

The Development of Reservation Policies Under Article 15 of the Indian Constitution and Social Justice in India

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Abstract

This article examines the evolution and impact of reservation policies under Article 15 of the Indian Constitution and their role in advancing social justice in India. The historical context of inequality in India, rooted in the varna and caste systems, has profoundly influenced contemporary constitutional provisions. Article 14 guarantees equality before the law, while Article 15 prohibits discrimination on grounds such as religion, race, caste, sex, or place of birth. Article 15(1) and 15(2) collectively aim to eliminate discriminatory practices in public life and access to public places. Article 15(3) allows for special provisions for women and children, and Article 15(4) provides a constitutional basis for affirmative action to benefit socially and educationally backward classes, Scheduled Castes (SCs), and Scheduled Tribes (STs). Recent amendments, including Article 15(5) and the 103rd Constitutional Amendment Act introducing Article 15(6), expand reservations to private educational institutions and reinforcing caste identities, socio-economic disparities within reserved categories, and the balance between affirmative action and meritocracy persist. The researcher has emphasized the reservation policies aim to enhance social equity and opportunities for marginalized communities, their effectiveness is complex and influenced by ongoing socio-economic factors. The role of the judiciary, particularly the Supreme Court, remains pivotal in interpreting and implementing these provisions to ensure true equality and social justice.

The notion of equality was a complex phenomenon in the ancient era. It existed with the varna system which was later developed in the form of a caste system. In ancient times the concept of equality has been traced back to the spiritual text like Upanishads where it was provided that all individuals were fundamentally equal. The caste system has evolved from the varna system. It was a social phenomenon governed in the society based on birth, lives, standards and the occupation of a person. In this varna system there were certain communities such as Dalits, Harijans, who were treated as untouchables. It has affected social interactions and communication, political structure and economic opportunities in the society. They were deprived from their right to life, liberty and equality. It has resulted into the caste-based discrimination that is car season in India.

The Constitution of India guarantees equality under various provisions especially from Article 14 to 18. It is one of the multi-dimensional principles of rule of law and democracy. Article 14 ensures the principle of equality for all person citizen or non citizens have equal opportunities and status as conferred in the preamble of constitution of India. It guarantees equality before law and equal protection of law to all persons. The term person does include citizen as well as noncitizen. It is neutral in nature therefore it

covers transgender as well.¹ This judgement is considered as a major step towards gender equality in India. Now, it is extended to the class of transgenders as well. Wherein the Supreme Court held that the transgenders are treated as socially and economically backward classes does our entitles to reservation in case of education and employment provided under the provisions of the Constitution.

Article 15 of Indian Constitution has different faces of equality. Therefore, there is a close a close nexus between article 14 and 15 of the Constitution. Article 15(1) of the Indian Constitution is a provision that prohibits discrimination by the State against any citizen on the grounds of religion, race, caste, sex, or place of birth.² Is emphasizes that it is only when the discrimination rest purely on the ground of race, religion, cast, sex or place of birth. Article 15 comes into picture when the word ‘only’ means that these grounds should not be given a preference or disability. In *D. P Joshi v. State of Madhya Bharat*,³ popularly known as the first capitation fees case, Supreme Court held that there is difference in the word ‘place of birth’ and ‘residence’. Therefore, the payment of capitation fees incurred from non-Madhya Bharat student was held valid and not violative to article 15 of the Constitution. Moreover, the discrimination based on one or more of the above grounds or some other grounds, cannot be challenged as violative to Article 15 (1).⁴ For instance, the special laws, such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Rights of Persons with Disabilities Act, 2016, and various others, provide specific remedies and protections against discrimination on grounds not covered by Article 15(1).

The object of Article 15(2) is to prohibit discrimination as to use or access to public places.⁵ The basic object is to of its means which were quite prevalent in a caste-based system of the society. It fosters social integration and prevents the exclusion of individuals from public places. It has close relationship with Article 17 of the Constitution.⁶ They must read together as their basic object is same. Here, Article 15(1) prohibits the general discrimination on the specified grounds of the State, Article 15(2) specifically prohibit the discrimination with respect to public places and services. Both provisions work together to ensure that discrimination does not occur in various aspects of public life on the part of the state.

