

Quota within Quota and Its Political Impact

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I. Introduction

The Indian reservation system has been in existence since the enactment of the Indian Constitution in 1950. In this way, India has a long legacy of affirmative action initiatives aimed at improving the lives of marginalized groups, including women, tribal people, Scheduled Castes, Scheduled Tribes, and other economically and socially disadvantaged groups. There are always ongoing debates happening whether the benefit of reservation provided by the Indian Constitution fulfills its objectives or not? Is the reservation provided to the Scheduled castes reaches to the end point? Why do some castes in the Scheduled category get advanced and why some lag behind in the race of development? To address these disparities, the Supreme Court finally approved the idea of sub categorisation by the respective states. The Supreme Court of India in review of Punjab and Haryana High Court Judgement in **The Punjab Scheduled Castes and Backward Classes (Reservation to Services Act) 2006**, delivered a landmark ruling that permits the state government to sub-classify within the Scheduled Castes (SCs) and Scheduled Tribes (STs), for the purposes of reservations in State educational Institutions and government jobs.¹

In light of this ruling, states can make sure that less privileged and historically excluded SC/ST groups receive reservation advantages. States that have previously tried to implement separate reservations under the SC/ST categories, including Tamil Nadu, Punjab, Karnataka and Bihar, are expected to benefit from the verdict. Thus, after three days of exhaustive hearings, on 1 August 2024, a seven judge Constitution Bench of the Supreme Court, presided over by Chief Justice D.Y. Chandrachud, overturned the five-judge bench finding in **E.V. Chinnaiah v. State of Andhra Pradesh (2004)** and affirmed the legality of sub-classification in a 6:1 majority.²

II. The Concept of Quota within Quota

Sub classification is the process of creating sub-groups within the existing reserved categories to ensure a more equitable distribution of reservation benefits, targeting the most backward or marginalized within these communities. The core idea of Sub categorisation primarily meant that some communities among marginalized groups have little or no access to basic amenities and reservation privileges. As a result, the more developed communities in the SCs continuously profit from the reservation provisions, overshadowing the demands of the less fortunate. Thus, for the upliftment of the weakest out of the weak, the state provides reservation within the reserved category commonly referred to as “quota within quota”.

In his early writings, even **Dr. B.R. Ambedkar** underlined “**graded inequality**,” which holds that certain communities oppress other communities at every level of the caste system's hierarchy. He

¹ [scobserver.in](https://www.scobserver.in)

² [scobserver.in](https://www.scobserver.in)

remarked on the idea that "Even the low is a privileged class as compared with the lower."³ With the acquisition of political power, educational improvement, and occupational change, some Scheduled Castes from the whole community experience upward mobility, while the rest communities get no or comparatively lesser share of the cake than what was required.

III. Historical Context and Evolution In India

Historically, the process of sub-classification can be traced in our constitutional jurisprudence from the year 1962, when the State of Mysore reserved 50% of seats in medical and engineering colleges for Other Backward Classes (OBCs) out of which 22% are solely allotted to "more backward" OBCs. However the Supreme Court rejected this sub-classification in *Mr Balaji vs State of Mysore* (1962) upon finding the inconsistency between reservation and Article 15(4) of the Constitution.⁴ In 1975, based on the recommendations of Justice R.N. Prasad Committee, the Punjab government issued a notification dividing the 25% Scheduled Caste reservation equally between the two groups: Balmikis (Valmikis) and Mazhabi Sikhs in one group and the remaining castes forming another group. This notification remained in practice for about 31 years, until the 2004 *E.V. Chinnaiah v. State of Andhra Pradesh* (2004) decision came whereby the Supreme Court five judge bench set aside a similar law prevalent in Andhra Pradesh. Due to which, the Punjab and Haryana High Court struck down the notification on 25 July 2006.⁵

Similarly, the Andhra Pradesh Government appointed a one-man commission headed by Justice Ramachandra Raju in 1996 to study the implementation of reservations among SCs. This identification was done referencing the list notified under article 341 to accommodate those people who are still left out from the benefits of reservation granted. In the state, among the SCs, the Madiga community suffered from widespread injustice which ultimately led them to initiate a campaign. Under the leadership of Manda Krishna Madiga, the MRPS has played a significant role in bringing the issue to the public's notice, planning demonstrations, and exerting pressure on political parties to grant the Madigas' demands.⁶ Upon admitting the commission's recommendations, the state government issued a Government Order (GO) dividing the allotted 15% reservation for SC category in the State under Article 15(4) and Article 16(4) apportioned amongst four groups. Group A was to consist of relli and related castes (12 in number), mostly scavengers by vocation, identified as the most disadvantaged, who would get 1% and be placed in the first of the roster slots allotted to SCs; Group B to consist of the madigas and related castes (18 in number) would get 7 %; Group C, consisting of malas and related castes (25 in number) would get 6%; and Group D consisting of adi andhras and

³ thehindu.com

⁴ scconline.com

⁵ scobserver.in

⁶ scconline.com

related castes (4 in number), identified as those who had benefited the most from reservations would get 1% and stand at last of the roster points allotted to SCs.⁷

