CHAPTER - VI

THEORY AND PRACTICE

Caste was no disqualification before the days of Brahmanisation. Caste was then a privilege and security. The Brahmanas were not entirely responsible for the turn taken by caste, the non-Brahmanas were equally responsible for its growth and maintenance. The caste became a monster with a thousand eyes and a thousand arms. The Brahmanas has became more afraid of the monster than the non-Brahmanas. The intensity of fear one entertains is proportional to the degree of ancestor worship he adheres to. Fear for the ancestors made one a slave to family traditions and a dupe to caste restrictions.

To set aside the caste restrictions, the depressed classes are as unwilling as the higher castes, since no lower caste man is willing to give equality to one lower than himself, it is this peculiar psychology that stands in the way of leveling up the castes.

However, caste with all its defects and discriminations upheld and maintained its traditions in art, craft, industry, and science. Despite foreign, invasions, and industrial upheavals, caste holds its own. Caste has never been a guild to fight against the oppressors or intruders; it was an effective body to uphold traditions and usages. Had it not been for caste, India would have lost most of its valuable assets.

Caste in ancient days never stood in the way of individual advancement. In Vedic days, those Sudras, who were, prepared to join the dvija fraternity, became prominent among the Rishis who founded even famous Rishi Kulas and Gotras; in the days of the Upanishads they became teachers of repute; even in medieval times they became great saints and propounders of religion. Even among the most orthodox of the Brahmanas, the followers of Sudra preceptors could be counted in thousands. In art, craft, and
science, they held the fort all the time; what India takes pride today in these realms is the work of their ancestors.

The main crux of the whole of discussion is that the downtrodden have been suppressed and exploited for such a long time that, extra pains will have to be taken to them at par with the upper classes. Moreover, there are persons who believe that all human beings are not blessed with the same natural endowments. Someone at a certain time must take extra trouble, look to the downtrodden and give him a helping hand. The Hindu philosophy of helping others to realize one-self is well explained by Swami Vivekananda

"Every action that helps a being manifest its divine nature more and more is good, every action that retards it is evil. The only way of getting our divine nature manifested is by helping others to do the same. If there is inequality in nature, still there must be equal chance for all—or if greater for some and for some less the weaker should be given more chance than the strong. In other words, a Brahmana is not so much in need of education as a Chandala. If the son of a Brahmana needs one teacher, that of a Chandala needs ten. For greater help must be given to him whom nature has not endowed with an acute intellect from birth. It is a mad man who carries coal to Newcastle, the poor, the down-trodden, the ignorant, let these be your God."¹

Swami Vivekananda is very explicit in his view. He wants that every being must manifest its divine nature. He knows it for certain that a certain caste has not been able to manifest its divine nature. The caste is to be helped at every cost. The castes who have been appropriating education and culture for all the time will have to make some sacrifice for the sake of their neglected down-trodden brethren.

The depressed classes had really touched the lowest level of existence at every level. No thinking human being would like to see them any more in

such a state of deprivation and depression. Reservation seems to be the only solution of this problem. Most of the problems faced by them can be classified as under:

(a) Social Problems:

From times immemorial, they have been victims of many Social Constraints as

(i) People of higher caste do not accept water or food from their hands.
(ii) They are not served by barbers and tailors who serve the higher castes.
(iii) They are not allowed to use gold ornaments.
(iv) They are derived worshipping of the gods in the Hindu temples.
(v) They are not allowed to move freely in public places and if they do so they are expected to maintain a respectable distance.
(vi) They are not allowed to use public wells and are not permitted to stay in Dharamshalas and hotels meant for the high castes of the society.
(vii) They cannot take bath at a public ghat and cannot use the burning ghats meant for caste Hindus.
(viii) They were refused admission in schools. Even when they are allowed admission these days they are looked down upon by classmates, and
(ix) They are not even allowed to change their occupations.

In view of this, doing unclean occupations, scavenging and sweeping had been their lot. This created a feeling of hatred by the upper class towards them and they are forced to live apart in unhygienic surroundings on the outskirts of cities and villages.
(b) Economic Problems:

They are not only downgraded socially, they are a very miserable class economically also. Economic problems faced by them are:

(i) Performance of menial jobs: They are forced to perform menial duties like scavenging, carrying night soil on their heads, serving upper classes in the tasks of hunting, fowling and butchering. These professions yield low income and result in their exploitation. They get Rs. 5-10 per month for scavenging the whole family – a very meager amount for a very bad job indeed.

(ii) Bonded labour: It is unfortunate that the system of bonded labour is prevalent even after 39 years of Independence.

(iii) Indebtedness: Most of the Harijans in the rural areas are landless labourers and they do not get adequate returns for the labour they put in. Moreover, the nature of a job is not permanent. The consequences are heavy indebtedness. They have to pay exorbitant rates of interest and are quite often reduced to the lowly position of a bonded labour.

(iv) Pursuing the hereditary job: Under the Constitution one is free to follow a profession of one's choice. Harijans are also free to take up a job of their liking but mostly they are forced to pursue what are considered their hereditary occupations. Even if they took to other professions, they would not get much success as they would get no patronage from the caste Hindus.

(c) Educational Problems:

Before the arrival of the missionaries, educational facilities for the Harijans were conspicuous by their absence. They were deprived of the fruits of reading and writing. Hunter Commission long back suggested separate schools for the children of the low caste people. The British government then

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laid down rules barring discrimination in the government aided institutions. The factors responsible for educational backwardness among the low caste people can be: First, the threatening attitude of the high caste people. Secondly, the inability of the government to enforce educational policies strictly and effectively. Thirdly, lack of enthusiasm amongst the members of Harijan society to educate their children and lastly, the difficulty to get suitable teachers who would impart education to the children of the depressed classes.

It was only when India became free that sincere efforts were made to teach the 'untouchable' children. Legislative measures were enacted for the removal of social injustice, social discrimination, removal of bar on the admission or the Harijan students to common schools. The government has started awarding of scholarship, granting of book aid, exemption from tuition fees, provision of hostel accommodation and the reservation of seats in Educational Institutions.

(d) Political Problems:

The history of the Indian political life is also the history of the political rights being granted to the Harijans in our country. In the early stage of freedom struggle, franchise was not universal. Restrictions were placed on the basis or property, payment of revenues and taxes and educational qualifications. This was the most sophisticated way of denying political rights to the backward classes.

Thus we refer from these points that the superiority of the Brahmins and the other upper castes and the low social ranking of the backward castes and the Shudras are ideas rooted in the Hindu scriptures. They point out how, even today, a poor Brahmin enjoys a higher social status than a rich man belonging to one of the backward castes. They, therefore, feel that caste is a relevant criterion in the determination of backwardness. They want to
compensate members of the backward castes for their age-old social handicap by giving them better representation, better opportunities and better facilities.

Further, the ritual status is a predominant criterion of social stratification and that the acquisition of economic and political power does not in itself assure the upward movement of a social group on the social ladder. Further, they point out how, if economic backwardness is everything, the framers of the Constitution would not have taken the trouble of using the words 'socially and educationally backward classes' in Article 15(4). They would have been quite brief and used just the words 'economically backward'.

Refuting the criticism on the nomenclature of 'castes' and 'classes', they claim that backward castes are also backward classes. The Mandal Commission, in its micro-study of a number of villages finds that, by and large, there is close correspondence between the caste hierarchy and class hierarchy. Although, the findings of the Mandal Commission are not able to prove perfect correlation between caste and class, the use of words 'backward classes' in the Articles 15(4) and 16(4) is for 'other backward castes'.

Further, the leaders of the backward classes in India allege that 85 per cent of the government jobs are in the hands of the upper castes who constitute only 25 per cent of the population in India. They claim that only a few per cent of employees and students from reserved categories are responsible for bringing down efficiency, standard and merit. It must be due to upper caste monopoly.

It is true that in the given economic and political context, one's birth in a particular family, by and large, determines one's chances in life. Not only have the so-called upper castes enjoyed control over resources for centuries,

but they have also dominated the culture of the masses. It created the superiority of the twice-born (upper castes) and inferiority of the backward.

The leaders of the backward classes point out the Brahmins have stayed at the top for centuries and how this has helped them in acquiring certain progressive values. Although the lower castes are now determined to rise higher, the upward movement is much too slow. The Brahmins and the other upper caste people have thus a cultural advantage which helps even the poor among them in striving for worthwhile goals. This type of mental horizon and social make-up is not available to the backward classes. Reservation, therefore, is the only remedy for social and educational backwardness.

The leaders of the backward classes deny that caste-based reservation strengthens the caste system. They claim that students and employees of the backward classes have been the worst victims of casteism. The upper castes have always helped only their own people. If all castes and communities get their due representation in educational institutions and government services, it will make short work of parochial loyalties and check the monopolies of upper castes in the technical education and government jobs through constitutional means.

In support of the policy of reservation, Devaraj Urs once urged that casteism of one hue could be fought only by casteism of another hue. Why should it be said that if the lower castes and the underprivileged fought for their share in the government, it was tantamount to casteism? If the upper castes dominated the political scene and appropriately up to a very large percentage of jobs in the government, was it not tantamount to casteism? Urs added that, after all, the social structure in which one grew up was basically an unequal one. And, unless the State intervened, that set-up would continue for all time.

