

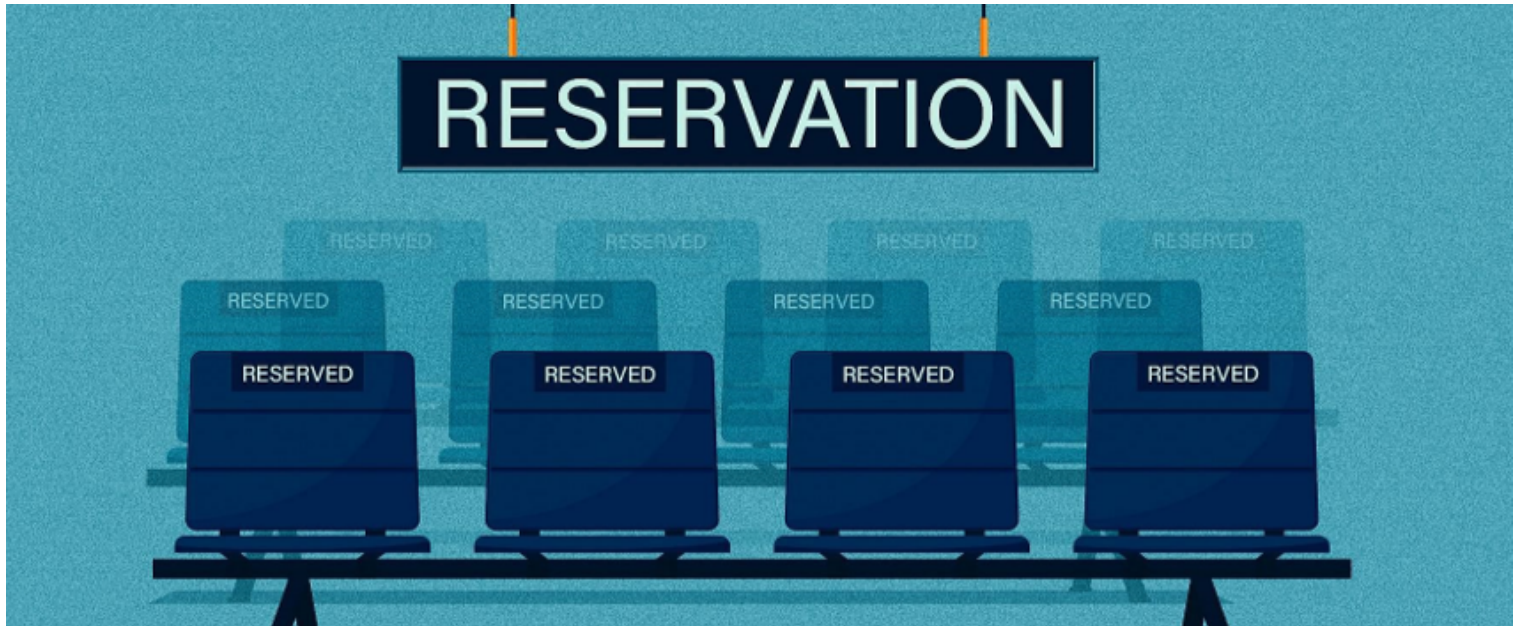
127th Constitution Amendment Bill

By IASToppers | 2021-08-11 17:05:00



127th Constitution Amendment Bill

Lok Sabha has passed the **Constitution 127th Amendment Bill, 2021** with unanimous support from the House.



[Ref: The Quint]

Need of the 127th Constitution Amendment Bill:

- The **127th Amendment Bill, 2021** seeks to restore the power of state governments to **identify other backward classes** that are socially and economically backward.
- The power of the states was taken away by the **Supreme Court** interpretation in May 2021.

Background:

- According to the Constitution of India, **Articles 15(4), 15(5) and 16(4)** confer power on a **state** to **identify** and **declare** the list of socially and educationally backward classes.
- As a matter of practice, **separate OBC lists** are drawn up by the Centre and each state concerned.

Supreme Court order in May 2021:

- The Supreme Court order in May 2021 had empowered **only the Central government for such identification**.
- The SC in its order on **Maratha reservations upheld the 102nd Constitutional Amendment Act** that inserted Articles 338B and 342 A (with two clauses) after Article 342.
- It said that the **President of India**, in consultation with governors would specify socially and economically backward classes, **taking away the powers of state governments** to do so.
 - **Articles 338B** deals with the structure, duties and powers of the National Commission for Backward Classes.
 - **Article 342A** says that the president, in consultation with the governor, would specify the socially and educationally backward classes.
- The amendment will **restore the powers of the state governments to maintain a state list of OBCs**.

Empowering the States | The 127th Constitution Amendment Bill benefits 671 castes in the country and restores the States' rights to make their own list of OBCs

1 The Bill seeks to restore the power of the States to identify OBCs that are socially and economically backward after a Supreme Court order in May 2021 empowered only the Centre for this

2 The amendment was thought necessary because the SC, in its order on Maratha reservations, upheld the 102nd Constitutional Amendment Act, which said the President of India, in consultation with Governors, would specify socially and economically backward classes, taking away the powers of the State governments to do so

3 Several parties also demanded a caste-based census to get a real idea of the number of OBCs in the country and to remove the 50% cap on reservations currently in place

[Ref: The Hindu]

Why did the SC intervene?

- The Supreme Court order in the **Indira Sawhney case in 1992** had ruled that reservation in any state **should not exceed the 50 percent mark**.
- Many states like Tamil Nadu, Haryana and Chhattisgarh — have introduced quotas that **breach the total 50 percent ceiling** while other states have asked the Supreme Court to **hike the quota ceiling**.
- The **exceeding of ceiling limit** without there being any exceptional circumstances **clearly violates Article 14 and 16** of the Constitution.

127th Constitution Amendment Bill:

- The 127th Constitution Amendment Bill will amend clauses 1 and 2 of **Article 342A** and also introduce a **new clause 3**.
 - The bill will also amend Articles 366 (26c) and 338B (9).
 - Article 366 (26c) defines socially and educationally backward classes.
- The bill is designed to clarify that the **states can maintain the "state list" of OBCs**, in accordance with the system prior to the Supreme Court judgment.
- The **"state list"** will be **completely taken out of the ambit of the President** and will be notified by the state Assembly as per the proposed Bill.