However, in the 2004 EV Chinnaiah case judgment, it was pronounced that all the castes notified in the Presidential Order under the article 341 in the Constitution form “one class” of “Homogenous Group” and the same cannot be subclassified further. Likewise while creating this category, the Constituent Assembly viewed the entire group as victims of untouchability, socially isolated, and denied numerous chances in the political, economic, and other spheres. Hence, any supplementary subdivision will go against the principle of equality before the law. Following the Chinnaiah judgment, the Punjab and Haryana High Court in the case of **Dr. Kishan Pal v. The State of Punjab**, in 2006 invalidated the previously introduced 1975 notification.⁸ Nonetheless, the Punjab government enacted the Punjab Scheduled Caste and Backward Classes (Reservation in Services) Act, 2006 (the Act) in response to the Chinnaiah ruling within three months. Again, half of the seats allotted for the SC category were reintroduced as “first preference” reservations for Balmikis and Mazhabi Sikhs under Section 4(5) of the Act. Though this was done primarily to ensure the stability of the then prevalent government. A second time, the Punjab and Haryana High Court, on the basis of Supreme Court’s ruling in Chinnaiah case, invalidated this section of the Act on March 29, 2010. This led to an appeal in the Supreme Court by the Punjab government against their own High Court decision of scrapping the reservation through the sub-classification.⁹

In 2014, the Supreme Court referred the appeal in the case of **Davinder Singh Vs The State of Punjab** to identify whether the ruling in EV Chinnaiah judgment of 2004 requires any kind of reconsideration. In 2020, a five Supreme Court judges Constitution Bench headed by Justice Arun Mishra concluded that there is a legitimate need to revisit the 2004 ruling. The Bench stressed that the Scheduled Castes could not be treated as a homogenous group saying there are “unequals within the list of Scheduled Castes, Scheduled Tribes, and socially and educationally backward classes.” The outcome also made clear that the state and the judiciary cannot fail to recognize the glaring differences within the SC category. On August 1, 2024, the litigation’s ultimate verdict was rendered, overturning the five-judge bench’s order in the E.V. Chinnaiah case and granting the state the power to create subcategories under the Scheduled Category based on precise data and legitimate need.

⁷ www.jstor.org

⁸ cjp.org.in

⁹ indianexpress.com

IV. Case Studies of Quota within Quota in India

There are various examples available which aim to provide preferential treatment under the reserved category to the people of marginalized and downtrodden communities in the country to ensure their advancement and development.

A. OBC Sub Categorisation: MBC and other group

In August 1990, the government announced a 27% reservation for Socially and Educationally Backward Classes (SEBCs) in governmental offices and services that would be filled by direct recruitment, based on the recommendations of **Second Backward Classes Commission's (the Mandal Commission)**. The commission identified around 3,743 castes and communities to be categorized as OBCs with their overall population estimated to be around 52% of India's population. However, the Court in **Indra Sawhney v. Union of India case of 1992**, allows governments to sub-classify communities within the OBC categories, using the principle of creamy layer in accordance with Justice Chinnappa Reddy's ruling in *K.C. Vasanth Kumar v. State of Karnataka*. The concept of creamy layer provides a cutoff point for the benefits of OBC reservations. Based upon two categories mainly - firstly, for those not in government, the current threshold is an income of Rs 8 lakh per year and secondly, for the children of government employees, the threshold is based on their parents' rank and not income.¹⁰

States in order to provide reservation benefits till the last in the line use the approach of facilitating quota within quota within the OBCs. At State level, there are around 11 states which have implemented subcategorization in Other Backward Category in India. These are West Bengal, Tamil Nadu, Andhra Pradesh, Maharashtra, Karnataka, Jharkhand, Bihar, Telangana, Haryana, Puducherry, Jammu and Kashmir etc.¹¹ Apart from this, the Tamil Nadu government enacted the **Most Backward Classes and Denotified Communities Act of 2021**, to provide reservation for the Vanniyakula Kshatriya. The Vanniyakula Kshatriya community includes the Gounder or Kander, Padayachi, Palli, Agnikula Kshatriya, Vanniar, and Vanniya. Out of the State's 20% Most Backward Classes (MBC) quota, they are given a reservation of 10.5% on top of 115 other MBCs and Denotified Communities (DNCs) in the state. The determination of 10.5% of quota within quota was suggested by the second Tamil Nadu Backward Commission of 1983, given the logic that the Vanniyakula Kshatriyas comprises 13.01% of the State's overall population thereby awarding them with 10.5% of reservation is quite feasible.¹²

¹⁰ indiankanoon.org

¹¹ business-standard.com

¹² scobserver.in

B. Sub Categorization in SCs and STs

In India, there are many states which sub-classified the reservation quota to give preferential treatment to the most disadvantaged communities within the SC category (the assigned quota of Scheduled Castes (15%) and Scheduled Tribes (7.5 %) in India. The annual report of the Ministry of Social Justice and Empowerment, stated that there were 1,263 SCs in the country in 2018-19.¹³ There are several states which even formulated a commission to study the backward communities in their own respective states. Following are the examples:

