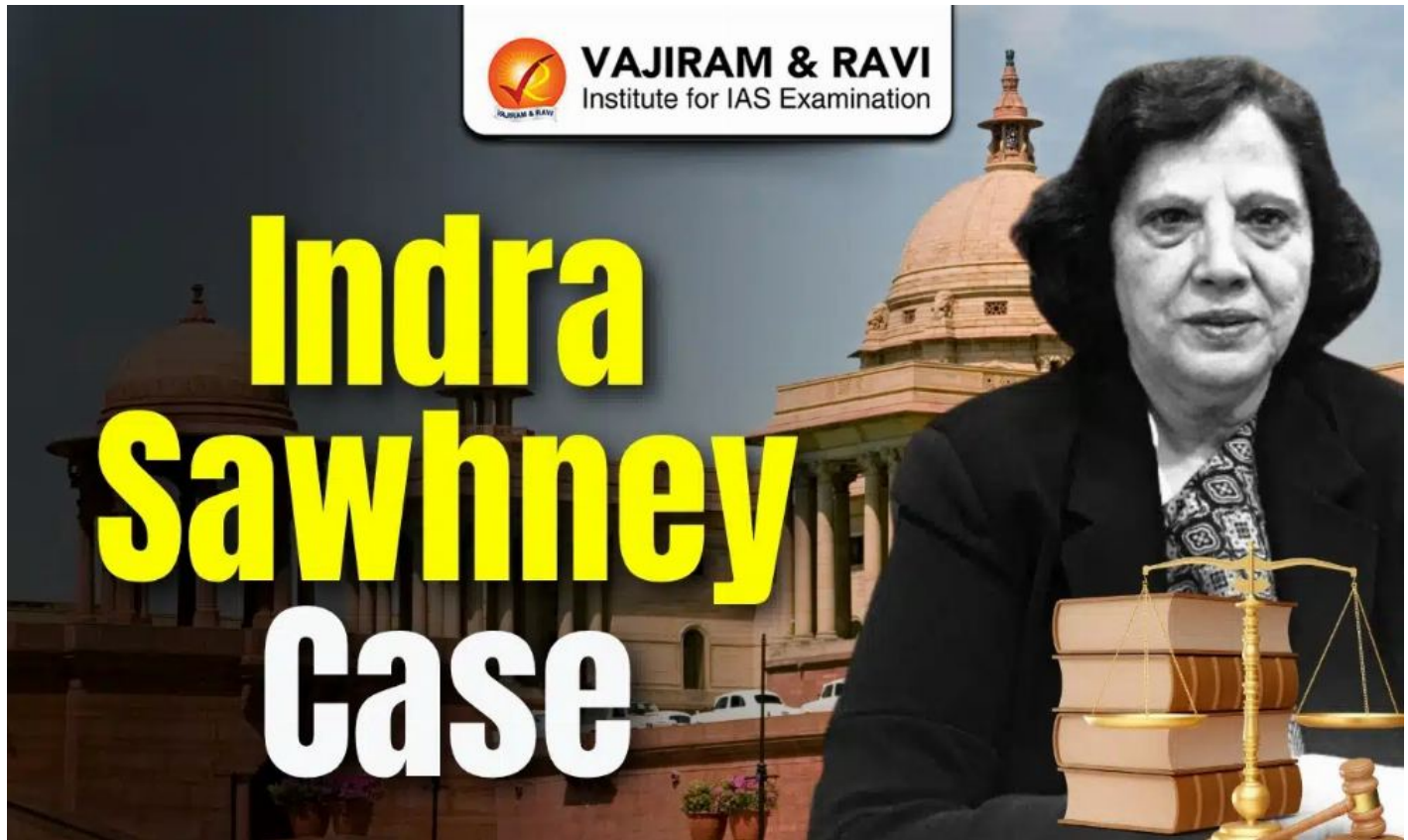


Indra Sawhney Case 1992, Issues, Judgement, Creamy Layer

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The **Indra Sawhney Case** 1992 is officially known as the *Indra Sawhney v. Union of India and Mandal Commission Case*. It is one of the most significant constitutional judgments on reservation policy in India. It was decided on 16 November 1992 by a nine judge bench of the Supreme Court. The case examined the constitutional validity of the Mandal Commission recommendations granting 27% reservation to Socially and Educationally Backward Classes (SEBCs) in central government services. The judgement clarified the scope of Article 16(4), introduced the Creamy Layer principle, fixed the 50% reservation ceiling and reshaped reservation jurisprudence in India.

Indra Sawhney Case Historical Background

The historical background of the Indra Sawhney Case emerged from constitutional debates, backward class commissions and political conflicts over reservations after independence.

