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RESEARCH ARTICLE

REVISITING AFFIRMATIVE ACTION IN INDIA: CONTEMPORARY LEGAL CHALLENGES AND CONSTITUTIONAL PERSPECTIVES

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ABSTRACT

Affirmative action addresses historical disadvantage and promotes substantive equality. In India, reservation and protective measures derive principally from Articles 14, 15(4), 15(5), 16(4), 16(4A), 16(4B) and 46, read with Articles 341 and 342. Contemporary debates concern backwardness, equitable distribution, economic criteria, sub-classification and religious conversion. The legal position is governed by constitutional provisions, legislation, Presidential Orders and judicial interpretation. Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 restricts Scheduled Caste recognition to persons professing Hinduism, Sikhism or Buddhism. In *Soosai vs. Union of India*,[1] the Supreme Court upheld this restriction. In *Chinthada Anand vs. State of Andhra Pradesh*[2], the Court reaffirmed that a person professing Christianity cannot claim Scheduled Caste status or protections under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It distinguished Scheduled Tribe status, where continued tribal identity and customary affiliation may require factual assessment. In *State of Punjab vs. Davinder Singh*[3], the Court recognised the permissibility of sub-classification within Scheduled Castes, subject to evidentiary justification. *Janhit Abhiyan vs. Union of India*, [4]addressed the constitutional validity of EWS reservation. Marc Galanter's *Competing Equalities: Law and the Backward Classes in India* (1984) explains affirmative action's historical and constitutional foundations. Scholarship examines equality principles, but conversion and distribution require integrated analysis. The objective is to critically examine contemporary constitutional and judicial challenges to affirmative action, particularly the effect of religious conversion on Scheduled Caste eligibility. The research question is whether the existing framework reconciles formal eligibility rules with substantive equality and continuing social disadvantage. The study assesses whether religion-based exclusions adequately reflect lived caste discrimination while recognising Articles 341 and 342. It argues for evidence-based, transparent and periodically reviewed policies, supported by principled judicial scrutiny, to advance equality, dignity and social justice.

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INTRODUCTION

Equality is one of the foundational principles of the Indian Constitution. The constitutional vision of equality is not confined to the formal declaration that every individual is equal before the law. It also recognises that historical inequalities, social exclusion, caste discrimination, economic deprivation and unequal access to education and public employment may prevent disadvantaged communities from enjoying equality in practice[5]. Consequently, the Constitution permits the State to adopt special measures for the advancement of historically disadvantaged groups. These measures are commonly understood as affirmative action[6].

Affirmative action in India has developed as an instrument of social transformation[7]. Its principal purpose is to overcome the consequences of historical discrimination and ensure that communities subjected to social oppression and exclusion receive meaningful opportunities in education, public employment and political representation. The reservation system is one of its most visible forms, but affirmative action also includes educational concessions, scholarships, financial assistance, welfare programmes, institutional safeguards and measures designed to protect dignity and equal participation[8]. The constitutional framework reflects an understanding that identical treatment of persons situated in unequal social conditions may perpetuate existing inequalities[9].

[1]Research Scholar, Department of Law, Osmania University, Hyderabad
[2] (1985) Supp SCC 590
[3] 2026 INSC 283
[4] 2024 INSC 562
[5] (2023) 5 SCC 1
[6]Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (Oxford University Press, New Delhi, 1984), P.379-380

[7]Singh, M.P. Jurisprudential Foundations of Affirmative Action, *Delhi Law Review*, Vol. 10, (1981) P. 39
[8]Ashwini Deshpande, *Affirmative Action in India* (Oxford University Press, New Delhi, 2013), P.
[9]Narender Kumar and Sudhir Kumar Suthar, *Reservation Policy in India: State, Social Justice, and Affirmative Action* (Orient BlackSwan, Hyderabad, 2024)

Article 14 guarantees equality before the law and equal protection of the laws, while Articles 15 and 16 permit special provisions for disadvantaged sections in specified circumstances. Article 17 abolishes untouchability, and Article 46 directs the State to promote the educational and economic interests of weaker sections, particularly Scheduled Castes and Scheduled Tribes, and protect them from social injustice and exploitation. The Indian model of affirmative action is closely connected with the constitutional recognition of Scheduled Castes and Scheduled Tribes. Articles 341 and 342 establish a special procedure for identifying and notifying these communities. The Presidential Orders issued under these provisions determine which castes and tribes are recognised for constitutional purposes. Such recognition is legally significant because several constitutional benefits, statutory protections and welfare measures are linked to membership of the notified communities.

However, the constitutional and legal framework has generated continuing debates. One important issue concerns the relationship between caste identity and religious conversion. In Indian society, caste has historically been associated with social status, occupation, marriage practices, customary relations and forms of discrimination. Religious conversion may alter a person's professed religious identity, but it does not necessarily eliminate the social consequences of caste origin [10]. This creates a complex legal question: whether a person belonging by birth to a caste included in the Scheduled Castes list should continue to receive Scheduled Caste recognition after conversion to a religion not covered by Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950.Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 provides that no person who professes a religion different from Hinduism, Sikhism or Buddhism shall be deemed to be a member of a Scheduled Caste [11]. The provision has therefore created a religion-based eligibility condition for Scheduled Caste recognition. The constitutional validity and application of this restriction have been considered by the Supreme Court, particularly in *Soosai vs. Union of India* [12]. The Court declined to invalidate the restriction in the absence of sufficient material establishing that Christian converts from the enumerated castes suffered comparable social and economic disabilities in the manner alleged. The question has acquired renewed significance through *Chinthada Anand vs. State of Andhra Pradesh* [13]. The Supreme Court examined the effect of conversion to Christianity on Scheduled Caste status and the availability of protection under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The decision reinforces the operation of Paragraph 3 of the 1950 Order and raises important questions about the relationship between religious profession, caste identity and statutory protection. It also requires careful distinction between Scheduled Caste recognition under Article 341 and Scheduled Tribe recognition under Article 342, since the legal framework governing Scheduled Tribes does not contain an equivalent religion-based restriction in the Scheduled Tribes Order.

