Rs 8 Lakh Income Cap for EWS

Why in news?

The Central Government has told the Supreme Court in an affidavit that it has decided to accept the recommendation made by an expert committee to retain the limit of Rs. 8 lakhs gross annual income for EWS reservations.

What is the EWS quota law?

- The 103rd Constitutional Amendment, 2019 amended the Articles 15(6) and 16(6) to provide 10% reservation to Economically Weaker Section (EWS) in admission to educational institutions and government jobs.

Criteria for determining EWS reservation

- Persons who are not covered under the reservation for SCs, STs and OBCs
- Family's gross annual income must be below Rs 8 lakh
- People who own less than 5 acres of agricultural land
- People who have a house but less than 1000 square feet in a town.
- Residential plot of less than 100 sq yards in notified municipalities
- Residential plot of less than 200 sq yards in areas other than the notified municipalities

> *Article 15 prohibits discrimination on grounds of religion, race, caste, sex or place of birth. Article 16 guarantees equal opportunity in matters of public employment.*

What is the issue with the EWS reservation?

- A writ petition has been filed challenging the Centre's decision to introduce EWS/OBC reservation in the All India Quota for NEET.
- The petitions argued several issues like
    - Breach of 50% quota threshold directed by a 1992 Supreme Court ruling
    - Lack of study and justification on the EWS reservation criteria
    - The government decision on EWS reservation in admission through NEET.
    - The question on how could the income ceiling for OBC reservation and the EWS quota be the same at Rs 8 lakh
- The NEET notification followed the same criteria for determining EWS.
- The criteria include a Rs 8 lakh income ceiling for inclusion in EWS — which is the same as the criterion for deciding the "creamy layer" among the OBCs (those who are not in government).
- The notification said income shall include income from all sources i.e. salary, agriculture,

business, profession, etc for the financial year prior to the year of application
- The Supreme Court had expressed doubts regarding the reasonableness of Rs 8 lakhs income criteria for EWS, following which the Centre agreed to revisit the same after formulating an expert committee.

What was the mandate of the committee?

- The expert committee comprising the members - Shri Ajay Bhusan Pandey, Prof VK Malhotra and Shri Sanjeev Sanyal was constituted by the Ministry of Social Justice and Empowerment.
- The mandate of the committee is to
    - Revisit the criteria in determining the EWS category keeping in view the observations of the Supreme Court
    - Examine various approaches so far followed in the country for identifying EWS
    - Recommend criteria that may be adopted for identifying EWS category in future

What has the panel recommended?

- **Retaining the Rs 8 lakh cap**- The panel has said that the threshold of Rs 8 lakh of annual family income seems reasonable and recommended to retain the same.
- Though specific number Of Rs 8 Lakhs appears to be same as OBC creamy layer cut-off, application of the cut-off is very different in EWS & OBC as two have different contexts.
- The Committee opined that:
    - EWS criterion is related to the financial year prior to the year of application whereas the income criterion for creamy layer in OBC category was applicable to gross annual income for three consecutive years.
    - For deciding the OBC creamy layer, income from salaries, agriculture and traditional artisanal professions was excluded from the consideration whereas Rs 8 lakh criteria for EWS included that from all sources including the farming.
- The committee has said that the cut-off lower than Rs 8 Lakhs on family income would be unduly restrictive & lead to errors of exclusion of deserving eligible persons .
- **Agri land owning limit**- The committee has recommended that EWS may exclude a person whose family has 5 acres of agricultural land and above irrespective of income.
- It stated that there was variability and inadequacy of information on agricultural income since it was exempted from Income Tax and was thus not ascertainable.
- **Removing Residential Asset Criteria-** The Committee in its report said that the use of residential plot size and house floor area as an asset criterion for identification of EWS, was complex.
- It was also the Committee's opinion that the correct economic condition of the candidate or his family may not be reflected if the residential house was only used for dwelling and not generating income.
- Residential criteria was altogether omitted as it also posed serious complications and burden on EWS families without commensurate benefits.
- **Use of Data Exchange and Information Technology-** The Committee opined that the traditional approach of multi-dimensional surveys alone might not be useful for the operation of the EWS reservations citing that they are expensive, complicated, and irregular.
- The Committee recommended that a better approach was to use a feedback loop to examine the actual outcomes from implementation of the criteria, every three years.
- **Revised criteria from next year**- The Committee has said that disturbing the existing system which is on going since 2019 would create more complications and has recommended introducing the new criteria from the next academic year.

What are the concerns of the recommendations?

- 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 Centre's submission does not adequately respond to this question.
- While asserting that an annual family income criterion of Rs. 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.
- If consumer expenditure surveys such as the 2011-12 NSSO report, Key Indicators of Household Consumer Expenditure are taken, a bulk of the population will be eligible under the "below Rs. 8 lakh" cut-off rendering the limit irrational.
- The Supreme Court will take a call as the government has accepted the committee's report and the government has requested for an early hearing as counselling for NEET is held up.

References

1. https://indianexpress.com/article/explained/ews-quota-govt-panel-reservation-7706649/
2. https://www.thehindu.com/todays-paper/tp-opinion/inadequate-response/article38121681.ece
3. https://www.livelaw.in/top-stories/ews-reservation-no-change-in-rs-8-lakhs-gross-annual-income-cut-off-residential-asset-criteria-omitted-centre-tells-supreme-court-188599

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