



Bill Summary

The Constitution (One Hundred Seventeenth Amendment) Bill, 2012

- The Constitution (One Hundred Seventeenth Amendment) Bill, 2012 was introduced in the Rajya Sabha on September 5, 2012 by Mr. V Narayansamy, Minister of State for Personnel, Public Grievances and Pensions.
- In 1992, the Supreme Court in the case of Indira Sawhney v Union of India had held reservations in promotions to be unconstitutional. Subsequently in 1995, the central government had amended the Constitution and inserted Article 16(4A). This provided for reservation in promotions for Scheduled Castes and Scheduled Tribes which in the opinion of the state are not adequately represented in the services.
- In 2006, the Supreme Court in the case of M. Nagaraj v Union of India upheld the constitutional validity of the amendment. While upholding the validity of the amendment, the court held that before framing any law on this issue, the state will have to satisfy the test of; (a) backwardness of the particular SC and ST group; (b) inadequate representation of the said group; and (c) efficiency of administration.
- In April 2012, the Supreme Court struck down the UP Government Seniority Rules which provided for reservations in promotions. The court held that the state government had not undertaken any exercise to identify whether there was backwardness and inadequate representation of Scheduled Castes and Scheduled Tribes in the state government.
- In light of the recent judgment of the Supreme Court, the central government has introduced the present Bill amending the Constitution. The Bill seeks to substitute Article 16(4A) of the Constitution of India.
- The Bill provides that all the Scheduled Castes and Scheduled Tribes notified in the Constitution shall be deemed to be backward.
- Article 335 of the Constitution states that the claims of the Scheduled Castes and Scheduled Tribes have to be balanced with maintaining efficiency in administration. The Bill states that provision of the amendment shall override the provision of Article 335.

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