Apart from conversion, contemporary affirmative action debates concern the distribution of reservation benefits among different communities within the Scheduled Castes list. In *State of Punjab vs. Davinder Singh* [14], a seven-judge Constitution Bench held by majority that sub-classification within Scheduled Castes is constitutionally permissible, subject to adequate justification and evidentiary support. The decision overruled *E.V. Chinnaiah vs. State of Andhra Pradesh*.[15] This development recognises that the Scheduled Castes are not necessarily a homogeneous group in terms of social disadvantage and access to the benefits of reservation. Similarly, in *Janhit Abhiyan vs. Union of India* [16], the Supreme Court upheld the constitutional validity of the 103rd Constitutional Amendment, which introduced reservation for Economically Weaker Sections. The judgment demonstrates the continuing evolution of affirmative action and the constitutional debate concerning the relationship between economic disadvantage and historically recognised social backwardness. Against this background, the present article examines affirmative action as a constitutional commitment to substantive equality. It focuses particularly on the legal consequences of religious conversion for Scheduled Caste eligibility, while situating the issue within wider developments concerning reservation, representation, sub-classification and economic criteria. It argues that the legitimacy and effectiveness of affirmative action depend upon a careful balance between constitutional text, historical disadvantage, social realities and judicial interpretation [17].

Constitutional Philosophy of Affirmative Action: Affirmative action refers to positive measures adopted by the State to improve the social, educational, economic and political position of groups that have historically experienced discrimination or exclusion. It seeks to create conditions in which individuals belonging to disadvantaged communities can participate meaningfully in public institutions and enjoy opportunities on a more equal basis [18]. In the Indian constitutional context, affirmative action is closely associated with the concept of compensatory discrimination, protective discrimination and substantive equality. These expressions describe the constitutional justification for treating disadvantaged groups differently in order to address structural inequalities. The objective is not to create permanent divisions among citizens but to overcome the social and institutional barriers that prevent equal participation[19].

Formal Equality and Substantive Equality: Formal equality requires that persons similarly situated should be treated equally before the law [20]. It prohibits arbitrary discrimination and ensures equal legal protection. However, formal equality alone may not address the disadvantages experienced by communities affected by untouchability, caste-based exclusion, educational deprivation and social marginalisation. Substantive equality recognises that individuals and communities may begin from unequal social and economic positions [21].

[10] Amartya Sen, *Inequality Reexamined* (Harvard University Press, Cambridge, Massachusetts, 1992)

[11] A. Waughray, 'Caste Discrimination and Minority Rights: The Case of India's Dalits' (2010) 17 *International Journal on Minority and Group Rights* 327–353.

[12] The Constitution (Scheduled Castes) Order, 1950, C.O. 19, para 3, issued under art 341(1) of the Constitution of India, as amended by the Constitution (Scheduled Castes) Orders (Amendment) Act, 1990 (Act 15 of 1990), Section 2.

[13] (1985) Supp SCC 590

[14] 2026 INSC 283

[15] 2024 INSC 562

[16] (2005) 1 SCC 394

[17] 2022 INSC 1175

[18] Ashwini Deshpande, 'Reservations and Affirmative Action' in Surinder S. Jodhka and Jules Naudet (eds), *The Oxford Handbook of Caste* (Oxford University Press, Oxford, 2024) 199–212

[19] Edward J. Kellough, *Understanding Affirmative Action: Politics, Discrimination, and the Search for Justice* (Georgetown University Press, Washington, DC, 2006).

[20] Asang Wankhede, *Affirmative Action for Economically Weaker Sections and Upper-Castes in Indian Constitutional Law: Context, Judicial Discourse, and Critique* (Routledge, New Delhi, 2023).

[21] *Indra Sawhney v Union of India* 1992 Supp (3) SCC 217 (Reservation as a constitutional instrument of equality)

Therefore, identical treatment may not produce equal outcomes. Special measures, including reservations and educational support, may be necessary to remove historical barriers and secure effective equality [22]. The Supreme Court has recognised reservation as an instrument for achieving substantive equality. In *State of Punjab vs. Davinder Singh* [23], the Constitution Bench discussed reservation within the broader framework of equality and acknowledged the relevance of differences in disadvantage among communities included in the Scheduled Castes list. The judgment is significant because it recognises that a formally unified constitutional category may contain groups with different levels of social disadvantage and representation.