1. Tamil Nadu

One of the states that first implemented the SC category sub-classification was Tamil Nadu. In Tamil Nadu, the Paraiyar and Pallar communities are the dominant castes among SCs, significantly influencing the socio-economic and political landscape of the state. In contrast, the **Chakliars and Arunthathiyars** are among the most disadvantaged Dalit castes, facing systemic barriers that limit their opportunities in both economic and political spheres. In the past, the Chakliar/Arunthathiyar community was forced to perform manual scavenging as a caste-based labor practice. Addressing the challenges faced by the Arunthathiyar community, **Aathi Thamizhar Peravai (ATP)** was founded by Athiyamaan in 1994 in Coimbatore. The Arunthathiyar, was given a 3% reservation by the State government in 2009, within the 18 per cent reservation allocated to the SC category in general. The amendment to the reservation rules was made in response to the 2008 Justice M S Janarthanam Committee's findings, which showed that, in comparison to other caste categories, the Arunthathiyar community's representation in government services and educational institutions was significantly lower in the SC category. The committee reports that despite being 16% of the SC population in the state, the Arunthathiyar community held only 0-5% of the jobs.¹⁴

2. Maharashtra

In Maharashtra, the SC quota comprises 59 castes, including dominant castes like Mahars, Charmakars, Dhors and Matangs. The Matang community organizations had been protesting for sub-categorisation, claiming that despite being the second-largest caste in the state in terms of population, the Mahars, Charmakars, and Dhors take away a major chunk of reservation. SCs account for around 13% of the state's 129 million population, out of which there are over eight million Mahars and six million Matangs. In 2003 **Lahuji Salve Commission** in Maharashtra recommended the sub-classification of the Mangs caste. However, following

¹³ indianexpress.com

¹⁴ thehindu.com

aggressive protests by the Matang community over the last few years, the Maharashtra government had constituted a committee of experts and officers in December 2023 to give their recommendation regarding sub-categorisation within the 13% SC quota. Currently, due to the SC decision and the recommendation by our committee, the state government will try to implement the sub-classification to uplift the castes lagging behind.¹⁵

3. Bihar

In 2007, Bihar set up the **Mahadalit Commission** to identify the castes within SCs that were left behind. Soon after the Nitish-led NDA government came to office in 2005 and established the Bihar Mahadalit Vikas Mission in 2007, CM Nitish Kumar established a distinct **Mahadalit category** for the SC's neglected groups. As a result of this, 20 dalit castes in Bihar were transitioned to Mahadalit categories with the exception of Paswans and the Chamar caste. Though Chamars were eventually included in the Mahadalit category in 2009–10, Paswans were left out. In Bihar, the caste wise demographics reflect Dalits as 16% of the population, Chamars make up the largest group at 31.3%, followed by Paswans at 30.9% and Musahars at 13.9%. According to social analysts, Paswans in general have long been engaged in power struggles. Because the local chowkidars were supposed to be Paswans, according to the Queen's Proclamation in 1858, and they were also the zamindars' violent "amlas" (lathaits/watchmen).¹⁶

4. Karnataka

Since independence, the Holey caste has become a prominent group in Karnataka, obtaining resources intended for the Dalits at a disproportionate rate. Their position of influence is seen in the State's many political and socioeconomic domains. In 2005 **Justice A.J. Sadashiva Commission** formulated by Karnataka government which submitted its report in 2012 proposing division of 101 castes into four categories, each receiving 15% of the reservation. Dalits in Karnataka, are historically divided into two broad agglomerations: the Madiga and the Holey. Due to their historical employment with the polluting item leather, Madigas are comparatively behind in the state, whilst Holeyas have been involved on the periphery of agricultural production as laborers. In addition, "touchable" castes like Lambani and Bhovi, who are not part of either group but have profited greatly from quota.¹⁷

¹⁵ thewire.in

¹⁶ nationalheraldindia.com

¹⁷ thewire.in

5. Haryana

Haryana became the first state to implement quota within quota for Deprived Scheduled Castes in October 2024 following the Supreme Court verdict. The **1990 Justice Gurnam Singh Commission** in Haryana divided the SC list into Block 'A' and Block 'B', placing 36 castes in Block 'A', and the Chamar caste, which had availed the most benefits, in Block 'B'. However, in 2020, the state had enacted the Haryana Scheduled Castes (Reservation in Admission in Educational Institutions) Act, setting aside 50 per cent of the 20 per cent SC quota in higher education institutions for the newly defined deprived Scheduled Castes. The Haryana SC commission had recommended sub classifying the Dalit communities into two categories – deprived scheduled castes (DSC) comprising 36 groups such as Balmikis, Dhanaks, Mazhabi Sikhs and Khatiks, and other scheduled castes (OSC) comprising castes such as Chamar, Jatia Chamar, Rehgar, Raigar, Ramdasi, Ravidasi and Jatav.

The Commission said that classification of Scheduled Castes as DSCs underlined their significant underrepresentation in Haryana's services sector, a direct consequence of their social, educational, and occupational backwardness. It also reported that the 36 Dalit castes that form the DSC group occupied only 35% share of class 1, 2 and 3 jobs reserved for SCs despite comprising 52% of the SC population in the state. In contrast, OSCs held 48% share in the SC population of the state but occupied 65% of the class 1, 2 and 3 posts reserved for the SCs. Thus, the reservations for SCs in groups A, B and C jobs were skewed towards OSCs and reservations for SCs in Group D were skewed towards DSCs. Group D has jobs related to sanitation and scavenging which are ascriptive (by birth) in nature and are mostly taken up by the castes included in deprived scheduled castes, especially the Balmikis. The commission said this pattern needs to be broken to remove the ascription of occupation to birth.¹⁸

