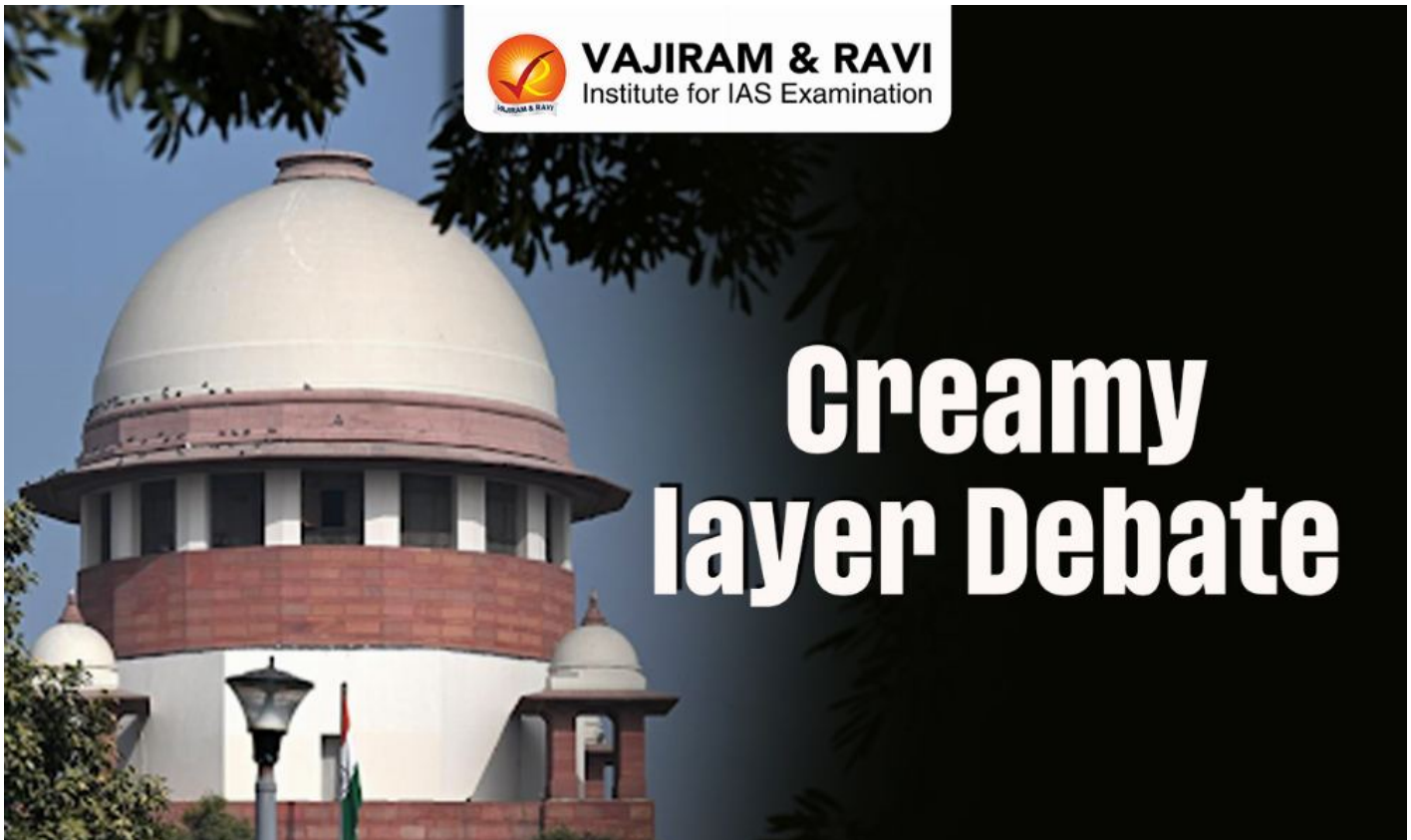


Creamy Layer Debate: Why Creamy Layer Issue Returned to Supreme Court

April 30, 2026 • vajiramandravi.com



Creamy Layer Debate Latest News

- Fresh petitions have been filed before the Supreme Court seeking to **extend the creamy layer principle to SC/ST reservations**.
- These petitions draw their claimed constitutional backing from the same source—the seven-judge bench ruling in *State of Punjab v. Davinder Singh* (2024). This has revived a major constitutional debate on whether income can replace caste as a basis of disadvantage.

Creamy Layer

- The creamy layer refers to the more economically and socially advanced sections within a backward community — those who have already benefited enough and arguably no longer need reservation.
- Currently, the creamy layer concept **applies to OBCs** but **not** to SCs and STs.