Affirmative Action and Social Justice: Social justice is a central objective of the Indian Constitution. The Preamble promises justice, social, economic and political [24]and equality of status and opportunity [25]. Articles 38 and 46 further direct the State to promote social welfare and protect weaker sections from injustice and exploitation. Affirmative action gives practical effect to these constitutional commitments. It seeks to ensure that historically disadvantaged communities are not excluded from education, public employment, political institutions and other spheres of public life. Reservation is therefore not merely a policy of distributing seats or posts; it is also a mechanism for improving representation and participation [26]. Nevertheless, affirmative action requires continuing evaluation. A reservation policy that does not consider differences in disadvantage, inadequate representation or the changing circumstances of communities may fail to reach those who need it most. Conversely, exclusionary measures based on insufficient evidence may undermine the constitutional objective of social justice. The challenge is to maintain a principled relationship between equality, representation, social disadvantage and constitutional safeguards [27].

Historical Development in India: The history of affirmative action in India predates the commencement of the Constitution. During the colonial period, several princely States and provincial administrations introduced measures to improve the representation of socially disadvantaged communities in education and public employment. The non-Brahmin movement, social reform movements and demands for political representation contributed to the development of protective measures. The Government of India Act, 1935, provided for the recognition of certain disadvantaged communities in the constitutional and administrative arrangements of British India. The Government of India (Scheduled Castes) Order, 1936, also formed part of the historical development of the Scheduled Castes classification. After independence, the Constitution established a broader framework for equality and affirmative action. The Constitution-makers recognised that the abolition of untouchability and formal legal equality would not, by themselves, remove the accumulated consequences of historical discrimination.

Accordingly, the Constitution incorporated specific provisions for Scheduled Castes, Scheduled Tribes and socially and educationally backward classes. The subsequent development of reservation jurisprudence has been shaped by judicial interpretation, legislative amendments, commissions and government policies. The Mandal Commission and the judgment in *Indra Sawhney vs. Union of India*, [28] significantly influenced the law relating to reservation for Other Backward Classes. Later decisions addressed reservations in promotion, the creamy-layer principle, quantifiable data and the distribution of benefits among disadvantaged groups. More recently, *Janhit Abhiyan vs. Union of India*, [29] and *State of Punjab vs. Davinder Singh*, [30] have demonstrated that affirmative action remains an evolving constitutional doctrine. The former concerned economic criteria and EWS reservation, while the latter concerned the internal distribution of reservation benefits among Scheduled Castes. Whether the existing constitutional and legal framework governing affirmative action in India adequately reconciles religion-based eligibility requirements for Scheduled Caste recognition with the constitutional commitment to substantive equality and the continuing experience of caste-based social disadvantage?

Constitutional and Legal Position of Affirmative Action in India: The legal framework governing affirmative action in India is based on a combination of Fundamental Rights, Directive Principles of State Policy, constitutional provisions concerning Scheduled Castes and Scheduled Tribes, parliamentary legislation and judicial interpretation. The Constitution does not treat equality as an exclusively formal principle. It permits special measures to address historical disadvantage and promote the effective participation of marginalised communities.

Right to Equality: Article 14 guarantees equality before the law and equal protection of the laws to every person within the territory of India. It prohibits arbitrary State action and requires that classifications made by the State satisfy constitutional standards. The principle of reasonable classification generally requires an intelligible differentia and a rational relationship between the classification and the object sought to be achieved. In the context of affirmative action, Article 14 permits the State to recognise relevant differences between groups and adopt measures designed to remedy disadvantage. However, classification cannot be arbitrary or unsupported by constitutional objectives. The State must establish a rational basis for preferential treatment and ensure that such treatment is directed towards achieving equality rather than creating unjustified exclusion.

Prohibition of Discrimination: Article 15 prohibits discrimination by the State against citizens on grounds only of religion, race, caste, sex or place of birth. At the same time, clauses (4), (5) and (6) authorise special provisions for specified disadvantaged groups. Article 15(4), introduced by the Constitution (First Amendment) Act, 1951, enables the State to make special provisions for the advancement of socially and educationally backward classes of citizens and for Scheduled Castes and Scheduled Tribes.

[22]*State of Kerala v N.M. Thomas* (1976) 2 SCC 310 (Substantive equality and differential treatment)

[23]RatnaKapur and Brenda Cossman, 'On Women, Equality and the Constitution: Through the Looking Glass of Feminism' (1993) 1 *National Law School Journal* 1–61.&Parmanand Singh, 'Equal Opportunity and Compensatory Discrimination: Constitutional Policy and Judicial Control' (1976) 18(2) *Journal of the Indian Law Institute* 300

[24]2024 INSC 562

[25]Preamble of the Constitution of India, 1956

[26]Preamble of the Constitution of India, 1956

[27]Narender Kumar and Sudhir Kumar Suthar, *Reservation Policy in India: State, Social Justice, and Affirmative Action* (Orient Black Swan, Hyderabad, 2024).

[28]Gautam Kumar and Minaketan Behera, 'Affirmative Action in New India: Evaluation of Caste-Based Reservation Policy and Debate Around Economic Criteria' (2025) 55(1) *Social Change. PP.* 7–22.