C. The EWS Quota and its Intersection with Caste Based Reservations

The 10% EWS quota was introduced under the **103rd Constitution (Amendment) Act, 2019** by amending Articles 15 and 16. It inserted Article 15 (6) and Article 16 (6). It is for economic reservation in jobs and admissions in educational institutes for Economically Weaker Sections (EWS) and was enacted to promote the welfare of the poor not covered by the 50% reservation policy for Scheduled Castes (SCs), Scheduled Tribes (STs) and Socially and Educationally Backward Classes (SEBC). It enables both the Centre and the States to provide reservations to the EWS of the society. Altogether 18.2% of the total population in the general category belonged to EWS. The EWS quota was given independently of the already existing 50% reservation granted for the backward classes. However, some criticize the introduction of the EWS quota, finding it in

¹⁸ [hindustantimes.com](https://www.hindustantimes.com)

conflict with the constitutional scheme, which states that no portion of vacant seats or positions may be reserved based solely on economic considerations. The respondent claims that the amendments violate the 50% quota restriction established in the 1992 decision of *Indra Sawhney v. Union of India*, which is a component of the Constitution's Basic Structure. While upholding the merit of EWS reservation, **Justice Jitendra Kumar Maheshwari** in his judgement held that reservation is an instrument of affirmative action that should ensure an 'all-inclusive march towards the goals of an egalitarian society'.¹⁹

D. Quota within Quota for Women

The **Constitution (106th Amendment) Act, 2023**, allocates one-third of all seats, including those designated for SCs and STs, to women in the Lok Sabha, State legislative assemblies, and the Legislative Assembly of the National Capital Territory of Delhi. Notably, the legislation had horizontal reservation clauses that extended across many quota categories. One-third of the seats designated for Scheduled Castes (SCs) and Scheduled Tribes (STs) in the Lok Sabha and legislative assemblies are specifically intended to go to women from these groups. The goal of these initiatives is to increase women's involvement in the legislative process, even among traditionally underrepresented groups.²⁰

V. Political Implications of Quota within Quota in India

A. Effectiveness of Quota within Quota in Achieving True Representation

According to the states, the classification is made for a specific purpose and does not infringe upon the right to equality. Their justification is that the classification will lead to "**real equality**" or "**proportional equality**" and ensure that all Scheduled Castes are fairly represented in government service irrespective of the fact that where they stand in the line of the caste system or within their community. In this manner, sub-classification helps in ensuring participation from these unnoticed communities. As **Justice B R Gavai** aptly illustrated the need for sub-classification, says that when someone enters a train compartment by pushing and shoving, he first attempts to ensure that no one else is able to enter. The same argument was being given when Ambedkar was demanding a separate share system for Dalits, that is, reservation. It was argued that reservation will create divisions and that the country will be weakened. But nearly 70 years of reservation have not led to division of the country.²¹ Even though advanced Dalits' situation has

¹⁹ oxfordpoliticalreview.com

²⁰ prsindia.com

²¹ livelaw.in

significantly improved over the years, still society fails to consider them as equals. Everyone understands this entire thing too well. Consequently, the idea of creamy layer introduction ought not to be supported. However, provision of sub-classification in reservation becomes crucial for the advancement of underprivileged and downtrodden castes like Mahadalits and others. The degree of backwardness (howsoever defined and howsoever measured) is used to define a Schedule caste.

Pursuant to the debates in the constituent assembly, "scheduled castes" was supposed to be another term for what were known as the depressed classes, or outcaste, back then. In any event, untouchability has long been thought to be the primary trait that distinguishes scheduled castes. Being an outsider is not a matter of degree, it is a matter of absolute incapacity. The fear of getting out of society is very big and only those who are outcasted can only feel and understand the trauma of this pain.²² Darshan Ratan Raavan, founder and head of Adi Dharam Samaj, asserts that sub-classification will deepen the idea of social justice in the society. He believes that creation of categories like Mahadalits will not create a rift among the Dalit community. That has never been the intention. He also appealed to all "Dalit upper castes" to think calmly and understand that the day the Mahadalits make economic, social, educational and political progress, the power of the entire Dalit society will increase and they can better represent themselves in the society.²³

At the same time, the issues raised by the opposing groups cannot be completely disregarded. For instance, the **National Commissions for Scheduled Tribes and Scheduled Castes** had resisted the action of sub-classification, claiming that merely allocating a portion of the quota would not suffice. The commission contend that because of the disparity, there wouldn't be enough applicants from these backward SC communities, even if higher-level positions were reserved for them. Hereby providing quota within quota would be a futile exercise. Rather, the most important thing is to ensure that they receive priority access to the current programs and benefits.

