

**W.P.No.28665/2025 , W.P.No.28668/2025,
W.P.No.28670/2025 & WP NO. 28671/2025 (GM - RES)**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

[AKHILA KARNATAKA BRAHMANA MAHA SABHA (REGD) VS. STATE
OF KARNATAKA AND OTHERS]

25.09.2025



CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

ORAL ORDER

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The petitioners have filed these petitions, *inter alia* impugning the Government orders dated 13.08.2025 and 22.08.2025 [hereafter referred to as '**the impugned orders**'], directing the conduct of a social and educational survey of the populace of the State of Karnataka [hereafter '**the impugned Survey**']. The petitioners also impugn the Handbook issued by the Karnataka State Backward Classes Commission [hereafter '**the Commission**'] for conducting the impugned Survey, as violative of Articles 14 and 21 of the Constitution of India. Additionally, the petitioners pray that the list of 1,561 (One thousand five hundred and sixty-one only) castes and sub-castes as enumerated, for the purpose of the impugned survey, be declared as arbitrary and violative of the law.

2. The Government of Karnataka [**'the Government'**], has issued the impugned order dated 13.08.2025 directing the Commission to conduct the impugned survey.

3. The impugned order dated 13.08.2025, states that the Government had sought advice under Section 11(2) of the Karnataka State Commission for Backward Classes Act, 1995 [hereafter '**the 1995 Act**'], concerning conducting a social and educational survey under Section 9(1)(ii) of the 1995 Act. The said order records that data was required to review the list of backward classes and for obtaining this data, a social and educational survey of the citizens of the State, was required to be conducted. The Government had, in the light of the proposal, directed as under:

"(i) The Karnataka State Commission for Backward Classes shall conduct a survey on the social and educational conditions of the citizens of Karnataka State digitally, and the development and management of the software for conducting the survey digitally shall be undertaken through the e-Governance Department. Aadhaar verification for every individual above 6 years mentioned in the survey is made mandatory.

(ii) Under the leadership of Justice Nagamohan Das, concerning internal reservation, the publicly available list of voters is utilized for the Scheduled Caste survey. Similarly, the Commission for Backward Classes shall use the publicly available list of voters for the survey conducted by the Commission.

(iii) Necessary officials, teachers, and other staff shall work under the supervision of the Commission to successfully complete the survey work."

4. In terms of the impugned order dated 22.08.2025, the Government had approved and directed the Commission to undertake the survey work regarding the social and educational conditions of the citizens of the State of Karnataka by preparing a new list of houses using GPS coordinates and the services of electricity meter readers in collaboration with all the five ESCOMS of the State, under the Department of Energy. It was further directed that the electricity meter readers participating in the survey, would be eligible to receive Rs.1,000/- each for their work and Rs.500/- for mobile expenses.

5. Pursuant to the impugned order dated 13.08.2025, the Commission had published a list of castes and sub-castes on 22.08.2025. The petitioners state that a notice was also

published in the daily newspapers on 22.08.2025, calling for objections and suggestions in respect of the conduct of the impugned survey. Some other petitioners who have filed the present petitions had filed objections and suggestions pursuant to the aforementioned notice published on 22.08.2025. They had raised certain issues regarding the list of castes and sub-castes as published as well as objected to the jurisdiction of the Commission to conduct a caste based survey. The petitioners state that their suggestions did not elicit any response from the Commission or the Government.

6. The impugned survey commenced on 22.09.2025 and the petitioners have sought urgent ad-interim orders restraining the Government and the Commission from conducting the impugned survey. In view of the urgent interim orders being sought for by the petitioners, this Court has heard the learned Senior Counsel for the parties for the limited purpose of considering grant of interim orders staying the impugned survey. It is thus clarified that nothing stated in this order, be construed as finally deciding any of the questions raised in the present petitions.

7. The learned Senior Counsel for the petitioners assailed the impugned order on several fronts.

7.1 First, they submitted that the impugned orders as well as the 1995 Act are unconstitutional and *ultravires* to Article 342-A of the Constitution of India.