[29] 1992 Supp (3) SCC 217

[30]2022 INSC 1175

It provides the constitutional foundation for several educational and welfare measures. Article 15(5) enables special provisions relating to admission to educational institutions, including private educational institutions, whether aided or unaided, subject to the constitutional exclusion concerning minority educational institutions under Article 30(1). Article 15(6), introduced by the Constitution (103rd Amendment) Act, 2019, enables special provisions for Economically Weaker Sections, including reservation in educational institutions, subject to the conditions specified in the provision. These clauses demonstrate that the constitutional framework accommodates different forms of disadvantage. While Articles 15(4) and 15(5) address social and educational backwardness and the advancement of Scheduled Castes and Scheduled Tribes, Article 15(6) provides for economic disadvantage as a separate constitutional basis for special provisions.

Equal Opportunity: Article 16 guarantees equality of opportunity in matters of public employment. Article 16(4) permits the State to make reservation in appointments or posts in favour of backward classes of citizens that, in the opinion of the State, are not adequately represented in the services under the State. Article 16(4A) enables reservation in promotion, with consequential seniority, for Scheduled Castes and Scheduled Tribes where the conditions prescribed by the Constitution and judicial interpretation are satisfied. Article 16(4B) allows the State to treat unfilled reserved vacancies as a separate class of vacancies for subsequent years, subject to the constitutional provision. Article 16(6), introduced by the 103rd Constitutional Amendment, provides for reservation in appointments or posts in favour of Economically Weaker Sections, subject to the constitutional limit and conditions. The purpose of these provisions is to ensure that equality of opportunity is meaningful and that historically disadvantaged groups are able to participate in public services. Reservation in public employment is therefore connected with both individual opportunity and the broader objective of representative administration.

Abolition of Untouchability: Article 17 abolishes untouchability and forbids its practice in any form. It represents a direct constitutional rejection of caste-based exclusion and social humiliation. Parliament has given effect to this guarantee through legislation, particularly the Protection of Civil Rights Act, 1955, and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.The relationship between Article 17 and affirmative action is particularly important. While reservation seeks to improve representation and access to opportunities, the prohibition of untouchability seeks to eliminate the social practices that historically denied dignity and equality to particular communities.

Promotion of Educational and Economic Interests: Article 46 directs the State to promote the educational and economic interests of weaker sections of the people, particularly Scheduled Castes and Scheduled Tribes, and to protect them from social injustice and all forms of exploitation. Although Article 46 is a Directive Principle and is not independently enforceable in the same manner as a Fundamental Right, it provides an important constitutional direction for public policy. It supports measures relating to scholarships, educational assistance, hostels, financial support, skill development, welfare programmes and protection against exploitation.

Articles 330, 332 and 335: Article 330 provides for reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People. Article 332 provides for reservation of seats for these communities in the Legislative Assemblies of the States. These provisions recognise the importance of political representation. Article 335 requires that the claims of Scheduled Castes and Scheduled Tribes be taken into consideration in making appointments to services and posts in connection with the affairs of the Union or a State, consistently with the maintenance of administrative efficiency. Together, these provisions demonstrate that affirmative action extends beyond education and employment. It also includes political representation and participation in public institutions.

Articles 341 and 342: Constitutional Recognition of Scheduled Castes and Scheduled Tribes: Articles 341 and 342 establish the constitutional procedure for identifying Scheduled Castes and Scheduled Tribes. Under Article 341(1), the President may, with respect to a State or Union Territory and after consultation with the Governor where required, specify the castes, races or tribes, or parts or groups within them, that shall be deemed to be Scheduled Castes in relation to that State or Union Territory. Article 341(2) provides that Parliament may by law include in or exclude from the list of Scheduled Castes specified in a Presidential notification any caste, race or tribe or part or group within it. Except as provided by parliamentary law, the list cannot be varied by a subsequent notification. Article 342 establishes a corresponding procedure for the identification of Scheduled Tribes. These provisions are important because they create a constitutionally controlled process for recognition. Neither a State Government nor an administrative authority can independently add a community to or remove it from the Presidential List. The power to alter the list rests with Parliament. In *State of Punjab vs. Davinder Singh*,[31] the Supreme Court explained the scope of Article 341 and held that State-level sub-classification for the purpose of distributing reservation benefits does not amount to altering the Presidential List. The notified caste remains within the list; the State may, subject to constitutional limits and evidentiary justification, provide differentiated benefits among communities within that class.

The Scheduled Castes Order, 1950: The Constitution (Scheduled Castes) Order, 1950, was issued by the President under Article 341(1). Paragraph 2 identifies the castes, races and tribes or parts or groups within them that are deemed to be Scheduled Castes in relation to the specified States and localities. Paragraph 3 contains a significant religious qualification. It provides:"Notwithstanding anything contained in paragraph 2, no person who professes a religion different from the Hindu, the Sikh or the Buddhist religion shall be deemed to be a member of a Scheduled Caste."The original 1950 Order restricted Scheduled Caste recognition to persons professing Hinduism. The Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1956 extended recognition to Sikhs, and the 1990 amendment extended it to Buddhists. The present provision therefore recognises Hinduism, Sikhism and Buddhism for the purpose of Scheduled Caste status, while excluding persons professing other religions, including Christianity and Islam.

[31]2024 INSC 562

The legal effect of this provision has been the subject of constitutional debate and judicial interpretation.

