

AS INTRODUCED IN THE RAJYA SABHA
ON THE 7TH FEBRUARY, 2025

Bill No. LVI of 2024

THE CONSTITUTION (AMENDMENT) BILL, 2024

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BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-fifth Year of the Republic of India as follows:—

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| 1. | (1) This Act may be called the Constitution (Amendment) Act, 2024. | Short title and commencement. |
| 5 | (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. | |
| 2. | In article 124 of the Constitution, after clause (1), the following proviso and Explanation shall be inserted, namely:— | Amendment of article 124. |
| | “Provided that such number of Judges, as nearly as may be, equal to the proportion of the population of the Scheduled Castes, the | |

Scheduled Tribes and the Other Backward Classes to the total population of the country, shall be appointed from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

Explanation.—In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.” 5

Amendment of
article 216.

3. In article 216 of the Constitution, the following proviso and Explanations shall be inserted, namely:—

“Provided that such number of Judges, as nearly as may be, equal to the proportion of the population of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes to the total population of the State, shall be appointed from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. 10 15

Explanation I.—In this article, “State” includes all States and Union Territories that share a common High Court.

Explanation II.—In this article, the expression “population” means the population as ascertained at the last preceding Census of which the relevant figures have been published.” 20

STATEMENT OF OBJECTS AND REASONS

Even after 75 years of affirmative action, the disadvantaged and marginalised communities in the country are not adequately represented in the higher judiciary. As the guardian of the Constitution and the last resort to the millions of citizens, the Supreme Court of India influences the lives of each and everyone in the country. Therefore, it is imperative that judges represent the broadest spectrum of society.

Since independence, a very small number of judges belonging to marginalised communities were able to serve as judges of the Supreme Court and High Courts. Caste-based reservation has been an integral part of the Indian principle of equality, therefore, its absence in the superior judiciary is unconvincing and needs to be rectified. Without a constitutional provision for reservation, it is highly improbable for persons from these communities to reach such eminent positions through natural means. Further, the existence of reservation in subordinate courts is reason enough for its introduction in higher courts as well.

India is a highly diverse country and its diversity should also be reflected in the higher judiciary. A more inclusive judiciary is also more likely to foster balanced and comprehensive discussions on matters related to caste, gender, access, and equality. The first-hand knowledge of the issues pertaining to backward classes would also help in developing a more advanced understanding of the caste-based problems in the country.

In the absence of a formal and written framework, representation in the higher judiciary could not be expanded on its own. A constitutional mandate in this regard would ensure that the superior courts are never underrepresented. Previously, Parliamentary Committees and the National Commission for Scheduled Castes have also recommended similar provisions for the appointment of judges in the Supreme Court and High Courts. It is of utmost importance that equitable representation and fair play in the higher judiciary is secured through the channels of the Constitution.

Hence, this Bill.

MANOJ KUMAR JHA

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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Establishment and constitution of Supreme Court.	124. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.				
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Constitution of High Courts.	216. Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint.				
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RAJYA SABHA

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further to amend the Constitution of India.

(Shri Manoj Kumar Jha, M.P.)