- **Constitutional Basis of Reservation:** **Article 16** (4) empowered the State to make provisions for backward classes inadequately represented in public services. Dr. B. R. Ambedkar supported special provisions for historically excluded communities while maintaining equality of opportunity under Article

16(1).

- **Kaka Kalelkar Commission:** The First Backward Classes Commission, headed by Kaka Kalelkar, was established in 1953 under Article 340 to identify socially and educationally backward classes and recommend welfare measures including reservations.
 - In the Kaka Kalelkar Commission Report 1955, Commission identified 2399 castes as backward classes and recommended reservation measures. However, the Central Government rejected the report in 1961 because caste was considered an unsuitable primary basis for identifying backwardness.
- **State Level Reservation Policies:** Southern states such as Tamil Nadu and Karnataka continued providing reservations to backward classes before and after independence. Different states created their own backward class lists and commissions under Articles 15 and 16.
- **Mandal Commission 1979:** The Second Backward Classes Commission was established on 1 January 1979 by the Janata Party government led by Morarji Desai and chaired by B. P. Mandal.
 - Objectives: The Commission was tasked with identifying Socially and Educationally Backward Classes and recommending measures for improving their representation in public employment and administration.
 - Findings: The Commission estimated OBC population at nearly 52% of India's total population and recommended 27% reservation in central government jobs in addition to the existing 22.5% quota for **SCs** and **STs**.
 - Indicators Used: The Commission adopted 11 indicators divided into social, educational and economic categories. Social indicators carried 3 points, educational indicators 2 points and economic indicators 1 point, totaling 22 points.
 - Criteria for Backwardness: Social backwardness, low educational attainment, poor housing, dependence on manual labour, high dropout rates and low family assets were used to determine backward class status across communities.
- **Political Delay in Implementation:** Although the Mandal Commission submitted its report in December 1980, successive governments delayed implementation until the Janata Dal government led by V. P. Singh revived it in 1990.
- **Office Memorandum of 1990:** On 13 August 1990, the Central Government issued an Office Memorandum granting 27% reservation to SEBCs in central services, leading to nationwide anti reservation protests and violent unrest.
- **Narasimha Rao Government Modification:** In 1991, the government led by P. V. Narasimha Rao modified the reservation policy by adding economic preference within OBC quota and introducing an additional 10% quota for economically weaker sections.
- **Nationwide Agitation and Litigation:** Violent protests, student self immolations and social tensions followed the implementation announcement. Multiple writ petitions challenging the policy were transferred to the **Supreme Court** on 11 September 1990.

Indra Sawhney Case Issues Involved

The Supreme Court examined constitutional questions relating to reservation, backward class identification and limits on State power under Articles 14, 15 and 16.

- **Scope of Article 16(1) and 16(4):** The Court examined whether Article 16(4) was merely an exception to equality under Article 16(1) or an independent enabling provision permitting reservation for backward classes.
- **Meaning of Backward Class:** The Court considered whether “Backward Class” under Article 16(4) referred only to socially and educationally backward classes or also included broader categories suffering inadequate representation.
- **Caste as Identification Criterion:** One major issue was whether caste alone could constitute a backward class and whether caste based identification violated equality principles under Articles 14 and 16.
- **Economic Criteria Debate:** The validity of using purely economic criteria for reservation and the constitutional validity of the additional 10% quota for economically weaker sections were examined.
- **Reservation Ceiling Limit:** The Court considered whether reservations exceeding 50% violated constitutional equality and whether adequate representation differed from proportionate representation.
- **Sub Classification of Backward Classes:** The issue involved whether backward classes could be divided into backward and more backward groups to ensure equitable distribution of reservation benefits.
- **Reservation in Promotions:** The Court examined whether Article 16(4) permitted reservations only in initial appointments or also in promotions within government services.
- **Executive versus Legislative Power:** Another issue concerned whether reservation policies could be introduced through executive orders or required legislation passed by Parliament or State Legislatures.
- **Judicial Review of Reservation Policies:** The Court considered the extent to which judiciary could review backward class identification and reservation percentages fixed by governments and commissions.
- **Petitioners’ Arguments:** Senior advocates including Nani Palkhivala and K. K. Venugopal argued that caste based reservation harmed merit, promoted social division and violated equality principles.
- **Respondents’ Arguments:** The Union Government and supporting states argued that reservation was a tool of historical compensation intended to address centuries of social discrimination and exclusion from administration.

Indra Sawhney Case Judgment

The Supreme Court delivered a historic 6:3 majority judgment on 16 November 1992 that permanently shaped India’s reservation framework and constitutional interpretation.