Atrocities Act, 1989: The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, was enacted to prevent atrocities against members of Scheduled Castes and Scheduled Tribes and provide for special courts, relief and rehabilitation. The Act is an important protective measure because it addresses forms of violence, humiliation, intimidation, discrimination and exploitation directed against members of these communities. Its application depends upon the statutory requirements and the victim's legally recognised status as a member of a Scheduled Caste or Scheduled Tribe. The relationship between the 1989 Act and religious conversion became particularly important in *Chinthada Anand vs. State of Andhra Pradesh*[32]. The Supreme Court considered whether a person who had converted to Christianity could invoke the protection of the Act on the basis of caste origin. The Court applied Paragraph 3 of the 1950 Order and held that a person professing Christianity could not be deemed a member of a Scheduled Caste for the purpose of invoking statutory protection available on that status.

Religious Conversion and Scheduled Caste Recognition: Religious conversion is one of the most debated issues in the contemporary law of affirmative action. It raises questions concerning the relationship between religion, caste identity, social status and constitutional eligibility. The issue is particularly significant for communities whose members have historically experienced caste-based discrimination and who, after conversion, may continue to face social exclusion based on their family background, community identity or perceived caste origin.The legal controversy arises because caste and religion are closely connected in the historical development of Indian society, but they are not necessarily identical concepts. Caste has operated as a social institution involving inherited status, endogamy, occupation, social hierarchy and community relationships. Religion, by contrast, concerns beliefs, practices and forms of religious affiliation. Although religious conversion may involve a change in religious belief and practice, the social consequences of caste origin may not disappear immediately.

Meaning of Religious Conversion: Religious conversion refers to the process by which an individual changes from one religious faith or denomination to another. It may result from personal conviction, spiritual belief, marriage, social circumstances or other reasons. Conversion is recognised as an aspect of religious freedom under Article 25 of the Constitution, subject to public order, morality, health and the other provisions of Part III. The right to profess, practise and propagate religion is an important constitutional guarantee. However, the legal consequences of conversion may vary depending upon the statutory context. A change of religion may affect personal law, religious membership, eligibility for certain statutory benefits and recognition under constitutional classification orders. The central issue in the present study is not whether an individual possesses the freedom to convert. The freedom of conscience and religion must be respected. The issue is whether conversion should automatically extinguish eligibility for affirmative-action benefits where the individual continues to experience discrimination associated with caste origin.

[32]2024 INSC 562

Caste Identity and Religious Identity: Caste identity is a social phenomenon that may continue to influence an individual's life even after a change of religion. In some communities, caste-based distinctions may persist through marriage practices, community associations, social networks, occupational patterns and local social relationships. The persistence of caste identity among sections of Christian and Muslim communities has been discussed in sociological and policy literature. The existence and extent of such practices, however, vary across regions and communities. It would therefore be inaccurate to assume that all converts experience identical forms of discrimination or that religious conversion has no effect on social status. The legal problem arises because the Constitution (Scheduled Castes) Order, 1950 adopts religious profession as a formal eligibility condition. A person may belong by birth to a caste included in the Scheduled Castes list, but upon professing Christianity or Islam, that person is not deemed to be a member of a Scheduled Caste under Paragraph 3. The law thus distinguishes between caste origin and eligibility for constitutional Scheduled Caste recognition. This distinction is central to the debate. One position maintains that the religious restriction is part of the constitutional scheme under Article 341 and that any change must be made by Parliament. The opposing position argues that the restriction may fail to account for the persistence of caste-based discrimination after conversion and may therefore require reconsideration in light of substantive equality.

Historical Development: The original Constitution (Scheduled Castes) Order, 1950 recognised only persons professing Hinduism for Scheduled Caste status. The provision was subsequently amended to extend recognition to Sikhs in 1956 and Buddhists in 1990.The extension to Sikhism and Buddhism is important because it demonstrates that the religious scope of Scheduled Caste recognition has not remained entirely unchanged. Parliament has modified the legal position through amendments to the Presidential Order. However, Christianity and Islam continue to remain outside Paragraph 3. This has generated continuing demands for the extension of Scheduled Caste recognition to Dalit Christians and Dalit Muslims, particularly on the ground that conversion does not necessarily eliminate the effects of caste-based social disadvantage. The question is therefore both constitutional and social. Constitutionally, the issue concerns the scope of Articles 14, 15, 17 and 341. Sociologically, it concerns whether caste-based exclusion persists among converts and whether the existing legal classification adequately reflects that reality.

Conversions: A significant distinction must be maintained between Scheduled Caste and Scheduled Tribe recognition. Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 expressly imposes a religious condition. The Constitution (Scheduled Tribes) Order, 1950 does not contain an equivalent provision restricting recognition to persons professing specified religions. Consequently, the effect of conversion on Scheduled Tribe status is not determined by mechanically applying Paragraph 3 of the Scheduled Castes Order. Instead, the inquiry concerns whether the individual continues to belong to the notified tribe in substance and retains the relevant tribal identity and affiliation. In *Chinthada Anand vs. State of Andhra Pradesh*,[33] the Supreme Court distinguished the legal framework applicable to Scheduled Castes from that governing Scheduled Tribes.

[33]2026 INSC 283

It observed that where conversion or long-term abandonment of tribal customs places a person's tribal identity in doubt, the issue may require factual determination. Continued membership of the tribe, tribal customs and community affiliation are relevant considerations.

This distinction is important because Scheduled Castes and Scheduled Tribes are separate constitutional categories, governed by separate Presidential Orders and distinct social and legal considerations.