B. Potential for Political Fragmentation and Divisiveness

Many suspect that subcategorization carries the potential of causing the SC community to become fragmented, which would weaken their sense of social and political association. This can make it harder for them to stand up for their rights as a group in a collective strength. In an article authored by **K. Balagopal**, "**A Tangled Web: Subdivision of SC Reservations in AP**", Balagopal highlighted in various sections where there appears to be a breakdown in Dalit solidarity using the classic study of mala-madiga conflict. Following is the one excerpt:

"Some of the malas in Andhra Pradesh are using the same argument of selfless hard work and consequent capability and efficiency as the brahmins used in answer to non-brahmin rebels. Mala

²² www.jstor.org

²³ pressreader.com

youths belonging to villages in east and west Godavari districts where the conflict took a physical form for a while were asked why they were not prepared to accept the madigas legitimate complaint that the malas availed themselves of an unduly large proportion quota. They replied that the madigas of the scheduled caste "eat beef, drink and loaf around, whereas we work hard". (K. Balagopal, 2000)²⁴

In the present scenario, these suspicions over the potential for causing fragmentation among dalit fraction could not be avoided. Violent reactions can be witnessed in response to the Supreme Court verdict on the sub-classification from any parts of the country. For example, in Punjab, the ruling seems to have caused division among Dalit groups which many Bahujan leaders and activists worry about. These distinctions were made evident to the public during a Bharat Bandh against the court's ruling that was organized by certain Dalit and Adivasi groups. According to the 2011 Census, the two main Dalit groups in Punjab, which has the largest percentage of Dalits at 32% of the population, are Mazhabi Sikhs and Balmikis and Ramdasias, Ramdasias Sikhs, Ravidasias, or Ravidasias Sikhs, who are adept in producing leather goods. The remaining Dalit subgroups supported the bandh call, although the latter two groups, who were the first to receive benefits under the SC subcategory in 1975, supported it.²⁵ This incident depicts the scenery of division in dalit unity.

Alike, noted Dalit writer Laxman Mane said the sub-classification within the SC quota would lead to infighting between Mahars, Charmakars, Buddhists and others. He said that the reservation today benefits nobody as there are no government jobs left, and the budgetary allocation has been dwindling. Despite it, there is constant tweaking in the constitutional setup of the quota for political gains," which ultimately leads to several slices of the Dalit community.²⁶ On the other hand, Darshan Ratna Raavan, the chief of the AADHAS, opines that by rejecting the share of the most oppressed communities like Hela, Bansphor, Musahar, Valmiki/Mazhabi, Dhanuk, Dom, Dumar Madiga, Chakkiliyar, and Arunthathiyar etc, the forward dalits demonstrated that they are thoroughly infected with the seeds of Manuvadi ideology which historically laid out a rigid caste hierarchy in the social system of India.²⁷

C. The Role of Quota within Quota in Elections: Political Parties and Quota Based Alliances

Reservation is such a controversial and a consistently popular topic of talk in the public domain and this discussion often becomes intense during election seasons. Those who receive the

²⁴ www.jstor.org

²⁵ indianexpress.com

²⁶ hindustantimes.com

²⁷ indianexpress.com

reservation will be in favor of it, while those who do not will speak against it. There is a considerable amount of worry in the aftermath of the decision that political parties may use such positive affirmative action policies in order to secure their vote numbers from some communities. That is why only a watertight President's list is required to guard the reservation principle against such opportunist actions. There are ample amounts of examples available which shows the misuse of sub-classification approach by the political parties every then and now which further gave rise to **Quota based alliances** causing a grave fault on the idea of free and fair elections. In Bihar, CM Nitish kumar had crafted social engineering by establishing the Mahadalit category. Mahadalit is not a constitutional term. Scheduled Caste is the officially designated group in India. Its primary goal was to establish its own constituency among Mahadalits. In doing so, he attempted to separate LJP leader Ram Vilas Paswan from non-Paswan Dalits and undermine the power of Mayawati, the leader of the Bahujan Samaj Party, particularly in regions that bordered Uttar Pradesh.

Now that Jitan Ram Manjhi (and Mayawati) are members of the RJD, which is led by the imprisoned but still well-liked Lalu Prasad, CM Nitish Kumar has strengthened his ties with Ram Vilas by adding Paswan to the Mahadalit category in an effort to increase the size of his constituency. Many observers quoted that when Bihar CM Nitish Kumar declared that Dussadhs, also called Paswans, would now be added to the list of Mahadalit castes, he essentially played out all of his Dalit cards. After the inclusion of Dussadhs in the list of Mahadalit caste, it is back to square one in Bihar. This move raised two questions: if all the 22 scheduled castes are of the same category, where was the need to form a Mahadalit Commission and a Mahadalit Vikas Mission. Secondly, why did Nitish annul a similar decision taken by the then Jitan Ram Manjhi cabinet in 2015? How is it that Dussadhs were not Mahadalit in 2015 but have become so now? These instances are a show depiction of misusing the power of positive discrimination to win out the power struggle.²⁸

Similarly, in Punjab, some members of these Dalit communities voted for the Akali Dal in the 2007 elections, and the BJP has been attempting to gain their support in recent years. The Akali Dal has been a traditional Congress vote bank since 1975, when the state government led by Giani Zail Singh ordered that Balmikis and Mazhabis be given 50% of the quota available to SCs on a preferential basis wherever possible. At the present moment, in Punjab, out of the 34 reserved Assembly seats for the Scheduled Castes in the 117-member Punjab Assembly, leaders from the Mazhabi or Balmiki castes were able to represent only eight of those constituencies. Not only this, of the four MPs elected from the SC-reserved constituencies, all of the four are from the Ravidasia community. These figures will represent how lower these communities and their political leaders stand in the positions of power. Following the Supreme Court's ruling on subcategorization,

