



## Current Affairs of the Day

### EWS criteria rethink

#### The story so far:

1. The Union Government has decided to revisit the criteria set out for eligibility for its 10% reservation under the economically weaker sections (EWS) category within a month. The main criterion is a family income ceiling of ₹8 lakh.
2. The decision came after the Supreme Court closely questioned it on how it arrived at the income figure while considering a challenge to the implementation of 27% reservation for the Other Backward Classes and 10% for the EWS under the all-India quota for medical admissions.

#### How was the EWS reservation introduced?

1. The 10% reservation was introduced through the 103rd Constitution Amendment and enforced in January 2019. It added Clause (6) to Article 15 to empower the Government to introduce special provisions for the EWS among citizens except those in the classes that already enjoy reservation.
2. It allows reservation in educational institutions, both public and private, whether aided or unaided, excluding those run by minority institutions, up to a maximum of 10%.
3. It also added Clause (6) to Article 16 to facilitate reservation in employment. The new clauses make it clear that the EWS reservation will be in addition to the existing reservation.
4. The Constitution initially allowed special provisions only for the socially and educationally backward classes. When the Congress Government tried to introduce a 10% quota for the poorer among the general category in 1991, the Supreme Court struck it down, saying there is no provision in the Constitution for reservation on the basis of an economic criterion.
5. Through this amendment, the Government introduced the concept of 'economic backwardness' for a new class of affirmative action programmes for those not covered by or eligible for the community-based quotas.

#### What are the criteria to identify the section?

1. The main criterion is that those above an annual income limit of ₹8 lakh are excluded (income from all sources such as salary, business, agriculture



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and profession for the financial year prior to the application) of the family (applicants, their parents, siblings and minor children).

- Possession of any of these assets, too, can take a person outside the EWS pool: five or more acres of agricultural land, a residential flat of 1,000 sq.ft. and above, a residential plot of 100 square yards and above in notified municipalities, and a residential plot of 200 square yards and above in other areas.

### What are the court's questions about the criteria?

- The court has been intrigued by the income limit being fixed at ₹8 lakh per year, as it is the same figure for excluding the 'creamy layer' from OBC reservation benefits.
- A crucial difference is that those in the general category, to whom the EWS quota is applicable, do not suffer from social or educational backwardness, unlike those classified as the OBC. Therefore, the question the court has raised is that when the OBC category is socially and educationally backwards and, therefore, has additional impediments to overcome, "would it be arbitrary to provide the same income limit both for the OBC and EWS categories."
- In line with the Supreme Court's known position that any reservation or norms for exclusion should be based on relevant data, the Bench wants to know whether the criteria for the EWS were arrived at based on any study.

## YOU ARE ELIGIBLE FOR THE 10% RESERVATION IF YOU: TOI



### 1 Have household income of less than ₹8 lakh a year

At least 95% (127 crore) Indians earn less

### 2 Have agricultural land of less than 5 acres

86% land holdings in India fall under this category



### 3 Have a house smaller than 1,000 square feet

At least 80% of households in India have houses smaller than 500 sq ft

### 4 Have a residential plot smaller than 100 yards in a municipality

Data not available



### 5 A residential plot of less than 200 yards in a non-notified municipality

NA



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4. It is now a settled principle that quantifiable data or proof of a detailed study are required to justify any category of reservation, as well as the norms that determine which section gets it and which does not.
5. The larger issue that remains is whether reservation can be treated as a poverty alleviation measure and those not well-off but belonging to socially advanced communities can be given a share of the reservation pie. The Constitution Bench should resolve this question early.

### What is the current status of the EWS quota?

1. The reservation for the EWS is being implemented by the Union Government for the second year now. Recruitment test results show that the category has a lower cut-off mark than the OBC, a point that has upset the traditional beneficiaries of reservation based on caste.
2. The explanation is that only a small number of people are currently applying under the EWS category — one has to get an income certificate from the revenue authorities — and therefore the cut-off is low. However, when the number picks up over time, the cut-off marks are expected to rise.
3. The EWS quota remains controversial as its critics say it reduces the size of the open category, besides breaching the 50% limit on the total reservation.