Reconversion

A further issue concerns individuals who convert from a religion covered by Paragraph 3 to Christianity or Islam and subsequently reconvert to Hinduism, Sikhism or Buddhism. The legal question is whether the original caste status revives automatically or whether additional conditions must be satisfied. The Supreme Court has considered reconversion in several cases. In *G.M. Arumugam vs. S. Rajgopal*,[34] the Court considered the position of a person belonging to the Adi Dravida community who had converted to Christianity and subsequently returned to Hinduism. The judgment recognised the relevance of community acceptance and the circumstances surrounding reconversion. In *Kailash Sonkar vs. Maya Devi*, [35] the Supreme Court examined the question of revival of caste status following reconversion.

The Court considered the social and community dimensions of caste identity and the circumstances in which the original caste could be treated as revived. The principle emerging from these decisions is that reconversion cannot necessarily be established through a mere declaration of religious change. The genuineness of reconversion, the person's conduct and the acceptance of the individual by the original community may be relevant. In *Chinthada Anand*, the Supreme Court discussed reconversion and set out stringent requirements, including credible proof of genuine reconversion, renunciation of the former religion, adoption of the practices of the original community and acceptance by that community. The judgment places the burden of establishing reconversion upon the person claiming the benefit.

Religious Conversion: The Supreme Court has played a significant role in interpreting the relationship between caste, religion and constitutional benefits. Its decisions demonstrate that Scheduled Caste status is not determined solely by an individual's birth or social background. It is also governed by the constitutional classification under Article 341 and the conditions contained in the Constitution (Scheduled Castes) Order, 1950.*Soosai vs. Union of India*,[36] is one of the leading authorities concerning the effect of conversion to Christianity on Scheduled Caste recognition. The petitioner belonged by birth to the Adi Dravida community, which was included in the Scheduled Castes list. After converting to Christianity, he challenged the exclusion of Christian converts from benefits intended for Scheduled Castes. He contended that Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 violated the equality provisions contained in Articles 14 to 17 of the Constitution. The Supreme Court dismissed the petitions and declined to hold Paragraph 3 unconstitutional.

The Court observed that the Presidential Order was based on the material available to the President concerning the social, economic, cultural and educational disabilities of the communities recognised as Scheduled Castes. The Court also indicated that to establish unconstitutional discrimination, it was necessary to demonstrate that Christian members of the enumerated castes suffered comparable disabilities of the relevant nature and degree. The material placed before the Court was not sufficient to establish the petitioner's case. The importance of *Soosai* lies in its recognition of the constitutional significance of Paragraph 3. The Court did not hold that caste discrimination among Christian converts was impossible. Rather, it declined to invalidate the religious restriction in the absence of adequate supporting material.

The judgment reflects judicial deference to the Presidential Order and the constitutional process under Article 341. However, its evidentiary approach also leaves open the broader question of how the continuing effects of caste discrimination among converts should be assessed. The absence of sufficient evidence in an individual case does not necessarily establish that caste-based disadvantage disappears after conversion. A comprehensive assessment requires contemporary social-scientific evidence. *G.M. Arumugam vs. S. Rajgopal*, [38] the Supreme Court examined the position of a person belonging to the Adi Dravida community who had converted to Christianity and later reconverted to Hinduism. The case concerned the legal significance of reconversion and the revival of caste status. The Court considered the relationship between religious conversion, caste identity and acceptance by the original community. The decision is relevant because it demonstrates that caste identity may involve social and community relationships beyond formal religious declarations. The circumstances of conversion and reconversion, together with community acceptance, may be important in determining whether the original caste identity has been restored.

The judgment recognises the social dimension of caste membership. It also illustrates that the legal consequences of conversion are not always limited to a simple question of religious profession. Nevertheless, the present statutory framework continues to make religious profession decisive for Scheduled Caste recognition under Paragraph 3.*Kailash Sonkar vs. Maya Devi*,[39] the Supreme Court considered the revival of caste status after reconversion to Hinduism. The judgment examined whether a person who had left the original religion and later returned could claim membership of the original caste. The Court considered the role of genuine reconversion and the acceptance of the individual by the original community. The judgment is relevant to the broader principle that caste membership may involve social recognition and customary practices in addition to religious profession.

The decision illustrates the importance of examining actual social relationships rather than relying exclusively on formal declarations. It is particularly relevant to cases where individuals claim to have returned to a religion covered by Paragraph 3 and seek restoration of Scheduled Caste eligibility. *Chinthada Anand vs. State of Andhra Pradesh*, [40]is a significant recent development in the law relating to religious conversion and Scheduled Caste recognition.

[34] 2026 INSC 283
[35](1976) 1 SCC 863
[36] (1984) 2 SCC 91
[37](1985) Supp SCC 590
[38](1976) 1 SCC 863
[39](1984) 2 SCC 91
[40]2026 INSC 283

The appellant claimed to belong to the Madiga community, a Scheduled Caste in Andhra Pradesh. He had been conducting prayer meetings as a pastor for several years. Following an alleged incident involving caste-based abuse and assault, he lodged a complaint under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, along with other criminal provisions. During the proceedings, the accused contended that the appellant had converted to Christianity and therefore could not claim Scheduled Caste status or invoke the provisions of the 1989 Act. The High Court accepted this contention and quashed the proceedings under the special legislation.