Article 15(3) provides special provisions for the protection of rights of women and children. This clause is an exception to Article 15(1) and (2) as well. The basic object is to empower the status and position of women in India. Similarly, Article 42 of the Constitution which means to implement the directive principles of the state policy provides that the state shall make provision for securing just and human conditions of work and for maternity relief is not violate Article 15 (1). There are various laws enacted within the purview of Article 15(3) of the Constitution. The 73rd Constitution Amendment Act,1992 and 74th Constitution Amendment Act,1992 by the virtue of which Article 243- D and 243-T, special provisions for reservation in favour of women not less than one third of the total seats in the Constitution of Panchayat and municipalities has been provided. In another instances, in *K. Krishna Murthy (Dr.) v.*

¹ In National Legal Services Authorities v. Union of India, AIR 2014 SC 1863

² Article 15(1) provides that, "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth."

³ AIR 1955 SC 334

⁴ Chitra v. Union of India, AIR 1970SC 35

⁵ Article 15(2) provides that, "No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-(a)access to shops, public restaurants, hotels and places of public entertainment; or(b)the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

⁶ Article 17 provides that "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law."

*Union of India*⁷, wherein the Supreme Court upheld the Constitutional validity of the reservation policies for other backward classes in the elections of local bodies in municipalities and panchayat. This judgement elucidated various aspects of reservations including equality, justice, exclusion of the creamy layer and implementation of reservations on the basis of fair and transparent process on the basis of the report of Mandal commission. Similarly in *Vijay Lakshmi v. Punjab University*,⁸ Supreme Court emphasizes the reservation policies for women in educational institutions. The Court observed that reservation for women is a crucial issue for achieving gender equality in India thus reservation policies must be aligned with the principles of equality and justice. In this case reservation policy provided for the post of Principal and teachers in favour of women in colleges for girls was held valid and does not violate Article 14, 15 and 16 of the Constitution.

Article 15 (3) has attracted the provisions of criminal law as well. Wherein Supreme Court has struck down the section 497 of IPC. Recently, in *Joseph Shine v. Union of India*,⁹ the petitioner argued that section 497 of IPC is violative to the Article 14, 15 and 21 of the Constitution which is provided with the Constitutional rights of equality and personal freedom. The Court held that Section 497 of IPC is discriminatory and unconstitutional as it criminalises only the actions of men and not of women. This is a case of gender bias and against the principles of gender equality enshrined under various provisions of the Constitution. This judgement is now considered as one of the fine examples of the Constitutional developments, legal reforms and social transformations in India.

Further, the incorporation of Article 15(4) marked a significant step towards addressing historical injustices and promoting social justice in India. The history of Article 15(4) traced backed to the verdict of *State of Madras v. Champakam Dorairajan*, which was a landmark moment in Indian constitutional history.¹⁰ In this case, the Supreme Court invalidated the reservation policy issued by the government of Madras for educational institutions, ruling that it violated Article 15(1) of the Constitution, which prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. Accordingly, it had limited the scope for affirmative action, as it was interpreted in the various provisions of equality including directive principles of the state policies under the Constitution of India. In response to this judgment, the Indian Parliament enacted Article 15(4) through the Constitution (First Amendment) Act of 1951.¹¹ This provision was designed to provide a Constitutional basis for special provisions and reservations for socially and educationally backward classes, Scheduled Castes, and Scheduled Tribes, effectively overturning the Supreme Court's ruling and allowing affirmative action measures aimed at promoting equality and justice for marginalized communities. Here, Article 15(4) and Article 29(2) of the Indian Constitution both address aspects of equality and discrimination, but they focus on different dimensions of these issues and operate in distinct contexts. Because Article 29(2) ensures the rights of minorities wherein no citizen shall be denied admission funds on grounds of religion, race, caste, language, or any of them to any educational institution maintained by the state or receiving aid out of state.¹² However, Article 29(2) is an exception

⁷ AIR (2010)7 SCC 202

⁸ AIR 2003 SC 333

⁹ AIR 2018 (2) SCC 189

¹⁰ Air 1951 SC 226

¹¹ Article 15(4) provides that, nothing in this Article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

¹² Article 29(2) provides that, "No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them."

to Article 15(4) of the Constitution. Both of these articles highlight the State commitment in advancing the interest of marginalized communities.

