

## **Gujarat High Court reserves verdict on 10% EWS quota**

The Gujarat High Court on Monday concluded the hearing and reserved its verdict on a set of petitions challenging the provision of 10 per cent reservation for the economically weaker sections (EWS) in educational institutions and government jobs.

A division bench of the High Court led by Chief Justice R Subhash Reddy reserved the verdict after hearing the petitioners and the state government at length. The state has defended the Gujarat Unreserved Economically Weaker Sections (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Ordinance, 2016, stating that the provision of 10 per cent quota was a classification of EWS and it should not be treated as reservation prescribed under the Constitution.

The petitioners, including social activists, students and parents, have challenged the ordinance, claiming that it was contrary to the precedents established by the Supreme Court long back on the issue of quota for other backward classes on the recommendation of the Mandal Commission in 1990.

They argued providing additional 10 per cent quota has increased reservation in the state up to 59 per cent, which was above the 50 per cent limit set by the Supreme Court.

Defending the ordinance, the state government told the High Court that “time has come for adopting new practices, methods and yardsticks by moving away from caste-centric definition of backward classes as observed by the Supreme Court”.

On Monday, the state government submitted a affidavit stating, “The judgment of the Supreme Court in the case of Indra Sawhney vs. Union of India is with reference to the situation prevailing at the time of submission of the Mandal Commission’s Report on 31.12.1980, which recognized as many as 3,743 castes as Socially and Educationally Backward Classes and it was in that context that the judgment came to be rendered on 16.11.1992.”

The government also submitted that “the rule of ceiling of 50% as propounded by the Apex Court in the case of Indra Sawhney cannot be applied to the present controversy inasmuch as, the said rule is confined to reservations contemplated under clause (4) of Article 16 of the

Constitution, whereas, the classification to the extent of 10% under the Ordinance in question is inter-alia relatable to Article 14 of the Constitution, read with Articles 38, 39(b) and 46 of the Constitution.”

During the arguments, lawyers of the petitioners argued that the EWS quota was not only against the Constitution, but was also brought in with any survey to identify people from weaker sections. They argued that mere 225 representations seeking reservation cannot be held as ground for promulgating such ordinance. There should have been a proper survey to obtain data of people who were needy.

The state defended the move, saying apart from 225 representations, a high-powered committee applied its mind before coming up with the EWS classification.

Earlier, the government had told the court that 10 per cent quota has not been classified as “reservation as provided under Articles 15 (4) and 16 (4) of the Constitution”. It stated that the ordinance has already been implemented and “to a great extent, rights have been accrued to certain class of citizens”.

It said 8,448 students who belonged to the EWS category have already been given their choices for admission to engineering courses. Similar provisions have been issued for admission to 11 other courses, including medical.