The matter reached the Supreme Court, which examined the constitutional and statutory consequences of conversion. The Court considered the Constitution (Scheduled Castes) Order, 1950, the Constitution (Scheduled Tribes) Order, 1950 and the relevant legal principles concerning caste and tribal identity. The Supreme Court held that Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 is categorical. A person professing a religion other than Hinduism, Sikhism or Buddhism cannot be deemed to be a member of a Scheduled Caste, irrespective of caste origin. Consequently, the appellant, who professed Christianity, could not claim Scheduled Caste status for invoking the protection of the 1989 Act on that basis. The Court also considered the Andhra Pradesh Government Order extending certain non-statutory concessions to Scheduled Caste converts to Christianity and Buddhism. It distinguished non-statutory welfare concessions from statutory benefits such as reservation in educational institutions and public services. The State Government's extension of non-statutory concessions could not confer Scheduled Caste status contrary to the Presidential Order.

The judgment further distinguished Scheduled Tribe status from Scheduled Caste status. In the case of Scheduled Tribes, conversion does not automatically attract the religious disqualification contained in Paragraph 3 of the Scheduled Castes Order. Instead, the continuing existence of tribal identity, community affiliation and customary practices may require factual assessment. *Chinthada Anand* reinforces the binding legal effect of Paragraph 3 and clarifies the distinction between Scheduled Caste and Scheduled Tribe recognition. It provides legal certainty concerning the current statutory position. However, the judgment also brings into focus the tension between formal religious classification and the social reality of caste-based discrimination.

The decision applies the existing constitutional order; it does not resolve the wider policy question whether Paragraph 3 should be amended by Parliament. *State of Punjab vs. Davinder Singh*, [41] a seven-judge Constitution Bench of the Supreme Court considered whether the State could create sub-classifications within the Scheduled Castes for the purpose of distributing reservation benefits. The Court, by majority, held that sub-classification is constitutionally permissible, subject to the requirement that it be supported by adequate empirical material and relevant constitutional considerations. It overruled *E.V. Chinnaiah vs. State of Andhra Pradesh*,[42] which had held that the Scheduled Castes constituted a homogeneous class for the purpose of reservation and could not be further sub-classified by the State. The judgment recognised that different communities within the Scheduled Castes may experience varying levels of social disadvantage and may not have benefited equally from reservation. It also emphasised that sub-classification cannot be arbitrary and must be supported by quantifiable and demonstrable data concerning the relative disadvantage and inadequate representation of the groups receiving preferential treatment. The judgment advances the principle of distributive justice within affirmative action. It recognises that formal inclusion in a common constitutional list does not necessarily mean that all communities have equal access to reservation benefits. However, the judgment does not authorise States to alter the Presidential List. It permits sub-classification for distributing benefits within the existing constitutional category, subject to evidence and judicial review. *Janhit Abhiyan vs. Union of India*,[43] the Supreme Court considered the constitutional validity of the Constitution (103rd Amendment) Act, 2019, which introduced Articles 15(6) and 16(6) to enable reservation for Economically Weaker Sections. The challenge raised questions concerning the use of economic criteria for reservation, the exclusion of Scheduled Castes, Scheduled Tribes and non-creamy-layer Other Backward Classes from the EWS category, and the additional reservation beyond the existing 50 per cent ceiling. By a 3:2 majority, the Supreme Court upheld the constitutional validity of the 103rd Amendment. The decision recognised the constitutional permissibility of special provisions for economically weaker sections, subject to the structure of the Constitution.

The judgment represents a significant development in the constitutional understanding of affirmative action. It recognises economic disadvantage as a permissible basis for special provisions under the newly introduced constitutional clauses. However, economic disadvantage and caste-based historical discrimination are not identical. The former may be addressed through economic assistance and targeted welfare, while the latter may require measures addressing social exclusion, stigma and inadequate representation. *Indra Sawhney vs. Union of India* [44], is a landmark in Indian reservation jurisprudence. The Supreme Court considered the constitutional validity of reservation for Other Backward Classes under Article 16(4).The Court upheld reservation for Other Backward Classes, recognised the importance of identifying the creamy layer and generally affirmed the 50 per cent ceiling, subject to exceptional circumstances. It also held that Article 16(4), as it then stood, did not permit reservation in promotion. The judgment is important because it developed principles concerning backwardness, representation and the limits of reservation. It remains a major authority for understanding the constitutional balance between equality of opportunity and affirmative action. *E.V. Chinnaiahvs. State of Andhra Pradesh*, [45]the Supreme Court held that the Scheduled Castes constituted a single constitutional class under Article 341 and that the State could not further sub-classify them for the purpose of reservation. This position was overruled by the seven-judge Bench in *State of Punjab vs. Davinder Singh*.[46] The change in legal position demonstrates the dynamic nature of affirmative action jurisprudence and the Court's increasing attention to differences in disadvantage within constitutionally recognised groups.

[41]2024 INSC 562
[42] (2005) 1 SCC 394
[43]2022 INSC 1175
[44]1992 Supp (3) SCC 217
[45](2005) 1 SCC 394
[46] 2024 INSC 562

N.E. Horo vs. Jahan Ara Jaipal Singh, [47] the Supreme Court considered questions relating to membership of the Munda Scheduled Tribe and customary recognition. The case concerned a woman who was not Munda by birth but had married a member of the Munda tribe. The Court examined the relevant customary law and the acceptance of the woman by the tribal community. The decision is relevant to the understanding that tribal identity and membership may involve customary practices and community recognition. Although the case was not directly concerned with the conversion of a Scheduled Tribe member, it is useful in distinguishing the nature of tribal membership from the statutory religious restriction applicable to Scheduled Castes.

