

JUDGEMENT DAY – NOVEMBER 16, 1992

The Constitutionally mandated (Art.340) Commission for Backward Classes under the leadership of **B.P.Mandal**, namely the Second Backward Classes Commission, submitted the report to the Union Government on 31st December 1980 recommending 27 per cent reservation for Backward Classes in jobs and education as well as in promotion, judiciary and private sector.

On 7th August 1990, saviour of Social Justice **V.P.Singh** as Prime Minister of the country, announced in the Parliament that the Government will implement 27 per cent reservation for OBCs in direct recruitment of central government services and public sector undertakings and G.O. dated 13.8.1990 was issued.

On 25th September 1991, the Congress Government headed by **P.V.Narasimha Rao** issued a modified memorandum to enable the poorer sections in SEBCs (OBCs) to receive benefits of reservation on preferential basis and to provide 10 per cent reservation for economically backward sections of the people not covered by any of the existing schemes of reservation.

Both these OMs were challenged in the Supreme Court (Indra Sawhney Case otherwise also called as Mandal Reservation Case) and got stayed. Finally, after detailed arguments from both sides, the nine Judges Constitution Bench of the Supreme Court by 6-3 majority gave the following judgments on 16.11.1992.

1. Court upheld the order of V.P.Singh reserving 27 per cent for OBCs.
2. Court rejected as unconstitutional, the 1991 order of Congress government reserving 10 per cent for economically backward sections of the people not covered by any of the existing schemes of reservation.
3. Advanced sections among OBCs (Creamy layer) must be excluded from availing reservation of OBCs.
4. No reservation in promotion.
5. Reservation shall not exceed 50 per cent.

After 32 years of its judgement, if we look now, the representation of OBCs in Union Government departments is totally dismal and disappointing.

The court's order is peppered with so many 'ifs' and 'buts' and doses of diffidence that it is extremely unlikely that the entire quota will ever be used up and the policy of reservation will remain only in paper.

Now with implementation of EWS 10 per cent for upper castes, and the Apex Court upholding the Act, the ceiling of 50 per cent has no meaning.

Therefore, every effort by all of us should be made towards total implementation of Mandal Commission Recommendations including 52 per cent reservation for OBCs, abolishing the creamy layer concept, reservation in promotion, judiciary and private sector and most importantly, action against officials for failure to comply the order of the Government on implementation of reservation policy.