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Devraj Urs noted a number of points against reservation: (1) Reservation creates a vested interest in backwardness; it is a convenient means by which more and more sections of the community would try to wangle the concessions available. (2) The benefits do not percolate down to the broad masses of the backward classes. They reach only a tiny elite group. This group, in turn, creates a gap between itself and the less fortunate sections of its own community. Members of the group copy the manners and lifestyles of the advanced communities, a process which the sociologists have christened sanskritisation. (3) Reservation does injustice to many meritorious candidates. More often than not, these candidates are found to belong to the advanced communities.\textsuperscript{6}

Ram Manohar Lohia, who advocated 60 per cent reservation for the Scheduled Castes, the Scheduled Tribes, the Backward Classes and women, said: "If merit were to be the sole criterion for selection or appointments, the high castes with their 5,000 - year old tradition of specialization in mental pursuits would be unbeatable."

He further observed that three characteristics distinguished India's ruling classes: (1) high caste, (2) education in English medium, and (3) wealth. Any two of these three factors make a man a member of the ruling castes. He concluded that the presence of the first factor, viz., high caste, froze the whole situation almost into an immobility, for over 90 per cent of India's ruling classes belong to high castes.\textsuperscript{7}

Further, to run the administration efficiently one does not need to be a genius. Common intelligence is sufficient if it is coupled with a high degree of honesty and a capacity to take decisions.\textsuperscript{8}

\textsuperscript{6} Ibid., pp. 25-26.
\textsuperscript{8} Chatterji, P. C., “In Defence of Reservation”, Patriot (New Delhi), April 23, 1980.
According to the leaders of the backward classes, one's merit is a product of the socio-economic conditions of one's family. The children of socially superior and prosperous parents do well in education and in the job market. The socio-economic conditions of the backward castes have not improved. They are, therefore, entitled to reservation. Reservation, they declare, does not lead to any decline in administrative efficiency. On the other hand, it integrates the political and social systems and ensures social equality. It strengthens the faith of the backward classes in the political system. This, in its turn, promotes national integration.

With the enforcement of land reforms, a large number of people among the backward castes became small and medium farmers. This enabled them to acquire property and to snap their links with moneylenders. The only challenge that they were then left with lay in the sphere of jobs where the upper castes still held sway by virtue of their superior education.

But there is no denying of the fact that the reservation has tended to increase rather than reduce disparities between and within target groups. For example, the general mass of 'Harijans' have been let down by their own people, and only the prosperous among them have cornered all the benefits of preferential treatment.

It is true that in the traditional Indian society, there was a class correspondence between the caste hierarchy and the economic hierarchy; so much so that the backward castes also constituted the backward classes. However, in the course of the last four decades or so, certain significant changes have taken place causing a number of traditional backward castes to move up socially and a number of traditional advanced castes to move down.

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In view of this development, there is no need for reservation to ensure the upward mobility of the backward castes. They are now capable of furthering themselves.

From the economic point of view, the backward classes are by no means backward. They are basically agriculturists and artisans in the rural areas. They own land, cows and buffaloes. They lend money to the poor villagers and charge usurious rates of interest. They heard surplus grain, wait for the price to rise and then sell it at great profit. By consuming little money, they save to educate their children in schools and colleges. They realize the value of education and are no longer steeped in illiteracy and backwardness.

The traditional system of social stratification has undergone a metamorphosis in recent times. A number of factors are responsible for this metamorphosis such as universal education, wide-ranging social legislation affecting age-old institutions and inequalities, land reforms, urbanization, industrialization and the consequent diversification of occupational structures.\textsuperscript{12} In this situation, inferior occupations like artisan, landless labourer, cultivators and others would be the correct test of backwardness in place of caste.

Yet another argument is that the demand for reservation is due to lack of jobs. The problem of educated unemployment has assumed alarming dimensions in our country in view of the rapid expansion of education on the one hand and the slackening rate of economic development on the other. This problem can only be solved by creating more jobs, not by alienating any percentage of the existing jobs in favour of any caste or community.

It is also felt that the young men of the upper castes should not be made to suffer for the misdeeds that their forefathers might be said to have committed in previous years. They also feel that the according preferential treatment to the backward castes is against the principle of equality. Others are

opposed to the criteria chosen for the determination of backwardness. They are less against the idea of favouring as 'more backward castes'.

Sociologists like Andre Beteille observe that reservation can do little to bring about a social revolution in India. Further, there can be no real change in the mental horizons of people. We shall remain eternally stuck with the very divisions we have inherited from the past unless we are able to move towards a different conception of backwardness, one that relates it to the needs of individuals rather than to the demands of castes and communities.

If the caste system is to be destroyed or if its sanctity as a legitimizer of exploitation is to be undermined, one must deal with the sources of exploitation on which the caste system thrives. Leftists like E.M.S. Namboodiripad observe that in making the demand for reservation, the working people belonging to the 'forward' communities are being pitted against the backward communities and that also class unity on the basis of common slogans and demands for democracy are being sacrificed, for the sake of 'unity' between the exploiters and the exploited.

The radicals are also against reservation. They believe that piecemeal changes cannot ameliorate the conditions of the poor. They favour structural changes that can create enough jobs and educational opportunities. Reservation, according to them, snuffs out the revolutionary spirit of the have-nots.

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13 Ibid., p. 13.
Backwardness ultimately is a matter of socio-economic opportunities, missed or denied, and illiteracy is one of its basic manifestations.\footnote{17 Indian Express (New Delhi), “Backward and Forward”, August 13, 1982.} It is, therefore, advocated that economic development and spread of education rather than reservation as the need of the hour. The former President of India, Sanjiva Reddy, once said that there were several Brahmins, who were far below the poverty-line in spite of being members of an advanced community. "Is it not unjust to deny such Brahmins government assistance", he asked.\footnote{18 The Hindu (Madras), “Help The Poor and Forward Castes”, 12 October, 1978.} This question haunts all secular-minded intellectuals and critics of the compensatory discrimination policy.

D.A. Desai, a learned judge of the Supreme Court, observed the same viewpoint:

“If economic criterion of compensatory discrimination or affirmative action is accepted, it would strike at the root cause of social and educational backwardness, and simultaneously take a vital step in the direction of destruction of caste structure which in turn would advance the secular character of the nation.”\footnote{19 K. C. Vasanth Kumar vs. State of Karnataka, A.I.R., 1985, S.C.. p. 1496.}

He further explained the twin constitutional goals of this approach:

“One, to strike at the perpetuation of the caste stratification of the Indian society so as to arrest progressive movement and to take a firm step towards establishing a casteless society, and two, to progressively eliminate poverty by giving an opportunity to the disadvantaged sections of the society to raise their position and be part of the mainstream of life which means eradication of poverty.”\footnote{20 Ibid.}

The Articles 15(4) and 16(4) of Indian Constitution entitle the backward classes to preferential treatment. Actually, it is not so. In the Balaji case, the Supreme Court described Articles 15(4) and 16(4) as only enabling
provisions which do not impose and obligation on the State to act in a particular way. The use of those provisions, according to it, is a matter left to "the discretion of the State". It is not a constitutional duty cast upon the government to make reservation. It is a discretionary power. Even if the government uses the power to make reservation, it cannot destroy the interest of others.

Instead of caste, I.P. Desai has suggested class criteria along with the following alternative criteria: (1) The unit must be completely secular. (2) It must be in consequence with the new society that has emerged in developing. (3) The new society is based on a recognition of the individual as a citizen, and his rights and obligations are defined by secular political authority. (4) The class to which an individual belongs can be identified by the activity he engages in for earning his livelihood.

He observes that social and educational backwardness need not necessarily co-exist. An individual belonging to one of the higher groups in the caste hierarchy may be educationally backward; and an individual who is educationally advanced may be socially backward. Similarly, an individual belonging to one of the lower castes may not belong to the socially and educationally backward class because of his caste. In a secular status system, he may not be considered backward.23

In support of the I.P. Desai view and negating the fear raised by Ghanshyam Shah about change of criteria for identifying other backward classes from caste to class, Upendra Baxi says:

23 Ibid.
“If the poor can be operationally defined, categorized and sub-categorized and reservation benefits be stratified accordingly, would the scenario still haunt us? I think not.”

The arguments of I.P. Desai and Upendra Baxi are quite logical and look secular, but not applicable and identifiable. All these are designed for the few poor people among the upper castes and ignoring the miserable condition of the large section of backward classes. Even the suggestion made by Baxi will not solve the fear raised by Shah in context of the changed reservation policy from caste to class. He observes:

Now, if the government changes the criteria of reservation from caste to class, person from the upper strata of the lower castes who are otherwise not able to compete with the upper strata of the upper castes despite the reservations will be excluded from the white-collar jobs. And the persons from the lower strata of the lower castes will not be able to compete with their counterparts of the upper castes. They too will be excluded.

Thus, Shah suggests caste/class/social groups model for the persons belonging to poor strata of the low castes/social groups of different religions. Shah advocates determination of beneficiaries in sub-regional exclusion of advanced backward castes from the benefit of reservation.

There has been heart burning among anti-reservationists; since long as to taking away of major benefit of reservations by the forward class among the backward classes. The plea of skimming off such groups has been both against SCs/STs and OBCs. Anyway that plea had been in relation to those services in which reservation has been implemented since long, i.e., state services and the benefits of reservation had been allowed to such classes since long necessitating review of the whole issue. The main issue before us is: Is it advisable to oust the creamy layer of OBCs at once when the reservation

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26 Ibid.
scheme is going to be implemented in Central service? Or would it have been better had it been waited for some time and applied it at the stage of screening of the achievement of the scheme after some time.