Subsequently, in *Balaji v. State of Mysore*, case the validity of Article 15(4) was challenged.¹³ In this case Supreme Court has laid down various principles with respect to the constitutional validity of Articles 15 (4). The Court held that, the term 'backwardness' is referred to both social and educational only. It has equated the social and educational backwardness to that of the Scheduled Caste and Scheduled Tribes. The backwardness should be comparable and need not be exactly similar to the scheduled caste and schedule tribes. Moreover, food observed that caste maybe a relevant factor to determine the test of backwardness but it cannot be the sole criteria. Thus, the factors such as poverty occupation place of habitation etc. can be considered to decide backwardness. The Court further held that Article 15 (4) includes the term 'cast' and 'classes' which are not the same. This judgement has shown its great impact on further judicial decisions in India.

In *Chitrlekha v. State of Mysore*,¹⁴ Supreme Court observed that the families which are running the small occupations and petty businesses such as agriculture, crafts etc. and their family income is less than Rs.1200 per year would be treated as backward class. In another instances of *State of Uttar Pradesh v. Pradeep Tandon*,¹⁵ Supreme Court upheld the validity of reservations of seats to the candidates belonging to the hilly areas of Uttarakhand. This is a landmark judgment as it addresses the historically disadvantaged sections of society to provide affirmative action and the constitutional guarantees of equality, ensuring that reservation policies are both effective in promoting social justice and compliant with fundamental rights. One more significant principle was laid down in Balaji's case is about the quantum of reservation wherein the Supreme Court held that the reservation provided under 15 (4) shall not go beyond 50%. The issue of quantum of reservation again was considered by the Apex Court in *Indra Sawhney v. Union of India*, the Court reaffirmed the principle of Balaji and held that the reservations for SC's and ST's are Constitutionally permissible however the total reservations for SC's, ST's, and OBC's altogether should not exceed 50% of the total seats in educational institutions or in public employment.¹⁶ This 50% ceiling was established to ensure that merit and equality are maintained while implementing affirmative action. The Court also emphasized that if reserved category students gets selected in open competition on the basis of their merit then they shall not be counted as a candidate from served category but would be considered as a general category candidate so that the principle of merit and uniform treatment should be maintained. This case then became the precedent on the extent and limits of reservations and has shaped and developed the jurisprudence of around affirmative action and equality in India. Subsequently, in *Ashok Kumar Thakur v. Union of India*, while deciding the validity of 93rd Constitutional Amendment Act,2005 as Constitutional observed that "reservation is one of the means to preserve and promote the essence of equality due to which disadvantaged groups can be brought to the forefront of civil life."¹⁷

Moreover, there were different issues raised with respect to reservation policies in India. In *D.N.Chanchala v. State of Karnataka*,¹⁸ university wise allocation of seats of admission in medical colleges was held as valid and constitutional. In *Mohan Singh Chawla v. Punjab*

¹³ AIR 1963 SC 649

¹⁴ AIR 1964 SC 1823

¹⁵ AIR 1975 SC 563

¹⁶ AIR 1993 SC 477

¹⁷ (2008)6 SCC 1138

¹⁸ AIR 1971 SC 1762

University, Chandigarh,¹⁹ the Supreme Court held that the university wise preference is permissible provided it should be relevant and reasonable. Recently, in *National Legal Services Authority v. Union of India*,²⁰ the Supreme Court discussed the issues of backwardness with respect to transgender individuals. The Court emphasis that this section of society has been marginalized since ancient times and are subjected to socio-economic disadvantages due to discrimination and societal stigma. They are often excluded from the educational facilities and employment opportunities and health care services. They are equally entitled to the benefits of reservations like backward classes on the basis of socially and educationally backwardness. They are entitled to reservation in educational and public employment. This judgement has unique value as it developed other emerging forms of backwardness and also has ensured the equal participation and social justice in the society.

Implementation of reservation policy in post graduate courses has attracted several issues. In *Dr.Jagdish Saran v. Union of India*,²¹ and subsequently in *Dr.Pradeep Jain v. Union of India*,²² Supreme Court observed that emphasis should be given to the ‘merit’ as criteria. In case of admission to post graduate medical courses otherwise it would be a national loss. However, in *Dr.Preeti Srivastava v. State of Madhya Pradesh*,²³ the Court reaffirmed the validity of Article 15(4) with respect to reservation policies in PG Courses. The Court held that the State has to draw a balance between these inevitable aspects of justice wherein reservation is one of the form of affirmative action to have egalitarian society. This judicial verdict is fine instance of equality and justice in the view of Constitutional development in India. In another case of *Valsamma Paul v. Cochin University and Others*,²⁴ “the acquisition of status of Scheduled Caste, by voluntary mobility either by adoption or marriage or conversion does not become eligible of reservation otherwise it would be fraud on the Constitution and would frustrate the benign Constitutional policy under Article 15(4) and 16(4) of the Constitution.”

