

CONSTITUTION (ONE HUNDRED AND TWENTY-FOURTH AMENDMENT) BILL

Eye on polls, Govt moves to provide 10% quota to economically weaker

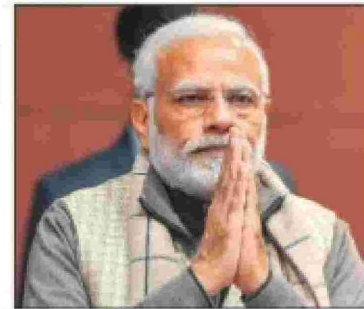
Targets upper caste poor; will benefit families below annual income of Rs 8 lakh, with land holding below 5 acre

SHALINI NAIR
& RAVISH TIWARI
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IN A significant move ahead of the Lok Sabha elections to address demands of "the economically weaker sections of the people who are not covered by any of the existing schemes of reservation", the BJP-led NDA government Monday decided to amend the Constitution to provide 10 per cent reservation for the general category EWS in direct recruitment for government jobs and admission to higher educational institutions.

Sources said the 10 per cent reservation will be in addition to the existing 50 per cent reservation for the Scheduled Castes, Scheduled Tribes and the Other Backward Classes, taking total reservation to 60 per cent. Among the sections it targets are the poor among the upper castes. A legislation in this regard, sources said, is likely to be introduced on Tuesday.

On Monday, the Union Cabinet approved a proposal for introduction of The Constitution (One Hundred and Twenty-



His govt is likely to introduce the Bill today

Fourth Amendment) Bill, extending the benefits of quota to "the economically weaker sections of the people who are not covered by any of the existing schemes of reservation".

Any Constitutional amendment will require special majority of two-third of members present for voting in each House, and not less than half the strength in both. It will have to be ratified by at least half of the state legislatures. The government may also have to prepare for any legal challenge to the validity of the Constitutional amendment.

Sources said new clauses would be added to Articles 15

CONTINUED ON PAGE 12

10% quota

and 16 of the Constitution which presently allow the State to make reservation for only Scheduled Castes, Scheduled Tribes, and for socially or educationally backward classes (Other Backward Classes or OBCs).

Articles 15 (6) and 16 (6), sources said, would be added to existing provisions so as to reserve up to 10 per cent quota in educational institutions and government jobs for the EWS that are currently not covered under reservation. "This would include all families earning an annual income of below Rs 8 lakh, across all religions," sources said.

Families owning agricultural land above five acre, a house above 1000 square feet, or 100 yard plot or above in a notified municipal area or a plot of 200 yards or above in a non-notified municipal area cannot avail benefit of this reservation.

A person whose family has a gross annual income below Rs 8 lakh will be identified as EWS for the benefit of reservation. Family includes "the person who seeks the benefit of reservation, his/

her parents and siblings below the age of 18 years as also his/her spouse and children below the age of 18 years". Also, income will cover all sources such as salary, agriculture, business, profession etc.

To enable extension of reservation to the poor among upper castes, the government has also proposed, through a Constitutional amendment, removal of the clause that allows the State to make reservation only for those it thinks are 'not adequately represented'.

In an internal explanatory note on the move, the government stated, "The economically weaker sections of the people who are not covered by any of the existing schemes of reservation constitute a considerable part of the Indian population. In view of the above, and in order to do justice to all weaker sections of people, it has become essential to appropriately amend the Constitution in order to enable the State to extend the various benefits... to the economically weaker sections of the people who are not covered by any of the existing schemes of reservation."

Though similar suggestions

have been made by political leaders like Mayawati and Ramdas Athawale in the past, this is the first substantial move to take the legislative route to provide for this change.

Minister of State Athawale told The Indian Express, "The issue of reservation caused a lot of conflict between Dalits and Savarnas. My demand has always been for 25 per cent reservation for the upper caste poor; 10 per cent is a good start."

He said Tamil Nadu had already exceeded the cap on reservation by granting 69 per cent quota. Athawale was the first to put forth this demand for reservation for EBCs (economically backward classes) as soon he was made Minister of State for Social Justice and Empowerment in 2016. He had asked that the reservation of 49.5 per cent should be increased to 75 per cent so as to accommodate the EWS amongst Brahmins, Rajputs, Marathas, Jats, Patels and Gujjars.

In the wake of the upper caste backlash against the VP Singh government's decision to implement the Mandal Commission recommendation to extend reservations to OBCs,

Prime Minister Narasimha Rao, in 1991, had introduced 10 per cent reservation for the poor among forward castes.

But in 1992, while upholding reservation for OBCs as per the Mandal Commission recommendation, the Supreme Court, in the Indra Sawhney & Others vs Union Of India case, directed that reservation be restricted to maximum 50 per cent. It also said that separate reservation for economically poor among forward class was invalid as Article 15(4) provided for only socially and educationally backward classes, and not economically backward classes.

"The Narasimha Rao government's attempt was thrown out as it violated the structure of 50 per cent ceiling," a highly placed source said, underlining that "this time this structure is being changed to provide for reservation up to 60 per cent".

The move comes in the backdrop of an upper caste backlash against the Modi government's move against the Supreme Court's attempt at ring-fencing apprehensions on the misuse of SC/ST Prevention of Atrocities Act. The Supreme Court move sparked protests from Dalit

groups across the country following which the government brought a legislation and nullified the Supreme Court's measure through Parliament in the last monsoon session.

The upper caste communities, in turn, voiced their protest over the government's alacrity in addressing the concerns of Dalit communities of the issue. Senior BJP leaders, in this context, confided that the BJP faced hostile upper castes in the recently concluded assembly elections in Madhya Pradesh, Rajasthan and Chhattisgarh.

The move by the central government appears an attempt to placate the upper castes ahead of the Lok Sabha elections.

P S Krishnan, former Secretary in the Government of India, said the very constitutionality of this amendment is questionable as other than the Scheduled Castes and Scheduled Tribes, the Constitution grants reservation to those who are only socially and educationally backward, not economically.

"Any Constitutional amendment has to be in keeping with the basic structure of the Constitution. Individuals from SC, ST and OBC have been dis-

criminated against, and systematically and collectively excluded from education, administration, modern areas of employment. There are poor among upper castes but poverty is not caused by social deprivation and, hence, it is not eligible for reservation under the Constitution," Krishnan said, adding that the appropriate remedy is to provide such children with scholarships, loans, access to skill training, and not reservation which is for those who have faced systemic blocks.