In relation to State services there has been suggestions to skim off the forward among backwards. On February, 1982, Charan Singh expressed the opinion in his letter addressed to Chief Minister Banarasi Das that reservational benefits should not be given to those families which had received its benefit and whose children have been brought in higher cultural atmosphere. He also suggested reservation should not be given to those students whose guardians are income tax payee irrespective of their being SC/ST. Likewise Mr. Biju Patnaik, the then Chief Minister of Orissa wrote a letter to the Central Government for fixing the income for awarding reservational benefit in admission. It should be applied to all SCs/STs and OBCs. Karnataka Third Backward Classes also suggested that reservational benefit should not be given to the wards of such people who are employed in Class I or II services, doctors, engineers or income tax and sales tax payee.

Creamy Layer

The case of identifying and skimming off of creamy layers among OBCs in Central services is novel one. The issue was very much in contemplation of Mandal Commission. The Commission was aware of the fact that major benefits of reservation and other welfare measures for OBCs will be corresponded by more advanced sections of backward communities. But it conceded that that was a universal phenomenon. Anyway, human nature being what it is a "new class" ultimately does emerge even in a classless society. And therefore, priority has to be fixed. Mandal Commission identified the chief goal by arguing that:

"the chief merit of reservation is not that it will introduce egalitarianism among OBCs when the rest of the Indian society is seized by all sorts of inequalities. But reservation will certainly erode the hold of higher
castes on the services and enable OBCs in general to have a sense of participation in running the affairs of their country." The other point of view was sponsored by A.N. Sattanathan, Chairman, Tamil Nadu Backward Classes Commission, 1970 who in his article under caption, "New Criteria For Backwardness" wrote on December 24, 1983 that "Several Commissions appointed by the Central and some State Governments in the past failed to find a suitable alternative of caste as the criterion for classification as a Backward Class. They also failed to take into consideration the obvious fact that in every caste, there is a steadily growing upper crust of well-to-do, educated people, who do not need to be propped by way of reservation. Most of the majority of other members of the caste still remain backward. The upper crust develops a vested interest and becomes a lobby for retaining the caste criterion."

This opinion of Sattanathan is more appropriate in relation to State services. He himself was confronted with objections and criticism that, in Tamil Nadu itself several sections of Christians and Muslims had been added to the List of OBCs and "almost every forward caste can find some name, under cover of which it could enter the backward list." And, he opined that these "are the arguments advanced by ruling elite which is keen on preserving its privileges. Therefore, like all reasonings, it is based on a partisan approach."

The issue of determination of 'creamy layer' among OBCs adopting means test for the purpose of divesting such classes of reservational benefit arose in Mandal case. The first and foremost issue in this respect to be decided would have been whether the philosophy of creamy layerisation would be limited to OBCs only or SCs and STs too for whom reservational benefit had been given since long and there have been eyebrow of elitists since long as the issue of reservation in Central services for OBCs was not in contemplation.

27 II Report of Backward Class Commission (BCC), 1980, Chapter XIII.
28 Sattanathan, A. N., “New Criteria For Backwardness”, Indian Express, 24-12-83.
The second question was: who were the opponents of giving benefits to all OBCs including their upper crust and was it advisable and realistic outlook to declare the upper crust of OBCs outside the purview of reservation side by side the vacation of stay order against the Union policy?

(1) As to the first issue Chief Justice Kania and Venkatachaliah, Ahmadi and Jeevan Reddy, JJ. had only a running way observation, i.e., (This discussion is confined to other Backward Classes only and has no relevance in the case of Scheduled Castes and Scheduled Tribes).29 There is no discussion on the point why the Court arrived at this conclusion. There is no mention of this aspect in any other judgment. If the rule of skimming off of upper crust of OBCs is pleaded how it may not be applied to SCs/STs. As a matter of fact, while dealing with the issue of reservation /special provisions of SCs/STs in State of Kerala vs. N.M. Thomas30, Krishna Iyer, J. pointed out one of the dangers of reservation to be that "its benefits, by and large, are snatched away by the top creamy layer of the 'backward caste' or class keeping away weak and leaving the fortunate layers to consume to the whole cake."31 He cited the revealing fact based on research conducted by A.N. Sinha Institute of Social Sciences, Patna that, "there exists a dual society among Harijans-a tiny elite gobbling up the benefits and the darker layers sleeping distance away from the special concession."32 The result being that for them Articles 46 and 335 remained a 'noble romance' and the bonanza going to the higher Harijans.33 In this context there is much force in argument of K.C. Yadav who challenges the discriminatory use of creamy layer formula: "Article 16(4) takes care of the backward classes as a genus of which the Scheduled Castes, Scheduled Tribes and Other Backward Classes constitute, different species. There is no churning out of the 'creamy layer' from the Scheduled Castes and Scheduled

29 Mandal case, para 792.
31 Ibid., p. 531.
32 Ibid., pp. 531-532.
33 Ibid., p. 532.
Tribes in matter of job reservation. Why should the other Backward Classes be subject to this discriminatory provision? B.K. Roy Burman, one of the expert members associated with Mandal Commission has also repeated the same charge: "If there is no question of identifying the 'creamy layer' among the Scheduled Castes and Tribes, why there should be an effort to do so in relation to the Other Backward Classes."35

(2) As to the second issue barring Pandian, J. all the other eight Hon'ble Justices were of the view that reservation to OBCs should be allowed subject immediately to skimming off the creamy layer among them. Kania, C.J. and Venkatachaliah, Ahmadi and Jeevan Reddy, JJ. thought creamy layer was necessary for more appropriate identification of backward classes. Sawant, J. ruled that for the exclusion, the criteria must be ability to compete with the forward class. Thommen, J. accepted attainment of certain economic level for exclusion. Kuldip Singh accepted means test to skim off the affluent section of the backward classes. Sahai, J. found a social purpose in exclusion through proper income, property or status criteria.

In Mandal case the petitioners' argument was that some members of designated backward classes are highly advanced socially as well as economically and educationally. They constitute the forward section of that particular backward class. They are as forward as any other forward class member. It was further argued that this upper crust or forward, among backwards are lapping up all the benefits of reservations meant for that class without allowing benefits to reach the truly backward members of that class.

The petitioners relied on K.S. Jayasree vs. State of Kerala36 wherein the Supreme Court had approved the Kerala scheme to keep certain classes out of reservational benefit on fixing economic ceiling. On the other hand, it was controverted on behalf of State of Bihar, Tamil Nadu, Kerala and other. They

35 The Times of India, March 12, 1993, p. 3.
pleaded that once a class is identified as backward class after applying relevant criteria including economic, one, it is not permissible to apply the economic criteria once again with a view to sub-divide a backward class into two sub-categories. It was submitted on behalf of respondents that the argument of 'creamy layer' is but a mere ruse, trick, to deprive the backward classes of the benefit of reservations. Three very pertinent arguments were given in their support. First, the plea of 'creamy layer' was not raised by any member of the backward class for whose benefit it was to be evolved. And, raising of this issue by the members of the forward classes was not natural and was ill becoming. Second, it was but natural that in a competitive society posts and seats may be occupied by fortunate upper crust. The query of Chinnappa Reddy, J. in Vasant Kumar's case\textsuperscript{37}: Are not the unreserved seats and posts snatched away, in the same way, by the top creamy layer of the society itself? is very pertinent which was pleaded by the respondents. Still convincing argument was given from the same source by quoting Chinnappa Reddy, J. "Seats reserved for the backward classes are taken away by the top layer amongst them on the same principle of merit on which the unreserved seats are taken by the top layer of society. How can it be bad if reserved seats and posts are snatched away by the creamy layer of backward classes, if such snatching away of unreserved posts by the top creamy layer of society itself is not bad?"\textsuperscript{38}

Third, on adage 'one swallow does not bring the summer' it was argued that merely because a few members of a caste or class become socially advanced, the class/caste does not cease to be backward. The forceful argument was that Article 16(4) speaks of group backwardness and does not talk of individuals.

The majority found much force in the arguments and did not answer straightway. It bypassed the arguments on the plea that it was not a question of

\textsuperscript{38} Ibid.
permissibility of the test of ‘creamy layer’ but one of proper and more appropriate identification of backward class. Speaking of the common traits to prove the compactness of a class the majority pointed out that “the very concept of a class denotes a number of persons having certain common traits which distinguish them from others. In a backward class under clause (4) of Article 16; if the connecting link is the social backwardness, it should broadly be the same in a given class.”39 It elaborated that “if some of members are far too advanced socially (which in the context, necessarily means economically and may also mean educationally) the connecting thread between them and the remaining class snaps. They would be misfits in the class. After excluding them alone, would the class be a compact class.”40

However, the majority was not very much sure as to dividing line and wanted to ensure that it should not amount to taking away with one hand what is given by the other. It ruled that the basis of exclusion should not merely be economic one unless economic advancement is so high that it necessarily means social advancement like ownership of a factory. Jeevan Reddy delivering the leading majority judgment cautioned that line drawn between creamy layer and rest of the class must be a realistic one and income limit should be prescribed as such which may be indicative of social advancement. It should mean and signify social advancement. The Court pointed out certain, positions to be recognised as socially advanced like becoming a member of IAS or IPS or any other All India service.41 Exclusion of such advanced class was declared to be conducive to identify the rest of class a truly backward class and thereby would more appropriately serve the purpose and object of Article 16(4).