²⁸ nationalheraldindia.com

political parties will think about giving Mazhabi Sikhs and Balmikis adequate representation in the Assembly, the Parliament, and party structure in Punjab. Through this way, though parties may be indulging in quota based politics but still leaves a room for these disadvantaged communities to come up and acquire their adequate share in politics.²⁹

In this regard, Darshan Ratna Raavan, the most influential religious leader of Balmikis, said, “Most of the Mazhabi Sikhs and Balmiki community leaders in different parties are only symbolic faces. They are not real leaders. Sub-categorisation in reservation is our right. Our next move will be to push for the implementation of this sub-categorisation in the electoral system. Of the four SC-reserved seats in Punjab, two should be for us. Therefore, proponents of these sub categorisation will be hopeful for representation in various fields that they are unable to obtain because of historical neglect. In Haryana, the sub-classification pitch helped the Bharatiya Janata Party pick up a substantial chunk of the SC vote during the recently concluded assembly elections of 2024 on its way to a historic third consecutive term. The party won eight of the 17 seats reserved for SCs, up from five in 2019. Haryana CM Shri Nayab Singh Saini’s decision, which was followed by similar actions by poll-bound Maharashtra, which also formed a panel to investigate sub-classification just hours before the elections were announced, suggested that the BJP would divide the SC quota internally as part of its future strategy and as a response to the opposition’s caste census pitch.”³⁰

Sub-classification is a much sought-after step. In Andhra Pradesh, the Matang community is largely supported by the BJP, while Mahars are considered as the traditional voters of the Congress. During a Telangana election rally last year, Prime Minister Modi pledged to investigate the Scheduled Castes (SCs) subcategory in order to identify and assist the most disadvantaged members of the group. “Since the Matangs are demanding a 7% quota within the SC reservation of 13%, the decision over the sub-classification would help the ruling parties get the community’s vote. However, there is also a fear of other castes from Scheduled Castes deviating away from the ruling alliance.”³¹

²⁹ [indianexpress.com](https://www.indianexpress.com)

³⁰ [hindustantimes.com](https://www.hindustantimes.com)

³¹ [thehindu.com](https://www.thehindu.com)

VI. Debates and Criticism of Quota within Quota in India

A. The Ethical Debate: Equity vs Equality

The court's final verdict in regard to sub-classification tries to facilitate real equality by including the people standing at the lowest level within their community. Even Chief Justice of India (CJI) D Y Chandrachud while presiding over the hearings underlined the concept of “**substantive equality**” — the principle that the law must account for the different backgrounds and historical injustices faced by persons or groups. In the court, the majority opines that this process of sub-classification is not at all violative of the fundamental right of Right to Equality. In fact, the Constitution guarantees - “the State in exercise of its power under Articles 15 and 16 is free to identify the different degrees of social backwardness within the disadvantaged communities and provide special provisions (such as reservation) to achieve the specific degree of harm identified”.

At this point, Justice Gavai said that equality of opportunity (Article 16) must account for the varying social positions of different communities. When the same opportunities are provided to SC communities that are on different footings, it “can only mean **aggravation of inequality**”. This judgement will help trickle down the benefits of reservation to the most needy and establishment of an equal society. After some analysis, we could even find that the Article 16(4) of the Constitution allows the State to provide reservations for backward classes who are not “adequately represented” in State services. As the phrase used is “adequately” and not “equally”, there is no obligation to provide the same opportunities to every community in the Presidential list. Thus there is no harm done to the principle of Right to equality as stated by many suspects.³²

Justice BR Gavai further remarks that the basic error in the EV Chinnaiah judgment is that it proceeded on the understanding that Article 341 is the basis of reservation. Article 341 only deals with the identification of backward castes for the purpose of granting reservation. However, he also suggested the State must evolve a policy to identify creamy layers among the SC/ST category and take them out of the fold of affirmative action. This is the only way to gain **true equality** as enshrined under the Constitution. **Justice Vikram Nath** also impressed with the idea that SC and STs should be enveloped by the same creamy layer principle that applies to OBCs. Additionally, **Justice Satish Chandra Sharma** was also found to be in consonance with Justice Gavai's point of view. A similar view was propounded by **Justice Pankaj Mithal** who said reservation should be limited to first generation or one generation and if the first generation in the family has taken

³² indianexpress.com

advantage of the reservation and have achieved a higher status, then the benefits of reservation would not be logically available to the second generation.³³

B. Legal and Constitutional Challenges

1. Controversy over Homogeneity of SC community

On the question of sub-classification, there was a heated discussion in the Court over the issue that since the Scheduled caste is a homogenous category, we cannot make sub-classifications in it. In response, CJI Chandrachud rejected the above stating by saying that "The inclusion [in the Presidential list] does not automatically lead to the formation of a uniform and internally homogenous class which cannot be further classified". The court additionally held that "historical and empirical evidence indicates that Scheduled castes are not a homogenous class." They were heterogeneous in terms of their pre-existing occupations, social status and social indicators of backwardness or development. Over the decades, some of them had advanced while others continued to remain "**particularly underprivileged**".³⁴