7.2 Second, that the Government does not have the legislative competence to conduct the impugned. They contended that the survey in question is a subterfuge to conduct a caste census, as it covers the entire populace of the State of Karnataka and the power to conduct a census, vests exclusively with the Union of India, by virtue of Article 246 read with Entry 69 of List-I of the Seventh Schedule to the Constitution of India. Shri Ashok Haranahalli, learned Senior counsel appearing for one of the petitioners also referred to a notification dated 16.06.2025, whereby the Central Government has notified that the census would be conducted in the year 2027. It was also submitted that the ensuing census would also include a Caste Census. He also submitted that the Census Act, 1948, occupies the field of conducting a census in any form and thus, in view of the Doctrine of Occupied Field,

the State legislature cannot enact any legislation or pass any executive order, which would amount to conducting a census.

7.3 Third, they contended that collection of statistics as is proposed under the impugned survey in question, also violates the Collection of Statistics Act, 2008.

7.4 Fourth, they submitted that the methodology adopted by the Government / Commission, to conduct the census / survey, violates the Aadhar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016 [**'the Aadhar Act'**]. They contended that Section 57 of the said Act was deleted by virtue of the Aadhar and Other Laws (Amendment) Act, 2019, which expressly provided that nothing stated in the Act shall prevent the use of Aadhar number for establishing the identity of an individual for any purposes, whether by the State or by any body corporate or person, pursuant to any law for the time being in force, or any contract to the said effect. It was contended that with the deletion of Section 57 of the Aadhar Act, the Aadhar number could not be used for establishing the identity of any person covered under the impugned survey. Thus, the use of Aadhar number for the purpose of carrying on survey, is contrary to law.

7.5 Fifth, it was submitted that the conduct of the impugned survey violates the fundamental right to the privacy of the citizens under Article 21 of the Constitution of India. Learned Senior Counsel also referred to the observations made by the Supreme Court in ***Justice K.S. Puttaswamy (Retd.) & Another v. Union of India & Others* : (2017) 10 SCC 1.**

7.6 Sixth, it was submitted that even if it is assumed that the Government has the power to conduct a survey, the conduct of the impugned survey is a colourable exercise of power, as the object of the exercise is not to ascertain the social and educational condition of the backward classes. The object is for collecting statistics regarding the profile of the population of the State, for weaponising the same for electoral gains.

7.7 Mr. Reddy, learned Senior Counsel appearing for one of the petitioners also referred to the List of castes and sub-castes as set out for the purposes of conducting the census and also compared the same with the list of castes that was issued earlier. He pointed out that the earlier list had listed out the castes and the sub-castes of those castes, under the head of the main castes. However, in the current list, the caste and the sub-caste are reflected separately as independent castes and

therefore, a person belonging to a sub- caste would fall in more than one entry. But the method of collecting data does not permit selecting more than one entry. Additionally, it was submitted that some of the castes / sub-castes are imaginary and non-existent. Some of the enteries are composite entries, which also mention the religion along with the caste. He submitted that the List of Castes and sub-castes are drawn up arbitrarily without application of mind. Thus, the results of the impugned would be arbitrary and would not serve the purpose of ascertaining the social and educational status of the citizens.

7.8 Mr. Kamath, learned Additional Solicitor General appearing on behalf of the Union of India supported the stand of the petitioners. He also submitted that the conduct of the impugned survey was beyond the legislative competence of the State of Karnataka as it is essentially a census under a ruse of a survey for collecting data to ascertain the social and educational status of the citizens.

7.9 Mr. Raviverma Kumar, learned Senior Counsel appearing for the Commission submitted that over 1.75 lakh enumerators are engaged in carrying on the survey. Further, an aggregate expenditure of Rs.20,31,67,253/- has already been incurred on

printing charges of stickers, handbooks, formats and other materials. The enumerators are also entitled to receive the remuneration aggregating approximately Rs.350 crores which has already been committed. He submitted that stopping the survey at this stage would result in the entire expenditure being wasted. He submitted that even if the impugned survey is stopped, the State is bound to pay remuneration to enumerators as the same is already committed.