Sawant, J. based his judgment about ‘creamy layer’ on two grounds: First, the natural progress reveals undeniable fact that when society moves at

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39 Ibid., p. 428 (para 792).
40 Ibid.
41 Ibid., p. 429.
least some individuals and families in the backward classes, however, small in number, gain sufficient means to develop their capacities to compete with others in every field. Irrespective of their original birthmark they cannot be called as part of backward classes. To continue reservational benefits to them would violate equality as would amount to treating equals unequally.\textsuperscript{42} Second, to rank them with the rest of the backward classes would equally violate the right to equality of the rest in those classes, since it would amount to treating unequals equally.\textsuperscript{43} According to Sawant, J. what is more, it will lead to perverting the objectives of the special constitutional provisions, Hence, taking out forwards from among the backward classes is not only permissible but obligatory under the Constitution.\textsuperscript{44}

However, Sawant, J. issued two notes of cautions:

(i) The forwardness among the forward groups, so also the forwardness of the forward among backward classes cannot be measured in terms of the backwardness of the backward sections of the said class. It has to be judged on the basis of the social capacities gained by them to compete with the forward classes.\textsuperscript{45}

(ii) In order to prove qualitative representation in higher rungs of administration as well, the competitive capacity should be determined on the basis of the capacity to compete for the higher level of posts also. And till that time, they cannot be called forward among the backward classes, and taken out of the backward classes.\textsuperscript{46}

Thommen, J. preferred means test and pointed out that once a class of citizens is identified on the principles as backward for the purpose of

\begin{itemize}
\item \textsuperscript{42} Mandal case, p. 257 (para 520).
\item \textsuperscript{43} Ibid.
\item \textsuperscript{44} Ibid.
\item \textsuperscript{45} Ibid.
\item \textsuperscript{46} Ibid.
\end{itemize}
reservation, the "means test" must be strictly and uniformly applied to exclude all those persons in that class reaching above the predetermined economic level. In his view classes for which reservation is meant are those classes who are totally unable to join mainstream of upward mobility because of their utter helplessness arising from social and educational backwardness and aggravated by economic disability. Conceding variation in economic level from time to time, he argued that reservation should be so tailored as to weed out and exclude all those who have attained a certain predetermined economic level.47

Kuldip Singh, J. too preferred means test. He thought that benefits of special privilege like job reservations were mostly chewed up by richer and more affluent sections of backward classes and therefore recommended that means-test is imperative to skim-off the affluent sections of the backward classes.48 R.M. Sahai, J. pointed out that collectivity or the group may be backward class but the individuals from that class may have achieved social status and economic affluence and thereby they are dismantled from claiming reservation, And, therefore, creamy layer amongst backward class of citizens must be excluded by fixation of proper income, property and status criteria. It may be pointed out that all the above referred judgments are based on theoretical assumptions in absence of any facts and figures showing that upper crusts of backwards have eaten away the reservational benefits in Central services because reservation for OBCs had not yet been implemented by the time of the decision. There would be no disagreement as to the principle of 'creamy layer'. Even in his dissent on the point, Pandian, J. said that "there is no dispute that the pseudo-communities who have smuggled into the backward classes should be weeded out from the list of backward class."49 But he pointed out that the act of weeding out must be done only by the Government

48 Ibid., p. 196 (para 385).
49 Ibid., p. 128 (para 228).
Pandian, J., extensively dealt with the problem and conceded that argument for exclusion of the 'creamy layer' on the face of it appears to be attractive and reasonable. But question is whether those individuals belonging to any particular caste, community or group which satisfies the test of backward class should be segregated, picked up and thrown over-night out of the area of backward class. Pandian, J. issued a realistic note reminding that "one should not loose sight of the fact that the reservation of appointments or posts in favour of 'any backward class of citizens' in the Central Government services have not yet been put in practice inspite of the impugned OMs. It is after 42 years since the advent of our Constitution, the Government is taking first step to implement this scheme of reservation for OBCs under Article 16(4). In fact, some of the States have not even introduced policy of reservation in the matter of public employment in favour of OBCs." Pandian, J. fully endorsed the observation of Chinnappa Reddy, J. in Vasant Kumar's case, (cited earlier) giving befitting reply to those who charge of 'creamy layers' snatching away the benefits of reservation. He raised very pertinent questions:

First, the OM did not speak of any 'creamy layer test' knowing the fact that few individuals having become socially and educationally above general average might have entered in the All India Services, Government accepted listed group of SEBC given in the Report and it had not thought prudent to eliminate those individuals. Therefore, Pandian, J. expressed doubt: "Whether the judicial supremacy can work in the broad area of social policy or in the great vortex of ideological and philosophical decisions directing the exclusion of any section of the people from the accepted list of OBCs on mere ground

50 Ibid.
51 Ibid., p. 126 (para 221).
52 Ibid., pp. 126-127 (para 222).
that they are all “creamy layers” which expression is to be tested with reference to various factors.” 53

Second, Pandian, J. referred to five judge bench bearing initial petition which had said on August 8, 1991 that "the validity of the Mandal Commission Report as such is not in issue before us."54 Again he referred to constitution bench hearing on October 1, 1990 which had accepted political nature of issue and had taken the view that ordinarily the Court would not interfere with such a decision.55 Pandian, J. concluded with remark that:

"When this Court is not called upon to lay a test or give any guideline as to who are all to be eliminated from the listed groups of the Report, there is no necessity to lay any test much less 'creamy layer test'. I find no grey area to be clarified and consequently hold that what one is free to do directly cannot do it indirectly by adopting any means."56

And, therefore, Pandian, J. ruled that "the entire 27% of the vacancies in civil posts and services under the Government of India shall be reserved and extended to all the SEBCs."57 Pandian, J. too accepted the weeding out of the upper crust of OBCs, but not at once. It would be in due course on review of the recommendation of Mandal Commission by a Commission appointed by the Governments-Central and State. The government has to review the list at any point of time and take a decision for the exclusion of any pseudo community or caste smuggled into the backward class or for inclusion of any other community which in the opinion of government suffers from social backwardness. Therefore, the learned judge disapproved and held unconstitutional the means test to determine the poorer sections among SEBCs.58

53 Ibid., p. 128 (para 227).
54 Ibid., p. 129 (para 231).
55 Ibid., (para 233).
56 Ibid., pp. 129-130 (para 234).
57 Ibid., p. 130 (para 235).
58 Ibid., p. 126 (para 218).
The following directions were issued by the Supreme Court to the Government of India, Article 16(4). In fact, some of State Governments and the Administration of Union Territories.  

861. (A) The Government of India, each of the State Governments and the Administrations of Union Territories shall, within four months from today, constitute a permanent body for entertaining, examining and recommending upon requests for inclusion and complaints of over-inclusion and under-inclusion in the lists of other backward classes of citizens. The advice tendered by such body shall ordinarily be binding upon the Government.  

(B) Within four months from today the Government of India shall specify the bases, applying the relevant and requisite socio-economic criteria to exclude socially advanced persons/sections (creamy layer) from 'Other Backward Classes'. The implementation of the impugned O.M. dated August 13, 1990 shall be subject to exclusion of such socially advanced persons ('creamy layer').  

This direction shall not however apply to States where the reservations in favour of backward classes are already in operation. They can continue to operate then. Such States shall however evolve the criteria within six months from today and apply the same to exclude the socially advanced persons/sections from the designated 'Other Backward Classes'.  

(C) It is clarified and directed that any and all objections to the criteria that may be evolved by the Government of India and the State Governments in pursuance of the direction contained in clause (B) of para. 861 as well as to the classification among backward classes and equitable distribution of the benefits of reservations among them that may be made in terms of and as contemplated by clause (i) of the Office Memorandum dated September 25, 1991, as explained herein, shall be preferred only before this Court and not

59 Ibid.
before or in any other High Court or in other Court or Tribunal. Similarly, any petition or proceeding questioning the validity, operation or implementation of the two impugned Office Memorandums, or any grounds whatsoever, shall be filed or instituted only before this Court and not before any High Court or other Court or Tribunal.

862. The Office Memorandum dated August 13, 1990 impugned in these writ petitions is accordingly held valid and enforceable subject to the exclusion of the socially advanced members/sections from the notified 'Other Backward Classes', as explained in para 861(B).

863. Clause (i) of the Office Memorandum dated September 25, 1991 requires - to uphold its validity - to be read, interpreted and understood as intending a distinction between backward and more backward classes on the basis of degrees of social backwardness and a rational and equitable distribution of the benefits of the reservations amongst them. To be valid, the said clause will have to be read, understood and implemented accordingly.

In response to the above direction of the Supreme Court, the Union Government resolved to implement reservation only after identification and exclusion of the 'creamy layer' of OBCs. With a view to search the socio-economic criterion for identification of creamy layer the Government of India constituted an Expert Committee vide Notification No. 12011/10/93-BCC (c), Government of India, Ministry of Welfare, New Delhi dated Feb. 22, 1993. The Expert Committee consisted of the following expert members:

(i) Sri Ramanandan Prasad Judge (Rtd.) Patna, High Court Chairman
(ii) M.L. Sahare Social Scientist, Ex-Chairman Member
Union Public Service Commission
(iii) Sri. P.S Krishnan Ex-Secretary, Ministry of Welfare Member
Government of India
(iv) Sri. R.J. Majithia Ex-Chairman, Revenue Board Member
Government of Rajasthan Secretary

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The Committee was to be assisted by all the ministries and departments of Government of India and to be supplied with required informations and papers. The State Governments and the Government of the Union Territories were also expected to co-operate with the Committee.

