



Inadequate response

The ₹8 lakh income criteria to identify EWS are not reasonably explained by the Government.

EWS criteria under scrutiny:

1. The submission by a Government-appointed committee to the Supreme Court that the annual family income of ₹8 lakh is “a reasonable” threshold to determine if someone belongs to economically weaker sections to avail 10% reservations in admissions and jobs does not seem to hold water.

Eligibility to get EWS Certificate?

- ✓ Family Income Less than 8 lakhs Per Annum
- ✓ Agricultural Land Less than 5 Acres
- ✓ Residential Flat less than 1000 sq.ft
- ✓ Residential Plot Less than 100 or 200 sq.yards



2. The submission rejected the notion that the Government had “mechanically” adopted ₹8 lakh as the cut-off because it was used to identify the OBC creamy layer, by asserting that the income criterion was “more stringent” than the one for the OBC creamy layer.
3. This justification, based on a few more criteria that exclude some income and occupational parameters from the OBC creamy layer, however, is not convincing as the Court’s key question remained unanswered satisfactorily.
4. The Court had said that the OBC category is socially and educationally backward, and had therefore additional impediments to overcome, and had asked whether it “would... be arbitrary to provide the same income limit both for the OBC and EWS categories”. The submission does not adequately respond to this question.
5. On whether at all differences in purchasing power across urban/rural regions and per capita income/GDP across States were considered to arrive at this number, the submission suggests that this exercise would be infeasible and complex.
6. But while asserting that an annual family income criterion of ₹8 lakh is the right approach, the committee does not present any data on the estimated number of EWS persons in the population-based on this.



Analysis of the Limit:

1. If available consumer expenditure surveys such as the 2011-12 NSSO report, Key Indicators of Household Consumer Expenditure are any indication, a bulk of the population will be eligible for reservations under the "below ₹8 lakh" cut-off under the EWS category, rendering the limit irrational.
2. The committee's assertion that ₹ 8 lakh corresponds to the "effective income tax exemption limit" even as the only income slab exempt from paying taxes was for those earning below ₹2.5 lakh, also renders the criteria on "being economically weak" as less stringent.
3. The submission lays emphasis on the fact that outcomes in the recent entrance and recruitment examinations (NEET, UPSC, JEE) showed an even bunching of eligible candidates in different income brackets (0-₹2.5 lakh, ₹2.5-₹5 lakh, ₹5-₹8 lakh), but it does not explain why marks cut-offs were even lower in recruitment exams than that of the socially and educationally backwards OBCs.
4. The validity of the 103rd Constitution Amendment, through which the EWS quota was introduced in 2019, is in any case still before a Constitution Bench. But the apex court must seek more clarity on the criteria adopted by the Government committee to set the income limit for identifying the EWS sections eligible for reservations.

'NOT OVER-INCLUSIVE'

► Panel set up to evaluate EWS income limit says **existing system, going on since 2019, if disturbed at fag end of process will create more complications**

► Says 'a mere 9% and 8.2% of EWS candidates are found to be in income bracket Rs 5-8 lakh, respectively'. **Existing criterion of Rs 8 lakh is not 'over-inclusive'**

► Says 'EWS may exclude irrespective of income a person whose family has 5 acres of farm land & above'