Origin of the Creamy Layer Principle

- The creamy layer doctrine entered Indian constitutional law through the landmark ***Indra Sawhney v. Union of India (1992)*** judgment — also known as the Mandal Commission case.
- The Supreme Court upheld OBC reservations but ruled that the more advanced sections — the “creamy layer” — should be excluded from reservation benefits.

How Was Creamy Layer Originally Defined

- The 1993 Office Memorandum (OM) that followed *Indra Sawhney* identified creamy layer exclusion **primarily through status**, not just income.
- The key criterion was whether a parent held a Class I or Class II government post — recognising that institutional power and social status compound across generations, not just wealth.

How Was This Diluted Over Time

- A 2004 clarificatory letter by the DoPT began treating PSU salaries alone as a disqualifying criterion — shifting the focus purely to income.
- This was subsequently struck down by the Supreme Court in ***Union of India v. Rohith Nathan*** (March 2025), which held that parental salary alone cannot determine creamy layer status and restored the original status-based logic of the 1993 OM.

Creamy Layer Vs. Sub-Classification

- Sub-classification means dividing a reserved category (like SCs) into sub-groups and giving **preferential treatment** to the most marginalised sub-groups within that category.
- This is **different from creamy layer exclusion** — sub-classification does not remove anyone from reservation eligibility; it just prioritises within the category.

What is the Current Issue

- Two recent petitions have triggered the debate:
 - One seeks exclusion of the “creamy layer” from SC/ST quotas
 - Another proposes income-based prioritisation within these reservations
- Both rely on interpretations of the *Davinder Singh* judgment, though this interpretation is widely debated.

The 2024 *Davinder Singh* Judgment — What Did It Actually Say

- In *State of Punjab v. Davinder Singh (2024)*, a seven-judge bench of the Supreme Court permitted states to **sub-classify Scheduled Caste communities** — to direct reservation benefits toward the most marginalised within the SC list.
- Four of the seven judges made passing observations that creamy layer logic might apply to SC/ST groups as well. The new petitions are based on these observations.

Why Income Cannot Simply Replace Caste-Based Disadvantage — The Ambedkar Argument

- The most powerful **objection** to applying the creamy layer to SC/ST communities comes from Dr. B.R. Ambedkar himself.
- In his 1932 note to the **Lothian Committee** and at the **Mahar Conference** of 1936, Ambedkar argued that excluding wealthy or educated individuals from the category of untouchables was “a totally erroneous view.”
- His reasoning was simple but profound — economic progress and social emancipation travel on different tracks.
- An educated, propertied Mahar (a Dalit sub-community) still cannot open a shop without customers leaving when his caste becomes known.
- A salary does not erase untouchability. The creamy layer doctrine collapses this crucial distinction.

What Does Data Say

- Data presented in *Jaishri Patil v. Union of India* (2021) showed that even Group D government employees were rendered ineligible for post-matric scholarships due to income-testing — demonstrating how blunt an instrument income is.
- Various studies showed that elite capture of quota benefits is a myth — the positive impact of reservation is actually concentrated among less-educated SC members in rural areas.
- A family earning ₹6 lakh a year cannot be equated with one earning ₹24 lakh simply because both exceed a common income ceiling — yet that is what a uniform income test does.
- This creates a **“creamy layer trap”** — the income bar is set low enough to exclude the barely economically stable, while the social burdens that reservation was designed to address persist regardless of salary bracket.

Why the SC/ST Case is Fundamentally Different from OBCs

- The case for creamy layer exclusion was always weaker for SC/ST communities than for OBCs for a crucial reason.
- OBC status was defined by **social and educational backwardness** — a more fluid category.
- SC/ST status, on the other hand, is defined by inclusion in the Presidential list under **Articles 341 and 342 of the Constitution** — and this inclusion was never conditioned on poverty.
- It was based on the experience of **untouchability and tribal exclusion**, which persist regardless of economic status.

What Should Be Done — The Way Forward

- The **Rohith Nathan judgment** (2025) creates a narrow but real opportunity for legislative recalibration.
- Parliament has both the constitutional authority and the democratic obligation to:
 - Clearly establish that sub-classification and creamy layer exclusion are **distinct instruments** with different legal bases.

- Clarify that the creamy layer has no application to SC/ST communities whose inclusion in the Presidential list was never based on economic criteria.
- Develop a framework that **measures social backwardness** by the subordination communities continue to face — not merely by income.

Source: TH | TH

Source: <https://vajiramandravi.com/current-affairs/creamy-layer-debate/>

© Vajiram & Ravi. For personal use only.