What was astonishing was the fact that the Report on such a serious issue like identification of 'creamy layer' among OBCs was asked to be submitted latest by March 10, 1993, i.e., within 17 days of its constitution (between 22.2.1993 and 10.3.1993). The Committee was guided by the guidelines indicated by the Supreme Court. It recognised a family consisting of husband, wife and children as a unit and explained that the brother and sister of an officer falling under creamy layer would not be deprived of reservation and for the purposes of their exclusion the status of their parents would be taken into account. The Committee submitted its Report on 10.3.93 which was accepted by the Government of India. But before coming to reproduce the Government O.M., it would better to take note of certain considerations and suggestions of the Committee. The Committee approved the views of the Supreme Court that exclusion should not be solely on economic criterion until it results into social forwardness beyond doubt and therefore recommended continuous three years income of Rs. one lac or more than Rs. one lac annually. Due to inflation the Committee desired review of the income ceiling after every three years and if necessary even before that period. It excluded from the application of 'creamy layer' formula certain occupation which have been adopted on hereditary basis like potter, washerman and barber. The Committee was also of the view that in relation to more backward and most backward the process of exclusion after review should be postponed because the process of creamy layerisation among them will take much time. The Committee was aware of the problem in issuing of caste certificate and also the problem of false certificate and therefore, suggested appropriate measures to be taken by the Government. It also suggested that the benefit of any fault should go in favour of the candidate.
Even it appears that the criterion adopted are too rigid and that most of persons would be excluded then some flexibility should be maintained.

The Committee also arrived at conclusion that the exclusion of any member of the socially and educationally backward classes should be exception. Before exclusion it should be ascertained that the root of the ill-effect of backwardness has been eradicated and there is no sign of it. The Committee was of the above opinion in view of certain hard realities exposed by Pandian, J. in his judgment and ill impact of creamy layer formula with chances of leaving the prescribed quotas unfulfilled as doubted by S. Sahay in his article "A Moment of Truth". Since, the creamy layer formula was evolved for the first time, the Committee conceded the scope of its review in future.

Criterion of identification of Creamy Layer.

The Government of India issued the following O.M. on the basis of the recommendation of Justice Ramanandan Committee submitted on 10.3.1993.

Criteria Fixed by the Govt. of India for Identification of the Creamy Layer

<table>
<thead>
<tr>
<th>Description of category</th>
<th>To whom rule of exclusion will apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. CONSTITUTIONAL POSTS</td>
<td>Son(s) and daughter(s) of (a) President of India, (b) Vice-President of India, (c) Judges of the Supreme Court and of the High Courts, (d) Chairman and Members of UPSC and of the State Public Service Commission, Chief Election Commissioner, Controller &amp; Auditor General of India.</td>
</tr>
</tbody>
</table>

60 Ibid.
II. SERVICE CATEGORY

| A. Group/Class I Officers | (a) Parents, both of whom are of All Class I officers, |
|                          | (b) Parents, either of whom is a Class I officer, |
| India Central and State Services (Direct Recruits) | (c) Parents, both of whom are Class I officers, but one of them dies or suffers permanent incapacitation, |
|                          | (d) Parents, either of whom is a Class I officer and such parents dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation like, UN, IMF, World Bank, etc. for a period of not less than 5 years. |
|                          | (e) Parents, both of whom are Class I officers die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years. Provided that the rule of exclusion shall not apply in the following cases: |

- Provided that the rule of exclusion shall not apply in the following cases:

  - (a) Sons and daughters of parents either of whom or both of whom are Class-I officers and such parent(s) dies/die or suffer permanent incapacitation.
  - (b) A lady belonging to OBC category has got married to a Class-I officer, and may herself like to apply for a job.
B. Group B/Class II officers of the Central (a) and State Services (Direct Recruitment) 

Son(s) and daughter(s) of Parents both of whom are Class II officers.  

(b) Parents of whom only the husband is a and the Class II officer and he gets into Class I are at the age of 40 or earlier. 

(c) Parents, both of whom are Class II officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before such death or permanent incapacitation. 

(d) Parents of whom the husband is a Class I officer (direct recruit or pre-forty promoted) and the wife is a Class II officer and the wife dies; or suffers permanent incapacitation; and 

(e) Parents, of whom the wife is a Class I officer (Direct Recruit or pre-forty promoted) and the husband is a Class II officer and the husband dies or suffers permanent incapacitation. 

Provided that the rule of exclusion shall not apply in the following cases: Sons and daughter of  

(a) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation. 

(b) Parents, both of whom are Class II officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5
years before their death or permanent incapacitation.

C. Employees in Public Sector Undertaking etc.

The criteria enumerated in A and B above in this category will apply *mutatis mutandis* to officers holding equivalent or comparable posts in PSUs, Banks, Insurance Organisations, Universities, etc. and also to equivalent or comparable posts and positions under private employment, pending the evaluation of the posts on equivalent or comparable basis in these institutions, the criteria specified in Category VI below will apply to the Officers in these institutions.

III. ARMED FORCES INCLUDING PARAMILITARY FORCES (Persons holding Civil posts are not included)

Son(s) and daughter(s) of parents either or both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and the Air Force and the Para Military Forces.

Provided that -

(i) If the wife of an Armed Forces Officers herself in the Armed Forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel.

(ii) The services rank below Colonel of husband and wife shall not be clubbed together.

(iii) If the wife of an officer in the Armed Forces is in civil employment, this will not be taken into account for applying to the rule of exclusion unless she falls in the service category under item No. 11 in which case the
IV. PROFESSIONAL CLASS AND THOSE ENGAGED IN TRADE AND INDUSTRY

(i) Persons engaged in profession as a doctor, lawyer, chartered accountant, Income-Tax consultant, dental surgeon, engineer, architect, computer specialist, film artists and other film professional author, playwright, sports person, sports professional, media professional on any other vocations of like status.

(ii) Persons engaged in trade business and industry.

Criteria specified against Category VI will apply:

Explanation:

(i) Where the husband is in some profession and the wife is in a Class II or lower grade employment, the income/wealth test will apply only on the basis of the husband's income.

(ii) If the wife is in any profession and the husband is in employment in a Class II or lower rank post, then the income/wealth criterion will apply only on the basis of the wife's income and the husband's income will not be clubbed with it.
V. PROPERTY OWNERS

Son(s) and daughter(s) of persons belonging to a family (father, mother and minor children) which owns

A. Agricultural holdings (a) Only irrigated land which is equal to or more than 85% of the statutory area, or (Prasad Committee recommended 65% area).

(b) Both irrigated and unirrigated land, as follows:

(i) The rule of exclusion will apply where the precondition exists that the irrigated area (having been brought to a single type under a common denominator) 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the unirrigated portion). If this pre-condition of not less than 40% exists, then only the area of unirrigated land will be taken into account. This will be done by converting the unirrigated land on the basis of the conversion formula existing, into the irrigated type. The irrigated area so computed from unirrigated land shall be added to the actual area of irrigated land and if after such clubbing together the total area in terms of irrigated land is 80% or more of the statutory ceiling limit for irrigated land, then the rule of exclusion will apply and disentitlement will occur.
(ii) The rule of exclusion will not apply if the land holding of a family is exclusively unirrigated.

B. Plantations
(i) Coffee, tea, rubber etc.
Criteria of income/wealth specified in Category VI below will apply.
(ii) Mango, citrus, apple plantations etc.
Deemed as agricultural holding and hence criteria at A above under this category will apply.

C. Vacant land and/or buildings in urban areas or urban agglomerations.
Criteria specified in Category VI below will apply:
Explanation: Building may be used for residential, industrial or commercial purpose and the like two or more such purposes.

VI. INCOME/WEALTH TEST
Son(s) and daughter(s) of TEST
(a) Persons having gross annual income of Rs. 1 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.
(b) Persons in Categories I, II, III and VA who are not disentitled to the benefit of reservation but have income from other sources of wealth which will bring them within the income/wealth criteria mentioned in (a) above.
Explanation:
(i) Income from salaries or agricultural land shall not be clubbed.
(ii) The income criteria in terms of rupee will be modified taking into account the change in its value every three years. If the situation however, so demands, the interregnum may be less.

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Explanation: Wherever the expression "permanent incapacitation" occur in this schedule, it shall mean incapacitation which results in putting an officer out of service. 61

The Government OM based on Ramanandan Committee Report was approved by the Division Bench of the Supreme Court consisting of Kuldip Singh and S. Saghir Ahmad. JJ. in Ashok Kumar Thakur vs. State of Bihar and Others. 62

Implementation of Creamy Layer Formula by the States and Emerging Controversy thereon. In Ashok Kumar Thakur vs. State of Bihar and Others63 the constitutionality of the criteria for determining 'creamy layer' for the purpose of exclusion of OBCs laid down by the State of Bihar and State of U.P. was challenged through writ petition in Article 32 of the Constitution. The Division Bench of two Honourable Judges declared the creamy layer formula of both the States as invalid for being against the norms indicated by the Hon'ble Supreme Court in Mandal Case. The decision was pronounced by Kuldip Singh, J. The two states' creamy layer formulas were like this:

The Governor of Bihar promulgated Ordinance No. 5 of 1995 on January 27, 199 called "the Bihar Reservation of vacancies in Posts and Services (for Scheduled Castes, Scheduled Tribes and Other Backward Classes)(Amendment) Ordinance, 1995. By the said Ordinance Section 4 of the Bihar Act 3 of 1992 was amended and after the second proviso, the following proviso was added:

"Provided also that reservation under clause (d) shall not apply to the category of backward classes specified in Schedule III."