As per the Supreme Court, the Presidential list of SCs is a "**legal fiction**" — something that does not exist in actuality but is "treated as real and existing for the purpose of law". A Scheduled Caste is not something that existed before the Constitution came into force, and is recognised so that benefits can be provided to communities in the list. This legal fiction cannot be "stretched" to claim that there are no "internal differences" among SCs. In the 1976 case, **State of Kerala v N M Thomas**, the Supreme Court even laid down that "Scheduled Castes are not castes, they are class."³⁵ However, the contenders of this sub-classification process do not believe in the argument of heterogeneity. Senior Advocate Sanjay Hegde, appearing for the respondents, argued that all the communities included in the Presidential list suffered from the "**taint of untouchability**". And the Constituent Assembly made a choice not to enter into comparisons of who suffered the most. Hence, the question of sub-categorization goes against the spirit & goals of the Constituent Assembly.³⁶

2. Trespassing Article 341

There are several allegations poised on the state for tinkering with the Presidential list for doing sub-classification within the backward groups in their respective states. In answer to this, the Advocate General of Punjab, Gurminder Singh, gave a sparkling argument that E.V.

³³ livelaw.in

³⁴ scobserver.in

³⁵ scobserver.in

³⁶ opindia.com

Chinnaiah was mistaken when it held that states could not tamper with the classes that comprised the Presidential list under Article 341. The Court opined that the sub-classification does not in fact violate the Article 341 because the castes are not per se included or excluded from the list. The violation can only happen if 100% seats available for Scheduled Castes are reserved in favor of a subclass excluding all the other subclasses. Similarly, Additional Advocate General of Punjab Shadan Farasat pointed out that the recently introduced **Article 342A** on the Constitution made it clear that the Chinnaiah decision could no longer apply. This provision specifically empowers States and Union Territories to maintain a list of Socially and educationally Backward Classes which may be different from the Presidential list. The introduction of Article 342A supports the notion that states and union territories can maintain their list of socially and economically backward classes, differing from the Presidential list.³⁷

3. Issue of Creamy Layer

The Supreme Court first used the phrase "**creamy layer**" in 1976 when it affirmed the reservation policy, including in promotions, in *State of Kerala v. N.M. Thomas*. *Indra Sawhney v. Union of India*, however, went into further detail about this, emphasizing the need to remove the "creamy layer" from reservation benefits for OBCs who attained a particular level of socioeconomic advancement. In terms of promotion, the Court found them comparable to members of unreserved classes. Later, in 2006, the Supreme Court's Constitution Bench ruled in *M. Nagaraj v. Union of India* that the creamy layer concept should also apply to SCs and STs, while maintaining the legality of the 77th, 81st, 82nd, and 85th Constitutional Amendments.³⁸

Last but not least, the Court firmly ruled in **Jarnail Singh v. Lachhmi Narain Gupta** that SCs and STs who belong to the creamy layer are not eligible for reservations in promotions. The court also held that the objective of reservation is to ensure that all backward classes march hand in hand and that will not be possible if only a select few get all the coveted services of the government. Thus those backward communities who have advanced to a certain extent as per the allotted creamy layer principle should be removed from the list of benefits.³⁹ However, as of now, the court's final decision on sub-classification will not result in the formation of a creamy layer within the SC category as suspected by many. But the "creamy layer" exception for SCs (and STs), which is currently in place for Other Backward Classes (OBCs), is proposed by

³⁷ indianexpress.com

³⁸ scconline.com

³⁹ scconline.com

Justice Gavai's decision. Four of the seven judges agreed with Justice Gavai's opinion on the matter.

4. Stringent Rules for Disbursement

States were given strict guidelines by the majority opinion from the Court on how to figure out sub-quotas. The basis of sub-classification has to be justified by quantifiable and demonstrable data by States that they are not adequately represented. State cannot act on its whims or political expediency and its decision is amenable to judicial review. Any kind of representation in public services must be "**effective representation**," not just "numerical representation," the Chief Justice of India emphasized.

For instance, In March 2022, the Supreme Court declared that 115 other Most Backward Communities (MBCs) and Denotified Communities (DNCs) in Tamil Nadu were denied their fundamental rights to equality, nondiscrimination, and equal opportunity because of the 10.5% internal reservation for the 13.01% populated Vanniyakula Kshatriya community. According to the court, there was insufficient "substantial basis" to classify 115 further villages as MBCs, leaving only 9.5%. States will have to demonstrate a need for wider protections, bring empirical evidence, and have a "reasonable" rationale for classifying sub-groups.⁴⁰ This reasoning can be further tested in court. While acknowledging the "**battle of backwardness within backwardness**," Chief Justice D.Y. Chandrachud issued a cautionary note for the authorities to pay utmost care, while providing advantages to the most disadvantaged people, so that genuine vulnerability does not get excluded.

C. Addressing Backlash and Opposition to Quota Policies

In addition to the support that the sub-classification approach receives, society also disdains it for causing splits within the backward and marginalized community. The first and the foremost argument put forward in this regard is that untouchability affects all SC communities equally and that they shouldn't be compared. Denying reservations to any SC community would leave them with the stigma but no benefits. **Justice Bela M. Trivedi** being the lone dissenter in the seven judge bench opines that revisiting the Chinnaiyah ruling was not needed. She also believed that the individual castes listed on the Presidential List forms a homogenous group that should not be accorded any preferential treatment. Any inclusion and exclusion among the castes enumerated in the list lies outside the purview of States and can only be done by the Parliament. She outlined the reservation order represented a colourable exercise of the State's power, effectively amounting to a fraud on the Constitution. She further opined that the judgement delivered would fault the whole

⁴⁰ [thehindu.com](https://www.thehindu.com)

purpose of the inclusion of Article 341 that is, to eradicate any possibility of political factors dictating constitutionally-mandated affirmative action.⁴¹ The arguments heated up when Dalit and tribal political parties were the first to oppose the legality of the provision of sub-classification.

