirmative action framework to identify and exclude relatively affluent or socially advanced members within a reserved category from availing quota benefits.
- First formalized by the judiciary in the landmark **Indra Sawhney (1992) case**, it uses income, asset, and occupational benchmarks (such as a ₹8 lakh annual family income threshold) to ensure reservation benefits reach the most disadvantaged sections.

Current Creamy Layer Applicability:

- **Exclusive Applicability to OBCs:** The creamy layer test applies to Other Backward Classes (OBCs) for reservations in public employment and educational admissions.
- **Exemption for SCs and STs:** The principle does not apply to Scheduled Castes and Scheduled Tribes,

whose reservation criteria stem directly from Article 341 and Article 342 of the Constitution based on historical social backwardness and untouchability.

- **Judicial Precedents:** Supreme Court rulings in Indra Sawhney (1992) and Ashoka Kumar Thakur (2008) explicitly affirmed that the creamy layer doctrine is restricted to OBCs and has no legal application to SCs/STs.
- **Recent Judicial Observations:** A 7-judge Constitution Bench permitted sub-classification within SCs/STs, during which four judges individually expressed opinions favoring the extension of the creamy layer principle to SC/ST quotas—reigniting the current legal debate.

Arguments FOR Applying the Creamy Layer to SCs/STs:

- **Preventing Elite Capture:** Affluent and second/third-generation beneficiaries within SC/ST categories monopolize reservation benefits, depriving poorer, rural members of education and job opportunities.

Example: Children of high-ranking civil servants or politicians securing reserved seats over first-generation rural applicants.

- **Promoting True Substantive Equality:** Extending affirmative action only to those facing both social stigma and financial distress ensures the poorest sections receive priority.
- **Judicial Endorsement in Sub-Classification:** Multiple Supreme Court judges in the 2024 sub-classification verdict observed that advanced individuals who achieved social mobility should leave quota benefits for the truly disadvantaged.
- **Adapting to Socio-Economic Mobility:** Economic empowerment provides educational access and institutional capital, reducing the vulnerability of affluent families to systemic barriers.
- **Extending Income-Based Fairness:** Similar to OBC

and Economically Weaker Section (EWS) quotas, introducing a means test prevents perpetual reliance on reservations across generations.

Arguments AGAINST Applying the Creamy Layer to SCs/STs:

- **Social Disadvantage vs. Economic Status:** SC reservations were created to compensate for centuries of untouchability and social exclusion, while ST quotas address geographical isolation and distinct cultural vulnerability—neither of which is defined by income.

Example: A wealthy SC officer continuing to face housing discrimination or social bias despite high income.

- **Wealth Does Not Erase Caste Stigma:** Economic mobility does not eliminate caste prejudice in social interactions, marriage markets, or administrative environments.
- **Constitutional Mandate and Separation of Powers:** Under Articles 341 and 342, only Parliament has the constitutional authority to modify Presidential lists of SCs and STs; courts cannot alter them via judicial mandates.
- **Risk of Unfilled Reserved Vacancies:** Imposing income caps could lead to a shortage of eligible candidates for higher-level public jobs and academic posts, worsening representation deficits in state machinery.
- **Adequacy of Existing Schemes:** Targeted developmental and welfare schemes already employ means testing to assist low-income families, making income filters inside constitutional quotas redundant.

Suggestions:

- **Utilizing Sub-Classification Instead of Total Exclusion:** Leverage the 2024 Supreme Court ruling permitting states to create sub-categories within SC/ST lists to prioritize the most backward communities without imposing blanket income bans.

V.KUMAR'S ACADEMY

- Comprehensive Empirical Data Collection: Conduct a comprehensive national socio-economic survey to measure actual social mobility and representation gaps across different SC/ST sub-castes before considering major policy changes.
- Parliamentary Deliberation & Consensus: Ensure any modification to SC/ST reservation criteria originates through transparent legislative debate in Parliament rather than judicial directives.
- Strengthening First-Generation Support: Provide targeted scholarships, coaching, and educational infrastructure to first-generation learners to help them compete effectively for reserved seats.
- Enforcing Anti-Discrimination Measures: Address systemic social prejudice and workplace bias through strict enforcement of constitutional safeguards, ensuring reservation goals of social equality are fully realized.