Schedule III is reproduced hereunder:

63 Ibid.
Schedule III

1. The son or daughter of the President of India, the Vice-President of India, the Chief Justice and Judges of the Supreme Court of India, the Chief Justice and Judges of the High Courts, the Chairman and Members of the Union Public Service Commission and the Chief Election Commissioner;

2. The son or daughter of such officers who has been directly recruited in Class services of the Central Government or a State Government or an Undertaking or a institution fully or partially financed by them; and
   (a) Whose income from salary is rupees ten thousand or more per mensum, and
   (b) Whose wife or husband, as the case may be, is at least a graduate, and
   (c) Who or his wife or her husband, as the case may be, owns a house in an urban area and
   (d) Whose mother or father has also been directly recruited to Class I services.

Explanation: Class I means the pay bracket fixed by the State Government from time to time for Class I.

3. The son or daughter of such person engaged as doctor, advocate, chartered accountant, tax consultant, financial consultant, management consultant, architect or other professionals, and
   (a) Whose average income from all sources for three consecutive financial years is not less than rupees ten lakhs per annum; and
   (b) Whose wife or husband, as the case may be, is at least a graduate; and
   (c) Whose family owns immovable property at least of rupees twenty lakhs.

4. The son or daughter of such person engaged in trade or commerce, and
(a) Whose average income from all sources for three consecutive financial years is not less than rupees ten lakhs per annum; and

(b) Whose wife or husband, as the case may be, is at least a graduate; and

(c) Whose family owns immovable property at least of rupees twenty lakhs.

5. The son or daughter of such industrialist

(a) Whose level of investment in running unit or units is more than rupees ten crores, and

(b) Such unit or units are engaged in commercial production for at least five years; and

(c) His wife or husband, as the case may be, is at least a graduate.

6. The son or daughter of such agricultural landholder

(a) Whose average income from all sources other than agriculture for three consecutive financial years is not less than rupees ten lakhs per annum; and

(b) Whose wife or husband, as the case may be, is at least a graduate; and

(c) Who or his wife or her husband, as the case may be, owns house at least of rupees twenty lakhs in an urban area.

7. The son or daughter of person, other than the persons specified in serial No. 1 to 6 of this Schedule

(a) Whose main source of income is other than animal husbandry, fisheries, poultry, weaving, craftsmanship, handicraft and artisanship; and
(b) Whose average income from all sources for three consecutive financial years is not less than rupees ten lakhs per annum; and
(c) Whose wife or husband, as the case may be is at least a graduate; and
(d) Whose family owns immovable property at least of rupees twenty lakhs.

8. If a person included in serial No. 1 to 7 of this Schedule performs inter-castes marriage with a backward class person other than the categories under serial No. 1 to 7 of this Schedule, his/her son or daughter shall not be excluded.

Note: I. The level of income and the value of property shall be modified taking into account the variation in the money value every three years or less period, as the situation may demand.

II. An affidavit filed by the father or the mother of the candidate, or in case of their death, by the candidate himself shall be deemed to be decisive in respect of income, value of property and educational qualification".

So far as the state of Uttar Pradesh is concerned the categories sought to be excluded from the backward classes (creamy layer) are mentioned in Schedule II read with Section 3(b) of the Uttar Pradesh Public Services Reservation of Scheduled Castes and Scheduled Tribes and Other Backward Classes Act, 1994. The said categories are as under:

Categories of Persons excluded
1. Sons and daughters of
   (a) IAS, IFS, IPS, Indian Forest Service other Central Service (direct or promotee)
   (b) U.P. Civil Service, U.P. Police Service, State Service. (direct recruit).

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(c) Group A/Class I officers of any Department or Ministry of Govt. of India or Educational Research or other institutions [No. I included in above (a)].
(d) Group A/Class I officer of any Department or Institution of State Govt. [No. I included in (b) above].
(e) An officer of defence forces or Para Military forces not below the rank of Colonel or equivalent.

2. Sons and daughters of
Persons engaged in profession as a doctor, surgeon, engineer, lawyer, architect, Chartered Accountant, media and information professional, management and other consultant, film artist and other film professional, running educational institution or coaching institute or engaged in the business as a share broker or in entertainment business.

3. Sons and daughters of - Businessman.

4. Sons and daughters of Industrialist.

5. Sons and daughters of - a person whose holdings is within limit fixed under the U.P. Imposition of Ceiling on Land Holdings Act, 1960.

6. Sons and daughters of - any other person not mentioned in aforementioned categories.

Criteria for Exclusion
(i) Income from salary of such member of service is Rs. 10,000 or above per mensum.
(ii) Spouse is at least graduate.
(iii) He or his spouse owns a house in urban area.

(i) His average income from all sources should not be less than Rs. 10 lakhs per year for 3 consecutive financial years.
(ii) Spouse at least a graduate.
(iii) His family property (immovable) should be worth Rs. 20 lakhs.
(i) Provided whose average income for 3 consecutive financial years is not less than Rs. 10 lakhs per annum.

(ii) Spouse at least a graduate.

(iii) Immovable family property worth at least Rs. 20 lakhs.

(i) Whose level of investment in running units is over Rs. 10 crore and such units are engaged in production for at least 5 years.

(ii) Spouse at least a graduate.

(i) Has an income of Rs. 10 lakhs in a year from sources other than agriculture.

(ii) His spouse at least a graduate.

(i) Whose income from all sources for 3 consecutive financial years is not less than Rs. 10 lakhs per annum.

(ii) Spouse at least a graduate.

(iii) Immovable family property worth at least Rs. 20 lakhs.

A comparative evaluation of the identification of ‘creamy layer’ among OBCs by the States of Bihar and U.P. reveals that they had put some additional conditions for exclusion than what guidelines in Mandal case desired. To say by way of illustration leading majority decision in Mandal case has pointed out that by becoming member of IAS, IPS or any other All India Services a person’s status is enhanced in society and therefore his children should not be allowed the benefit of reservation. The additional requirements put by the two States were that such person should draw a salary more than Rs. 10,000 or more per mensum, the wife, husband be graduate and one of them owning house in urban area. In case of professionals an income of Rs. 10 lakhs per mensum was fixed as criterion. It further provided that the wife or husband is at least graduate and the family owns immovable property of the value of at least Rupees 20 lakhs. Similarly, the criteria regarding
traders, industrialists, agriculturists and others was very high e.g. for industrialist it was required that he might have invested Rs. 10 crores for at least 5 years and spouse was at least graduate, for agriculturists an income of Rs. 10 lakhs in year from sources other than agriculture and graduation of spouse was essential, for any other person to mention the above categories, the income from all sources required for continuously 3 years was fixed at not less than Rs. 10 lakhs, graduation of spouse and immovable property worth Rs. 10 lakhs.

The objection of the Supreme Court was that the attachment of the conditions in almost all categories like graduation degree of spouse and holding of property in urban area was such that they had no nexus with object sought to be achieved and due to in-severability of such conditions the whole exercise was struck down. That was the view of Court in context of Article 14. The element of arbitrariness 64 was also realised and Kuldip Singh, J. pronouncing the judgment pointed out, "It is difficult to accept that in India where the per capita national income is Rs. 6929 (1993-94), a person who is a member of the I.A.S. and a professional who is earning less than Rs. 10 lakhs per annum is socially and educationally backward." 65

Bases of the Conclusion

Justice Kuldip Singh speaking for himself and S. Saghir Ahmad, J. placed heavy reliance upon the judgments of P.B. Sawant J. as to capacity of forwards among backwards to compete with members of forward class and too in relation to higher level posts; Sahai, J. on the point that the collectivity or the group might be backward but the individuals from the class might have achieved the social status or economic affluence and B.P. Jeevan Reddy, J. on proper identification of a compact class and declaring that exclusion of

64 Ibid, p. 421.
65 Ibid., pp. 421-422.
socially advanced members of OBCs would make a class truly backward class and would more appropriately serve the purpose and object of clause (4) of Article 16.

Kuldip Singh himself conceded that “it is difficult to draw a line between a person belonging to the backward class, ceases to be so and becomes part of the ‘creamy layer’. It is not possible to lay down the criteria exhaustively”. But concluded that - that Court has, however, speaking through Jeevan Reddy, J. dealt with the question elaborately and has brought home the point succinctly by illustrating various stages where a member of backward class ceases to be backward and starts floating with the ‘creamy layer’.”