Judicial Approach: The study finds that affirmative action remains an essential constitutional instrument for achieving substantive equality in India. Its justification lies not merely in formal equal treatment but in addressing historical discrimination and unequal access to education, employment and public institutions. Articles 14, 15 and 16 provide the principal equality framework, while Articles 17 and 46 reinforce the commitment to eliminating untouchability and advancing weaker sections. The Constitution establishes a specific process for Scheduled Caste recognition. Article 341 and the Constitution (Scheduled Castes) Order, 1950 govern identification, and Paragraph 3 makes religious profession a condition of eligibility. Under existing law, persons professing Christianity or Islam are excluded from Scheduled Caste recognition, even where their birth caste appears in the Presidential List. The Supreme Court's decisions in *Soosai* and *Chinthada Anand vs. State of Andhra Pradesh*,[48]apply this restriction. A change therefore requires parliamentary action; State Governments cannot confer statutory Scheduled Caste status through administrative orders or welfare concessions.

A central finding is that legal eligibility and continuing social disadvantage are distinct questions. Conversion may change religious affiliation without removing caste-based stigma, exclusion or inherited disadvantage. Such disadvantage may affect marriage, occupation, community relations and social interaction. A convert's legal status must be determined under the Presidential Order, while the persistence and extent of discrimination require independent sociological and empirical investigation. Evidence should be community-specific and avoid assuming that all converts experience identical conditions.

The literature reviewed demonstrates that affirmative action requires legal, sociological and empirical perspectives. Marc Galanter explains the tension between equal treatment and remedial measures. André Béteille examines equality, caste and social hierarchy. Christophe Jaffrelot assesses the political and socioeconomic effects of reservation. Deshpande and Bapna document caste-like disadvantage among Muslim and Christian communities, while the Ranganath Misra Commission recommends removing the religious restriction in Paragraph 3. Together, these works highlight the importance of examining legal recognition and lived disadvantage. However, an integrated assessment connecting this literature with recent judicial developments remains necessary.

[47](1972) 1 SCC 771
[48]2026 INSC 283

The study further finds that affirmative-action policy must respond to inequalities within recognised categories. In *State of Punjab vs. Davinder Singh*,[49] the Supreme Court permitted sub-classification within Scheduled Castes where supported by empirical evidence and constitutional limitations. Reliable data on population, education, employment and representation are therefore essential. *Janhit Abhiyan vs. Union of India*,[50] upholding the 103rd Constitutional Amendment, confirms that economic disadvantage may support special provisions under Articles 15(6) and 16(6). Nevertheless, economic deprivation and caste-based exclusion are different forms of disadvantage and should not be treated as interchangeable. Finally, effective affirmative action depends on transparent administration, institutional accountability and periodic evaluation. The creamy-layer debate requires attention to the distinct legal position of Scheduled Castes and Scheduled Tribes and to relevant judicial reasoning. Policy must also respect dignity, equality and freedom of conscience under Articles 21 and 25. Parliament should periodically review the religious qualification on credible evidence. Overall, constitutional protection, empirical assessment and fair implementation must operate together to ensure that affirmative action advances social justice within constitutional authority. Judicial interpretation and legislative responsibility must therefore remain complementary in shaping sustainable affirmative-action policy.

Findings are affirmative action is essential for achieving substantive equality and social justice. Constitutional provisions establish the framework for protecting disadvantaged communities, while Paragraph 3 imposes religious qualifications for Scheduled Caste recognition. Judicial decisions clarify eligibility, sub-classification and economic criteria. Effective implementation requires reliable data, transparent administration, institutional accountability and periodic policy evaluation. Suggestions are the Government should periodically review religious restrictions under Paragraph 3 through evidence-based research. It should strengthen anti-discrimination laws, ensure equitable reservation distribution under *Davinder Singh*, improve representation data, effectively implement welfare schemes and the SC/ST (Prevention of Atrocities) Act, 1989, while protecting religious freedom, dignity and substantive equality.

CONCLUSION

Affirmative action is an essential constitutional mechanism for addressing historical disadvantage and promoting substantive equality in India. Articles 14, 15, 16, 17 and 46, read with Articles 341 and 342, provide its constitutional foundation. Judicial decisions, including *Indra Sawhney*, *Janhit Abhiyan*, *Soosai* and *State of Punjab v Davinder Singh*, have shaped reservation jurisprudence. Religious conversion raises important questions concerning Scheduled Caste eligibility under Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950. *Chinthada Anand* (2026) further clarifies this position. Ultimately, affirmative action must balance legal eligibility, historical disadvantage, representation, dignity, freedom of conscience and social justice.

[49]2024 INSC 562
[50]2022 INSC 1175

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19. *M. Nagaraj v Union of India*, (2006) 8 SCC 212.
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21. *State of Punjab v Davinder Singh*, 2024 INSC 562.
22. *Soosai v Union of India*, (1985) Supp SCC 590.
23. *V.V. Giri v Dippala Suri Dora*, AIR 1959 SC 1318.