Mayawati's Bahujan Samaj Party, Chirag Paswan's Lok Janshakti Party, Rajkumar Roar's Bharat Adivasi Party and Chandrashekhar Azad's Azad Samaj Party denounced the judgement. Chief Ministers of Telangana and Karnataka, both from the Congress and Jitan Ram Manjhi's Hindustani Awam Morcha welcomed the Supreme Court judgement immediately. So did the Telugu Desam Party, which made provisions to sub-categorise Dalits in the year 2000. After a long silence, Congress said it would oppose sub-classification, and that applying the creamy layer principle would crush SC and ST communities. Samajwadi Party leaders opposed it too.⁴²

Chirag Paswan, Member of Lok Sabha, in an conversation with Outlook expressed his view on Sub categorisation as: "It is important to realize that certain communities were designated as SCs and granted reservations not based on their economic or educational standing. Instead, the social discrimination due to the prevalence of "untouchability" they suffered at one point in history served as the justification for the reservation. Dalits still today continue to face discrimination at all societal levels even after attaining highest of the economic and social advantages. For instance, in order to take his wedding procession outside, a Dalit IPS officer must request protection. During their marriage, Dalit grooms are prohibited from riding horses; a temple must be cleansed following a Dalit chief minister's (CM) visit! Where is the creamy layer if a CM or an IPS officer can experience this kind of discrimination simply because they are Dalit?" Rather than going for sub categorisation, he insisted on filling the reserved seats regularly, to accommodate the interests of marginalized communities. There are a number of vacant seats in the reserved category in state government positions.⁴³ Ensuring access to reserved benefits is a major problem with India's reservation system. In regions like Uttar Pradesh and Bihar, a sizable percentage of SC households do not possess caste certificates, which are necessary to obtain reserved education and employment opportunities, according to data from the **India Human Development Survey (IHDS)**. Also, to ensure reservation policies are based on current socioeconomic realities rather than out-of-date information, updated data is essential. Any attempt to change the reservation system could be erroneous in the absence of accurate information.

Bahujan Samaj Party (BSP) President Mayawati described the ruling as a situation of emergency. She criticized those who assert that SCs and STs are economically recovered, stating that while the

⁴¹ scconline.com

⁴² thewire.in

⁴³ outlookindia.com

situation of 10 or 11 percent has improved, "the condition of the remaining 90 percent is very bad." She believes if the reservation provided by Baba Saheb many years back to crores of Dalits and tribals is abolished, it will become very difficult for them and chances are there they will find themselves more miserable.⁴⁴ Many concluded that the Court's decision has revealed people who claimed to be the self-proclaimed leaders of 6,000 castes in addition to Dalits. The sub-classification, according to some well-meaning individuals, will erode Dalit unity. Does this imply that Dalit groups such as Valmiki, Musahar, Madiga, and others should never demand their rights out of concern for an erosion in the Dalit community's unity? The decision has drawn criticism from dominant groups within the Scheduled Castes. The slogan of those opposing the sub-classification, which seeks to fulfil the dreams of those who have been left behind up to this point, is "**Jiski jitni sankhya bhaari utni uski hissedaari.**"⁴⁵

However, some opponents suggest alternative methods to redress the weakest people of the backward communities and its problems, thereby outrightly rejecting the idea of sub-classification. Some of the castes within Scheduled Castes would have remained backward, but there should have been concentrated efforts to ensure that they get equal benefits. They believe a **caste-based census** in the country will aid in addressing the issues of the underprivileged classes more accurately. Citizens have also developed a number of misconceptions and concerns about the likely outcomes of the judgment. For instance, some believe it will increase in reservation. However, no category will see an upsurge in reservations, and even the Supreme Court's maximum ceiling on reservations remains unchanged. Similarly, this decision will not result in the formation of a creamy layer within SC category as suspected by many. Thus, the current SC and ST list defined as a result of legislative action and presidential notification will not get tinkered etc.

VII. Conclusion

The Supreme Court's final verdict on the sub-classification of Scheduled Castes (SCs) and Scheduled Tribes (STs) came on 1st August 2024 allowing the states to sub-categorise marked the conclusion of decades of political and legal developments linked to the state. The move is backed by the imperative to provide the SC community's most disadvantaged and vulnerable castes with the greatest benefits of the reservation system in order to fulfil the system's intended purpose. It is impossible to fulfil the constitutional goal of social transformation without considering changing social circumstances into consideration. Many marginalized groups have benefited from India's reservation system, although it still has many troubles delivering equal opportunity to individuals in the SC category. The policy of

⁴⁴ [thehindu.com](https://www.thehindu.com)

⁴⁵ [indianexpress.com](https://www.indianexpress.com)

quota within quota cannot be treated as a permanent, comprehensive and universal solution, however states with substantial differences between the castes of a single community may benefit from this system. Policies must take into account the unique requirements of subgroups without dividing their community or undermining its sense of unity.

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