In the above background Kuldip Singh, J. arrived at certain conclusions:

1. The protective discrimination in the shape of job reservations under Article 16(4) has to be programmed in such a manner that the most deserving section of the backward class is benefited.
2. Means test by which ‘creamy layer’ is excluded, ensures such a result.
3. Due to nature of things there may be disparity among backwards as all cannot be equally backward and therefore some of the members of the class may have individually crossed the barriers of backwardness but while identifying the class they may have come within collectively.
4. It is often seen that comparatively rich persons in the backward class are able to move in the society without being discriminated socially.
5. The members of the backward class are differentiated into superior and inferior and discrimination which was practised by the higher class in turn is practised by the affluent members of the backward class on the poorer members of the same class.
6. The benefits of social privileges like job reservations are mostly chewed up by the richer or more affluent sections of the backward class and the poorer and the really backward sections among them keep on getting poorer and more backward.
The views of Kuldip Singh, J., therefore, are expressed as conclusion that "It is only at the lowest level of backward class where the standard of deprivation and the extent of backwardness may be uniform (emphasis added). The jobs are so very few in comparison to the population of the backward classes that it is difficult to give them adequate representation in the State services. It is therefore, necessary that the benefit of reservation must reach the poorer and the weakest section of the backward class. Economic ceiling to cut off the backward class for the purpose of job reservations is necessary to benefit the needy sections of the class. The means tests is, therefore, imperative to skim off the affluent section of the backward class."66

A Critique of Creamy Layer Formula

Does it Amount to Taking Away by one Hand What Has Been Given by the Other?

The issue of creamy layer formula is one which relates to evaluation of compensatory discrimination involving inherently contradictory efforts, i.e., pursuing equality in the land of hierarchy. Compensatory discrimination policies are argued to entail systematic departure from norms of equality such as merit, evenhandedness and indifference to ascriptive characteristics. There are many justifications for it. First, preferential treatment is needed as assurance of personal fairness - a guarantee against a persistence of discrimination in subtle and indirect forms. Second, they have beneficial results which they tend to promote i.e., integration, use of neglected talent and more equitable distribution. Third, historical restitution and or reparation to offset the systematic and cumulative deprivation suffered by depressed people in past. Should creamy layer formula be adopted to make compensatory discrimination more effective is an open issue depending on its assessment as beneficial or deleterious effect. Every scheme of compensatory discrimination

66 Mandal Case, p. 428 (para 792).
has to be evaluated in terms of costs and benefits. Marc Galanter\textsuperscript{67} has very aptly put each claimed benefit paired with the opposite claim of cost—though overlap and redundancy has not be ruled out. It is reproduced below:

### Alleged Benefits and Costs of Policy of Compensatory Discrimination

<table>
<thead>
<tr>
<th>Alleged Benefits</th>
<th>Vs</th>
<th>Alleged Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>RE-DISTRIBUTION</strong></td>
<td>DIVERSION</td>
<td>These resources are enjoyed flow by a small segment of the intended beneficiaries and do not benefit the group as a whole.</td>
</tr>
<tr>
<td>Preferences provide a direct of valuable resources to the beneficiaries in larger measure than they would otherwise enjoy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. <strong>REPRESENTATION</strong></td>
<td>MISREPRESENTATION</td>
<td>By creating new interests which diverge from those of by the beneficiaries preferences obstruct accurate interests representation of their interests.</td>
</tr>
<tr>
<td>Preferences provide for participation in decision-making those who effectively represent the interests of the beneficiaries, that would otherwise be under-represented or neglected.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. <strong>INTEGRATION</strong></td>
<td>ALIENATION</td>
<td>By emphasizing the participation separateness of these groups, preferences reduce their opportunities for (and feelings the of) common participation.</td>
</tr>
<tr>
<td>By affording opportunities for and well being, preferences promote feelings of belonging and loyalty among beneficiaries, thereby promoting the social and political integration of these groups into Indian society.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. <strong>ACCEPTANCE</strong></td>
<td>REJECTION</td>
<td>Preferences frustrate others by what they consider unfair favouritism and educate them to regard the beneficiaries as</td>
</tr>
<tr>
<td>Preferences induce in others an awareness that the beneficiary groups are participants in Indian life whose interests and views</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\textsuperscript{67} Galanter, Marc, Competing Equalities (Delhi: Oxford University Press), 1984, p. 180.
5. INTEGRITY Vs MANIPULATION
Preferences permit forms of action that promote pride, self-respect, sense of achievement and personal efficacy that enable the beneficiaries to contribute national development as willing partners.

Preferences subject these groups to manipulation by others, aggravate their dependency, and undermine their sense of dignity, pride self-sufficiency and personal efficacy.

6. INCUBATION Vs OVER-PROTECTION
By broadening opportunities preferences stimulate the acquisition of skills and resources needed to compete successfully in open competition.

Preferences provide artificial protection which blunts the development of the skills and resources needed to succeed without them.

7. MOBILIZATION Vs ENERVATION
By cultivating talents, providing opportunities and incentives and promoting their awareness and self-consciousness, preferences enhance the capacity beneficiary groups to undertake organised collective action.

By making them dependent, blunting the development of talent, undermining self-respect, preferences lessen the capacity for organized effort on their own behalf.

8. STIMULATION Vs. SEDATION
By increasing the visibility of beneficiary groups, promoting their placement in strategic locations, and emphasizing the commitment to remedy their condition, preferences serve a stimulus and catalyst of

By projecting an image of the comprehensive governmental protection and preferment, preferences stir the national resentment of others, allaying their concern and undermining as initiatives for measures on
enlarged efforts for their uplift inclusion.

9. SELF-LIQUIDATION
The benefits of preferential treatment are mutually and will eventually necessary any special treatment.

Vs SELF-PERPETUATION
These arrangements created vested interest in their reinforcing continuation, while render discouraging the development of skills, resources and attitudes that would enable the beneficiaries to prosper without special treatment.

10. FAIRNESS
Preferences compensate for help to offset the accumulated disablements resulting from past deprivation of advantages and opportunities

Vs UNFAIRNESS
Preferences place an unfair and handicap on individuals who are deprived of opportunities they deserve on merit.

11. SECULARISM
By reducing tangible disparities among groups and directing attention to mundane rather standing, preferences development of a secular society.

Vs COMMUNALISM
By recognizing and stimulating group identity, preferences perpetuate invidious than ritual distinctions, thereby promote the undermining secularism.

12. DEVELOPMENT
Preferences contribute to development by providing incentives opportunities and resources to utilize neglected talent.

Vs STAGNATION
Preferences impede national development by misallocation of resources, lowering of morale and incentive, and waste of talent.

Out of all costs-benefits assessment the effort of creamy layerisation is based on sedation i.e., preferences stir the resentment of others on this issue one has to be most objective and empirical in evaluation of aspirations of
compensatory discrimination through reservational justice and its performance. There is much force and reality that redistribution of reservational benefits is not spread evenly throughout the beneficiary groups--OBCs. In the very nature of the scheme it can never be ensured. In utilisation of preferential treatment substantial clustering develops which reflects the structural factors (e.g. the greater urbanisation of some groups) more than deliberate group aggrandisement, as often charged.\(^68\) It is but natural that the better situated among beneficiaries enjoy a disproportionate share of preferential programme benefits.\(^69\) It is aggravated by passive administration and by the concentration of high echelon of benefits. It is also convincing to argue that where the list of beneficiaries spans groups of very disparate condition—as with the most expansive lists of other Backward Classes—the 'creamy' effect is probably even more pronounced.\(^70\) The observations of D.A. Desai, J. in K.C Vasanth Kumar vs. State of Karnataka\(^71\) is representative of the case against creamy layer of OBCs of course, his statements about reservation are limited to Karnataka where reservational scheme was in operation and not the national policy of reservation for OBCs said, the Learned Judge, "Reservation in one or other form has been there for decades. If a survey is made with reference to families in various castes considered to be socially and educationally backward, about the benefits of preferred treatment, it would unmistakably show that the benefit of reservations are snatched away by the top creamy layer of the backward castes. This has to be avoided at any costs."\(^72\) But Desai, J. talked of skimming off from all

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\(^{69}\) Malik, Suneila, Social Integration of Scheduled Castes (New Delhi: Abhinav Prakashan), 1979.

\(^{70}\) Galanter, Mare, Law and Society in Modern India (Delhi: Oxford University Press), 1989, p. 193.