## Under scrutiny

The 10% economic reservation law is being challenged for its constitutional validity

- The Act (103rd Constitutional amendment) allows the States to provide 10% quota for unreserved category exclusively with reference to their economic backwardness

- However, in 1992, a nine-judge Constitution Bench of the Supreme Court in the famous Indra Sawhney case had ruled that "a backward class cannot be determined only and exclusively with reference to economic criterion"



- "It may be a consideration or basis along with and in addition to social backwardness, but it can never be the sole criterion. This is the view uniformly taken by this court..." said the majority judgment authored by Justice (retired) B.P. Jeevan Reddy

- Further, the Indra Sawhney judgment had declared 50% quota as the rule unless extraordinary situations "inherent in the great diversity of this country and the people" happen

Compiled by Krishnadas Rajagopal



## What will a legal guarantee of MSP involve?

### The story so far:

1. After a year-long agitation on the borders of Delhi, protesting farm unions under the banner of the Samyukt Kisan Morcha have achieved their headline demand, namely the repeal of three contentious laws seeking to reform the storage and marketing of agricultural produce.
2. However, farmers say this is only a half-victory and are pushing for their other major demand for providing a legal guarantee that all farmers will receive remunerative prices for all their crops.

### How many crops does the minimum support price cover?

1. The Central Government sets a minimum support price (MSP) for 23 crops every year, based on a formula of one-and-a-half times production costs. This takes into account both paid-out costs (A2) such as seeds, fertilizers, pesticides, fuel, irrigation, hired workers and leased-in land, as well as the imputed value of unpaid family labour (FL).
2. Farm unions are demanding that a comprehensive cost calculation (C2) must also include capital assets and the rentals and interest forgone on owned land as recommended by the National Commission for Farmers.
3. There is currently no statutory backing for these prices, nor any law mandating their enforcement. The government only procures about a third of wheat and rice crops at MSP rates (of which half is bought in Punjab and Haryana alone), and 10%-20% of select pulses and oilseeds.
4. According to the Shanta Kumar Committee's 2015 report, only 6% of the farm households sell wheat and rice to the government at MSP rates. However, such procurement has been growing in the last few years, which can also help boost the floor price for private transactions.

### What is the Government's position?

1. A policy paper by NITI Aayog's agricultural economist Ramesh Chand, which is often quoted by Agriculture Ministry officials, argues, "Economic theory, as well as experience, indicates that the price level that is not supported by demand and supply cannot be sustained through legal means."
2. It suggests that the States are free to guarantee MSP rates if they wish, but also offers two failed examples of such a policy.



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3. One is in the sugar sector, where private mills are mandated to buy cane from farmers at prices set by the Government. Faced with low sugar prices, high surplus stock and low liquidity, mills failed to make full payments to farmers, resulting in an accumulation of thousands of crores worth of dues pending for years.

CROPS COVERED UNDER MSP		
KHARIF CROPS (14)	RABI CROPS (7)	CALENDAR YEAR CROPS (4)
1. Paddy	1. Wheat	1. Copra
2. Jawar	2. Barley	2. De-husked Coconut
3. Bajra	3. Gram	3. Jute
4. Ragi	4. Mustur	4. Sugar Cane (FRP)
5. Maize	5. Rapeseed & Mustard	
6. Arhar	6. Safflower	
7. Moong	7. Torai	
8. Urad		
9. Cotton		
10. Ground Nuts		
11. Sunflower		
12. Soyabean		
13. Sesamum		
14. Nigerseed		

• CACP recommends MSP for 22 crops before the sowing period each year  
 • MSP derived for Toria based on MSP for Rapeseeds and Mustard and for De-husked Coconut on the Basis of MSP of Copra.  
 • Fair and Remunerative prices for Sugar is also declared

4. The other example is a 2018 amendment to the Maharashtra law penalising traders with hefty fines and jail terms if they bought crops at rates lower than MSP. "As open market prices were lower than the (legalised) MSP levels declared by the State, the buyers withdrew from the market and farmers had to suffer," says the paper, noting that the move was soon abandoned.