- **Nine Judge Constitutional Bench:** The bench consisted of Chief Justice M. H. Kania and Justices M. N. Venkatachaliah, S. Ratnavel Pandian, T. K. Thommen, A. M. Ahmadi, Kuldip Singh, P. B. Sawant, R. M. Sahai and B. P. Jeevan Reddy.
- **Majority and Dissent Ratio:** The judgment was delivered by a 6:3 majority. Justice B. P. Jeevan Reddy authored the leading opinion supported by Justices Kania, Venkatachaliah and Ahmadi.
- **Validity of Mandal Commission Reservation:** The Court upheld the constitutional validity of 27% reservation for SEBCs in central government jobs based on the Mandal Commission recommendations.
- **Article 16(4) Interpretation:** The Court ruled that Article 16(4) was not an exception to Article 16(1) but an enabling provision intended to achieve substantive equality through affirmative action.
- **Reservation Limited to Initial Appointments:** The majority held that reservations under Article 16(4) applied only to appointments and not to promotions, citing administrative efficiency under Article 335.

- **Rejection of Economic Reservation:** The Court struck down the additional 10% reservation for economically weaker sections because economic criteria alone could not define backwardness under Article 16(4).
- **Judicial Recognition of Caste:** The Court accepted caste as an important indicator of social backwardness in Indian society while clarifying that caste need not be the sole criterion.
- **Executive Power Upheld:** The Court ruled that reservation policies could validly be introduced through executive orders and were not restricted only to parliamentary legislation.
- **Reliance on Earlier Cases:** The Court referred to landmark cases including *M. R. Balaji v. State of Mysore* and *State of Kerala v. N. M. Thomas* while interpreting reservation jurisprudence.

Also Read: [Non Creamy Layer Principle](#)

Concepts Introduced in Judgment

The judgment introduced several foundational principles that continue to govern reservation law and constitutional interpretation in India today.

- **Creamy Layer Principle:** The Court directed exclusion of socially advanced members of OBCs from reservation benefits to ensure that truly backward sections receive affirmative action advantages. High ranking government officers, wealthy professionals and economically advanced families were considered outside the backward class because they no longer suffered social disadvantages.
- **50% Ceiling Rule:** The Court held that reservations under Article 16(4) should ordinarily remain below 50% to preserve equality and prevent excessive reservation.
- **Exceptional Circumstances Doctrine:** The Court allowed reservation beyond 50% only in extraordinary situations involving unique demographic or social conditions requiring special constitutional treatment.
- **Adequate Representation Principle:** The judgment clarified that Article 16(4) aimed at ensuring adequate representation in services and not proportional representation according to population percentages.
- **Sub Classification of OBCs:** States were permitted to classify backward classes into backward and most backward categories to prevent dominant OBC groups from monopolising reservation benefits.
- **Vertical Reservations:** Reservations for SCs, STs and OBCs under Article 16(4) were recognised as vertical reservations because they apply to distinct social categories.
- **Horizontal Reservations:** Reservations for women, persons with disabilities, veterans and transgender persons were recognised as horizontal reservations cutting across vertical categories.
- **Carry Forward Rule:** The Court upheld the carry forward rule for unfilled reserved vacancies but directed that the 50% ceiling must still be respected annually.
- **Administrative Efficiency Principle:** Referring to Article 335, the Court advised against reservations in highly technical and specialised posts requiring exceptional skill and efficiency.

Indra Sawhney Case Dissent

Three judges delivered dissenting opinions disagreeing with major conclusions of the majority judgment regarding caste, reservation scope and backwardness identification.

- **Judges in Minority Opinion:** Justices T. K. Thommen, Kuldeep Singh and R. M. Sahai formed the minority dissenting bench.
- **Article 16(4) as Complete Code:** The dissenting judges argued that all forms of reservation were covered exclusively under Article 16(4) and not under Article 16(1).
- **Opposition to Caste Criterion:** The minority disagreed with the majority view that caste could constitute a backward class and opposed caste as the dominant identifying factor.
- **Economic Backwardness Emphasis:** Justice Kuldeep Singh strongly argued that poverty and economic disadvantage were the real causes of backwardness rather than caste identity alone.
- **Inadequate Representation Standard:** The dissenting judges believed inadequate representation in public services should be the principal test for determining backward classes under Article 16(4).
- **Objection to Sub Classification:** Justice S. Ratnavel Pandian differed from the majority on sub classification of OBCs and separate quotas based on varying degrees of backwardness.
- **Broader Equality Concern:** The dissent reflected concern that excessive caste based reservations could weaken constitutional equality and shift reservation policy away from individual merit considerations.

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