\(^{72}\) Ibid., p. 1506 (para 28).
beneficiaries of reservational justice. Though, he did not allow economic criterion for qualifying for reservational benefits by the SCs/STs as the thousands of years of discrimination or exploitation cannot be wiped out in one generation, he still insisted: "But even here (in case of SCs/STs) economic criterion is worth applying by refusing preferred treatment to those amongst them who have already benefited by it and improved their position." Thus, creamy layer formula ought to have been applied to all the beneficiaries of protective discrimination-SCs/STs/OBCs. One may find force in argument of V.M. Tarkunde, a noted lawyer and himself an earlier High Court judge that by the concept of creamy layer the charge of casteism "which has often been levelled against the reservation policy will lose much of its force." The real issue is: what is main guiding spirit behind the adoption of 'creamy layer formula'. The obvious objects are two-fold: first, to ensure (in principle) that the benefit of reservation reaches to really deserving section of OBCs, and second, to cool down impatient anti-reservationists and cure their heartburning against enrichment of affluent section of backwards. Will skimming off of creamy layer of OBCs ensure the reaching of benefits to the non-creamy layer of OBCs? The Mandal case was decided on 16.11.1992 after more than four decade functioning of our Constitutional scheme. Objections have been raised from time to time against snatching of reservational benefits by developed strata of backwards including SCs. But no empirical study has ever been produced before the Supreme Court to establish the case that creamy layer of backwards has taken away all the benefits. The hard reality is that the desired percentage of reservation for SCs/STs has still not been filled in. In class one services their representation has reached up to 5.68% as against their 22.5% quota and in all class (II, III and IV also) it has reached up to 18.72%. This percentage of reservation is inclusive of the creamy layer. What will be

73 Ibid., p. 1507 (para 31)
result if creamy layer is taken away from reservational benefit? Will not it
tender the representation to a poor zero from 5.68% in class I. The same
analogy applies with equal force to OBCs (the Supreme Court itself has left
SCs/STs unaffected by creamy layer formula). The representation of OBCs
with 52% population and 27% reservation of seats had only 4.69%
representation to Class I till 1980 and 12.55% in all services. No other figure
has been shown by critics of reservational programmes. If creamy layer is
taken away, will the non-creamy layer be able to compete and fill 27%
vacancies? Will not it amount to a circutous deprivation of reservational
justice to backward classes in collectivity? Thus in absence of data of
community-wise representation the whole exercise becomes impressionistic.
Mandal himself lamented in his Repot that the Commission did not even
receive replies, to the information sought by it in various Government,
departments and organizations on the caste-wise composition of their services.
The Supreme Court was not feeded with any data of such type. None of the
judgments except the judgment of Pandian, J. has cited data on representation
of different classes in services. Pandian, J.\(^\text{75}\) showed that the representation of
backward classes is not upto mark and is miserably low. To allow creamy
layer to go out of reservational benefit would amount to taking away by one
hand what has been given by the other. The only justification for denial to the
creamy layer of the reservational benefit is the cooling down of the heart
burning among status quoists. The main reason behind this tendency is not any
love affair with really backwards and depressed but the hard reality of Indian
social life that upper castes (Brahmin, Rajput, Bania) cannot tolerate the
political power slipping out of their hands. If the reaction of upper castes is so
motivated, there is no justification of denying reservational benefits to creamy
layer of OBCs which will not really benefit their depressed brethren. That is
reason why Mandal Report spaciously knocked down such reasons. It
observed: "It is certainly true that reservation for OBCs will cause a lot of

\(^{75}\) Pandian, J. in Mandal case, p. 127 (para 223).
heart burning to others. But should the mere fact of this heart-burning be allowed to operate as a moral veto against social reform?" Report elaborates

"A lot of heart burning was caused to the British when they left India. It burns the hearts of all whites when the blacks protest against apartheid in South Africa. When the higher castes constituting less than 20% of the country's population subjected the rest to all manner of social injustice, it must have caused a lot of heart burning to the lower castes. But now that the lower castes are asking for a modest share of the national cake of power and prestige, a chorus of alarm is being raised on the plea that this will cause heart burning to the ruling elite of all the spacious arguments advanced against reservation for backward classes; there is none which beats this one about 'heart burning' in sheer sophistry."  

Did not 'heart burning' of upper caste was ignited by newspapers and think tanks when V.P. government decided to implement Mandal Commission Report? Mr. N. Ram, editor of Frontline realised the mistake committed by Press during 1990 agitations and pointed out "the coverage of the agitation by a good part of the influential media was definitely biased and did whip up mindless violence. Unfortunately, a number of editors jumped into the fray and spewed inflammatory attitudes did mislead the students." So realises Dilip Padgaonkar, editor of The Times of India who said: "I think some among us got carried away. After all, the phenomenon was a novelty in North India. And also I think, there was a sentiment that with this single announcement, the divisiveness relating to caste had been put on the front-burner of Indian politics and those who make and read newspapers, particularly the English language ones, are more embarrassed to discuss caste than to sex and money. The caste divisiveness had cut to the bone." The only institutional balance was clear from the Report of Peoples' Union for

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78 The Times of India, November 19, 1992.
Democratic Rights which commented at Press "high-profile media coverage has obscured the wider social composition of the (anti-Mandal) agitation in Delhi. It ranged from the elite students of the University to assorted hoodlums and supporters of the B.J.P and the Congress." It exposed politicalisation of issue by Congress-I President Rajeev Gandhi, who "opposed the Mandal Commission in north of Vindhyas, supported it in south of the Vindhyas and at a meeting in Nagpur at the height of the agitation, kept silent about it." As far as academia was concerned, it "let biases overtake social concerns". Report commented on Delhi University academicians: "A large number of Delhi University Teachers who during their strikes, thrice in the last eight years opposed the introduction of the element of merit in their promotion scheme, suddenly became champions of the merit principle."

Thus the 'creamy layer formula' needs a cool and thorough empirical study. It is not easy for anybody to answer the question posed by Chinnappa Reddy, J. in Vasantha Kumar's case: How can it be bad if reserved seats and posts are snatched away by the creamy layer of backward classes, if such snatching away of unreserved posts by the top creamy layer of society itself is not bad?

It is submitted that the argument for exclusion of 'creamy layer' on the face of it appears to be attractive and reasonable. But one may join issue with Pandian, J., the question is whether those individuals belonging to any particular caste, community or group which satisfies the test of backward class be segregated, picked up and thrown over night out of the arena of backward class. The hard reality remains that reservation of appointments or posts in favour of "any backward class of citizens in the central services had not been

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80 Ibid.
81 Ibid.
implemented during the four decades of the Constitution. It could be in force after identification of creamy layer after the Mandal Case decision. Therefore, its implementation should have been postponed for some date in future. Mandal Report himself suggested review after 20 years of the implementation of the scheme. This time may be reduced to ten years. But in any way undue haste should have been avoided." If Mandal Report prepared in two years that too with help of so many research bodies can be objected to what would be credence of creamy layer identification Committee which prepared Report within few days.\textsuperscript{83} If creamy layer is segregated and 27\% is not filled in by OBCs will it be appreciable? If 27\% is filled in by OBC's non-creamy layer and creamy layer candidates enjoy seats from general category will not it again create heart burning among upper castes people? No body can dispute that the pseudo communities who have smuggled into the backward classes should be weeded out from the list of backward classes but that should be done by the government at opportune time after due empirical study.

Under these circumstances, we have to evolve a more scientific criterion which should benefit the deprived castes as well as the poor sections of the society. It must not be exclusively on the basis of caste. Although, caste is a relevant factor in determining social backwardness, but not the dominant factor. Social backwardness is arising from economic backwardness. And further, the occupations followed by certain classes are inferior and contributing to social backwardness. Thus, the only combination of caste, class and occupation will be a rational policy in order to provide opportunities for the upliftment to most backward classes in context of social and economic variables.

\textsuperscript{83} Justice Ramanandan Committee was appointed on Feb. 22, 1993 and submitted its report on March 10, 1993. i.e. within 17 days.
The other desired data are:

(1) Adoption of effective measures for the exclusion of all advanced sections and families among the back-ward castes from the benefits of reservation.

(2) Reservation should be limited to just one generation. Subsequent generations should be made to compete with the general categories.

(3) The policy of reservation should be re-assessed every few years to ensure that it is not being misused and that administrative standards and efficiency are not being affected.

(4) Reservation should be restricted to a small percentage of the available posts. It should not exceed 50 per cent in any circumstances.

(5) No attempt should be made to impose reservation without the sanction of the legislature concerned. Prior to the adoption of a reservation policy, there should be a free and open debate within the legislature and outside, so that the government might be able to gain from the feedback and make the legislation concerned acceptable to all sections of the population.

(6) There should be no roster system. If unfilled vacancies are kept vacant for two or three years before being deserved, it might at certain stages leave very few vacancies open for the general categories. If it does, it might lead to violent protest.

(7) Every government servant should be made to earn his promotion by merit and efficiency. If reservation is brought in at every stage of the official hierarchy, and some people are allowed to rise sharply to the top just because of their birth in a backward community, it would breed unbearable frustration...
among the others. Efficiency and discipline would suffer irreparably.

(8) There should be a suitable cut-off point to ensure that those getting admission in the professional educational institutions by taking advantage of the policy of reservation possess a certain minimum standard, otherwise the fall in standards would be too precipitous for the good of the nation.

(9) Measures should be taken to build up the confidence of the backward classes through extra coaching pre-selection training, etc. It is also important to provide them with suitable scholarships, hostel accommodation, etc., to enable them to take advantage of the preferential treatment given to them. Mere admission into a technical college without the necessary infrastructure to make it worthwhile is of no use.

(10) Above all, care should be taken to ensure that nobody develops a vested interest in the indefinite continuance of the reservation system. Some people say that reservation can be withdrawn when the backward classes become the equals of the advanced classes. Others say that reservation should continue till the caste system disappears. In either case the idea is that reservation should continue for very long time indeed. But, if reservation is not withdrawn within the next twenty years, it might take root and become another evil as odious as the caste system itself.

(11) For reservation to be accepted on a national scale it would be necessary to build up public opinion. If the government yields pressures from the interested parties and adopts reservation for the backward classes as a national policy (as in the case of reservation for the Scheduled Castes and the Scheduled Tribes), it might affect the stability of the nation. There is, therefore,
need for a national consensus. It is also important to have a consensus as regards the criteria to be used for determining backwardness.

These suggestions are aimed at making the reservation policy more scientific. A good reservation policy is a policy which benefits the needy sections of society without undermining the efficiency and merit, without breaking our solidarity as a nation, and without hampering our march towards progress.