**EXPRESS explained.**

### WHAT'S MSP

It is a "minimum price" for any crop that the government considers as remunerative for farmers and hence deserving of "support". It's also the price that government agencies pay whenever they procure the particular crop. The government now fixes MSPs for 23 crops, but is NOT legally bound to pay these even if open market rates for the said produce are ruling below their announced floor prices

1

**EXPRESS explained.** HOW ARE MSPs DETERMINED?

The Centre fixes MSPs for every kharif and rabi cropping season based on recommendations of the Commission for Agricultural Costs and Prices (CACP)

• When a farmer grows a crop, he incurs costs, some of it explicit and some implicit or unpaid. The CACP considers the following costs:

<p>1 <b>A2</b></p> <p>Covers all cash and in kind expenses incurred by farmers on seeds, fertilisers, chemicals, hired labour, fuel, irrigation, etc</p>	<p>2 <b>A2+FL</b></p> <p>Actual costs plus an imputed value of unpaid family labour</p>	<p>3 <b>C2</b></p> <p>Includes 'A2+FL' along with revenues forgone on owned land (rent) and fixed capital assets (interest)</p>
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## EXPRESS explained.

TAKE THIS YEAR'S WHEAT, FOR INSTANCE  
MSP announced:

**₹1,975 per quintal**

at A2+FL cost of ₹960

So, that's a profit of  
**₹1,015/quintal**  
for the farmer



or a **105.7%**  
return over 'A2+FL'.



But when calculated  
against the more  
comprehensive C2 cost of  
₹1,467/quintal, it's only a  
**34.6%** gain



#QUICKPLAINED

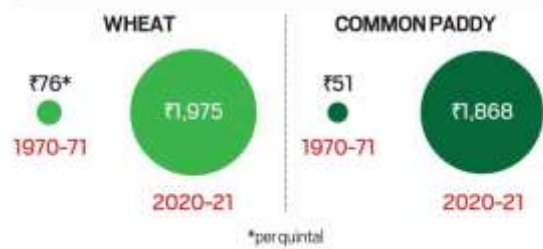
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## EXPRESS explained.

### A BIT OF THE PAST

MSP was introduced in the mid-sixties when India was food-deficit. The government was keen to boost domestic production through Green Revolution technologies, but realised farmers wouldn't plant input-intensive high-yielding wheat or paddy varieties unless guaranteed a minimum price

MSP WAS FIRST FIXED FOR WHEAT  
IN 1966-67 AT  
**₹54/quintal**



#QUICKPLAINED

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## EXPRESS explained.

### HOW EFFECTIVE IS MSP NOW?

MSP is only as good as its implementation, especially with India turning food-surplus and crop prices tending to fall more than rise. Though government announces MSP for 23 crops, it effectively procures only a third of these

#### GOVERNMENT PROCUREMENT VS. PRODUCTION (MILLION TONNES)\*

	PROCUREMENT	PRODUCTION	% PROCURED
Rice	51.23	118.43	43.26
Wheat	38.99	107.59	36.24
Cotton	104.62*	354.50*	29.51
Chana	2.1	11.35	18.47
Arhar/Tur	0.72	3.83	18.8
Moong	0.14	2.46	5.69
Mustard	0.8	9.12	8.78
Groundnut	0.71	10.1	7.03

\*Lakh bales of 170 kg each; Data for 2019-20

TEXT: HARISH DAMODARAN; GRAPHIC: MITHUN CHAKRABORTY

#QUICKPLAINED

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## Does the data protection Bill have safeguards on privacy?

### The story so far:

1. The Joint Parliamentary Committee on the Personal Data Protection Bill submitted its report. The Personal Data Protection Bill, 2019, stems from the 2017 judgment of the Supreme Court in the Puttaswamy vs. Union of India case that recognised privacy as a fundamental right protected by the Constitution.
2. The committee, which had been deliberating on the Bill since it was introduced in Parliament in 2019, has made several recommendations for modifying the draft.
3. However, it steered clear of the main sticky points such as government access to private data, leading to dissent notes from panel members from the Opposition.

### What has the JPC left untouched?

1. The committee has retained Section 35 of the Bill. It gives the Government the right to authorise **any of its agencies** to circumvent the provisions of the law if it finds it necessary to do so under “public order”, “sovereignty”, “friendly relations with foreign states” and “security of the state”.