Further, Article 15(5) of the Indian Constitution is an important provision related to reservation policies in educational institutions.²⁵ It was introduced by the. Article 15(5) empowers the state to implement reservation policies in both public and private educational institutions, with the aim of promoting social justice and advancing the educational opportunities of SCs, STs, and socially and educationally backward classes, while respecting the autonomy of minority institutions.²⁶ It explicitly excludes minority educational institutions protected under Article 30 of the Constitution, which allows minority communities to establish and administer their own educational institutions and grants them certain rights to self-governance. The Supreme Court held that while Article 15(5) allows for reservations in private educational institutions, the autonomy of these institutions must be respected. It emphasized that the state could regulate admissions but not interfere excessively with institutional management.²⁷ In

¹⁹ AIR 1997 SC 788

²⁰ AIR 2014 SC 1863

²¹ AIR 1980 SC 820

²² AIR 1984 SC 1420

²³ AIR 1999 SC 2894

²⁴ AIR 1996 SC 1034

²⁵ Inserted by(Ninety-Third Constitutional Amendment) Act of 2005

²⁶ “Nothing in this article or in Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions, including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in Article 30.”

²⁷ T.M.A. Pai Foundation v. State of Karnataka, (2002) 3 SCALE 213

The Supreme Court in *Pramati Educational and Cultural Trust v. Union of India*²⁸ upheld the constitutionality of Article 15(5) and affirmed the need for reservations in private unaided educational institutions. It also emphasizes the importance of maintaining institutional autonomy and held that the implementation of such policies does not negatively impact the quality of education and notion of secularism.

Recently, Article 15(6) of the Indian Constitution, introduced by the 103rd Constitutional Amendment Act of 2022, marks a significant expansion of affirmative action by extending reservations to economically weaker sections (EWS) in educational institutions, including private institutions. Previously, reservation policies primarily addressed caste-based disparities under Articles 15(4) and 15(5).²⁹ The addition of Article 15(6) shifts the focus to economic disadvantage, aiming to improve inclusivity and educational access for economically disadvantaged individuals who are not covered by existing reservations. This amendment broadens the scope of India's affirmative action framework, integrating economic criteria alongside social and educational backwardness to address a wider range of inequalities.

The implementation of reservation policies in India is fraught with several issues and challenges. These policies can reinforce caste identities, exacerbating social friction rather than alleviating it. Their effectiveness is often hampered by socio-economic disparities within reserved categories, leaving some of the most disadvantaged individuals unassisted. Systemic problems like inadequate education and economic inequality further limit their impact. Additionally, there is ongoing debate about whether reservations compromise meritocracy, potentially leading to the underrepresentation of skilled individuals in various sectors. Political and administrative inefficiencies can also hinder effective implementation and oversight, causing misuse and lack of transparency.

In conclusion, reservation policies in India are designed to foster social, economic equity and offer opportunities to marginalized communities in educational and public employment sector. Although these legislative measures aim to elevate historically disadvantaged groups. The effectiveness of reservations in achieving genuine economic and educational progress is also a subject of debate, as systemic inequalities and socio-economic barriers can sometimes dilute their intended benefits. In these developments, the Supreme Court of India plays significant role in effective implementation of the provisions of the Constitution to bring notion of equality in real sense in the society. However, it is essential to adopt a nuclear strategy that balances affirmative action taking into considerations all the relevant social and economic facts and circumstances existed in the society to ensure that reservations effectively support those in real need while promoting equitable society.

²⁸ AIR 2014 SC 2114

²⁹ Article 15(6) provides that, "Nothing in this Article or in Article 29 shall prevent the State from making any special provision for the advancement of any economically weaker sections of citizens other than the classes referred to in clauses (4) and (5) of this Article, in so far as such special provisions relate to their admission to educational institutions, including private educational institutions, whether aided or unaided by the State."