

ಪತ್ರಿಕಾ ಪುನರುತ್ಪಾದನೆ  
PAPER CLIPPINGS

ವಿಭಾಗ / ವಿಷಯ: DEPARTMENT / SUBJECT: Govt. Reservations

ಪತ್ರಿಕೆಯ ಹೆಸರು : NAME OF THE NEWS PAPER: Deccan Herald ದಿನಾಂಕ : DATE: 3/12/19

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3/12/19  
**Refer SC/ST creamy  
layer issue to  
7-judge bench,  
Govt asks top court**

ASHISH TRIPATHI  
NEW DELHI, DHNS

The Union government on Monday asked the Supreme Court to refer to a seven-judge bench a contentious issue of exclusion of creamy layer from the Scheduled Caste (SC) and the Scheduled Tribe (ST) community from the benefit of reservations.

A bench of Chief Justice S A Bobde and justices B R Gavai and Surya Kant agreed to hear the arguments on the point of reference after two weeks, as Attorney General KK Venugopal sought reconsideration of 2018 judgement in Jarnail Singh case which had favoured for exclusion of creamy layer in the SC/STs from the reservations in jobs and education.

**'Emotive' issue**

The top court was hearing a batch of petitions filed by NGO Samta Andolan Samiti and others. Venugopal submitted that the issue was an "emotive" one and should be referred to the seven-judge bench.

Senior advocate Gopal Sankaranarayana, appearing for some of the parties, opposed the plea, saying that the five-judge bench had passed its judgement in 2018.

One of the petitioners, OP Shukla sought a direction for applying means testing for identification and exclusion of creamy layer as laid down in a

nine-judge bench judgement in the Indra Sawhney (1992) (Mandal Commission) case, beyond the 'backward classes of citizens' to even Scheduled Castes and Scheduled Tribes, saying that the rationale behind it was equally applicable to both the sets of "depressed classes".

The petitioners claimed neither the Centre nor the states had objectively tested the means to identify the creamy layer of SC/STs vis-a-vis non-creamy layer SC/STs.

The orders issued in the 1950s notified SC/STs by their names without reference to their deservedness in availing affirmative action at the cost of their more marginalised counterparts.

"This has resulted in a virtual monopoly and distortion of the benefits given to SC/STs inter se, with the creamy layer cornering the maximum benefits and perpetuating further marginalisation of their counterparts. This has defeated the object and purpose of the Constitution enshrined in the preamble namely social justice and equality of status and opportunity," their plea stated.

On September 26, 2018, in a major decision, the Supreme Court had held that the concept of the creamy layer would be applicable in reservations in promotions for the Scheduled Castes and Scheduled Tribes.