2. It is being interpreted as essentially a *carte blanche* for the Union Government to act as it wishes when it comes to accessing data on citizens. The draft Bill leaves it to the Government to frame the rules for oversight and safeguards for this provision.

### Key suggestions on data protection law

#### STRICT NEW NORMS

- 72-hour deadline for notification of breach, including of non-personal data
- Companies need to ensure fairness of algorithm or method used for processing personal data
- A data protection officer needs to be from senior management
- Companies will need to mandatorily disclose to data principals if their information is passed on to third party

#### RELAXATIONS FOR GOVERNMENT

- If data is passed on to another entity for purposes of State use, there need not be mandatory disclosure
- Government departments to carry out in-house inquiry to fix blame in case of breach, instead of head of department being responsible
- Government should quantify penalties for companies violating provisions of the law

#### SOCIAL MEDIA AS PUBLISHERS?

The report recommends that social media companies mandatorily verify users to keep their status as intermediaries. They will be liable for posts by unverified accounts

#### PUSH ON LOCALISATION

The commission also suggested that the central government bring back copies of sensitive and critical personal data that is already with foreign entities in a time-bound manner

3. The critics of this provision, particularly the dissenting JPC members, are seeking judicial oversight and a more detailed prescription for the agencies that can access the data and the conditions under which they can do so. The final JPC report does not favour any change in this provision.

4. The JPC also leaves untouched the state's ability to process personal data without consent, as allowed under Section 12.



5. The JPC has also left mostly untouched the draft Bill's provisions for data localisation. The Bill requires a copy of any user data generated in India to be kept in the country, which critics say is unnecessary and may facilitate surveillance.

### What does it say on social media?

1. The JPC has suggested that any social media that is not an intermediary be treated as a publisher. Under India's Information Technology Act, an intermediary is a website or service that only receives, stores, and transmits information online, without any sort of selection or curation of the content.
2. Such intermediaries enjoy "safe harbour" protection from being held liable for the content that they are hosting or transmitting. A publisher, however, is legally liable for the content that it is hosting.
3. In its report, the JPC says it is of the "strong view that these designated intermediaries may be working as publishers of the content in many situations", making choices on what content is being shown to whom.
4. The JPC has also suggested a regulatory body for social media on the lines of the Press Council of India. This will have major implications for companies like Facebook. What it will mean for freedom of speech online also remains to be seen.
5. The draft Bill already places social media in a separate class of intermediaries when it comes to data protection, adding provisions for voluntary verification of accounts.
6. The modes for verification of accounts are to be prescribed by the Government, which leads to the question of who will be excluded and who will be allowed to be verified, and about the repercussions of not being verified.
7. Critics of this provision also see it as being misplaced in data protection legislation. They say that social media is best handled within the ambit of the Information Technology Act itself.

### Has the ambit of the Bill been changed?

1. According to the JPC recommendation, the Bill should cover both personal and non-personal data. Non-personal data would include the traffic information that Google Maps collects and other such information.
2. The JPC has even recommended changing the name of the Bill as the Data Protection Bill, 2021, dropping the word 'personal'. This takes the Bill beyond its original ambitions, as laid down by the B.N. Srikrishna Commission worked on drafting it in the wake of the Puttaswamy verdict.





<b>MAINS DAWP</b>	<p>Q1. The recently launched educational programme of the Tamil Nadu government, Illam Thedi Kalvi (Education at the Doorsteps) aims at social justice in the context of COVID led disruption and the prevailing digital divide in the country. Comment.</p>
<b>MCQs</b>	<p>Q1. Which of the following languages are part of schedule 8<sup>th</sup> of the Indian Constitution?</p> <ol style="list-style-type: none"><li>1. Bodo</li><li>2. Sanskrit</li><li>3. Urdu</li></ol> <p>Select the correct answer from the codes given below</p> <ol style="list-style-type: none"><li>a. 1 and 2 only</li><li>b. 1 only</li><li>c. 2 and 3 only</li><li>d. 1, 2, and 3</li></ol>