8. Mr. Singhvi, learned Senior Counsel appearing for the State of Karnataka [State], countered the aforesaid submissions. He contended that the Government had not directed the conduct of the census, and the survey being conducted is a socio-economic and educational survey of all residents, which is necessary for revision of the list of backward classes. He also contended that historically, such exercises were conducted in the past for the rectification and revision of the list of backward classes.

8.1 Next, he referred to the decision in the case of ***Indra Sawhney & Ors. v. Union of India : (1992) Supp (3) SCC 217***, and submitted that the Constitution Bench of the Supreme Court had laid down mandatory guidelines for

identification of backward classes and the same entailed a periodical review of the entire populace. He also emphasized that the list of backward classes under Articles 15(4) and 16(4) of the Constitution of India was required to be determined on empirical data and therefore, conducting a survey was necessary to eliminate any arbitrariness in drawing up lists of backward classes or any classes that may require additional benefits from the State.

8.2 He referred to the Constitution (One Hundred and Second Amendment) Act, 2018 [the 102nd Amendment], whereby Article 342-A was inserted in the Constitution of India. He submitted that the said Article 342-A was considered by the Supreme Court in ***Dr. Jaishri Laxmanrao Patil v. State of Maharashtra & Anr. : (2021) 2 SCC 785***, and the Court held that the States did not have the power to identify the socially and educationally backward classes [SEBCs] and the said power vested exclusively with the President and the Parliament. He submitted that in view of the said decision, the Central Government had spearheaded the enactment of the Constitution (One Hundred and Fifth Amendment) Act, 2021 [the 105th Amendment] for restoring the power of the States to maintain their own SEBC lists for the purpose of Articles 15 and

16 of the Constitution of India. He contended that the objects and reasons for the said amendment unequivocally indicate that it was to undo the effect of the decision in the *Jaishri Laxmanrao Patil's* case and to re-affirm the federal structure.

8.3 He also referred to the decision of the Supreme Court in the case of ***Pattali Makkal Katchi v. A. Mayilerumperumal & Ors. : 2023 (7) SCC 481*** and contended that the Supreme Court had clarified that, after 105th Constitutional amendment, States retain the full competence to legislate for reservation and welfare of SEBCs within their territory.

8.4 He further submitted that the 1995 Act created a statutory obligation on the State to periodically revise the list of socially and educationally backward classes. He contended that this was in conformity with the directions issued by the Supreme Court in ***Indra Sawhney*** (*supra*). He also submitted that Section 9 of the 1995 Act was amended to expand the scope of clause (ii) of sub-section (1) of Section 9 to provide for survey of social and educational status of the citizens of the State. He contended that the challenge to the amendment to Section 9 was without merit and in any view there is a presumption of constitutionality. Therefore, no interim orders

ought to be granted on the basis that an enactment is unconstitutional, unless it is finally found to be *ultra vires* the constitution of India.

8.5 He also referred to the decision of the Hon'ble Patna High Court in ***Youth for Equality v. State of Bihar : (2023) SCC OnLine SC 2393*** and submitted that contentions similar to those as advanced in the present case were rejected by the Hon'ble Patna High Court. He submitted that whilst the Supreme court has admitted an appeal against the said decision, but the Court has not passed any interim order.

8.6 He also referred to the decisions of the Supreme Court in ***M. Nagaraj & Ors. v. Union of India & Ors. : 2006 (8) SCC 212*** and ***Ram Singh & Ors. v. Union of India: (2015) 4 SCC 697***. On the strength of the said decisions, he contended that any classification regarding backward classes was required to be based on empirical data and not on assumption or outdated material. He submitted that it was thus imperative for the State to conduct a survey regarding socio-economic and educational status of the populace of the State of Karnataka.

8.7 Next, he submitted that no interim orders are required or warranted, as such surveys were also conducted in the State of

Bihar and Telangana without any hinderance and there is no case where conduct of such a survey has been interdicted. He further submitted that the amendment to Section 9 was also subject matter of challenge in a writ petition, which is pending since the year 2014-15, but no interim orders have been granted. He submitted that the present petitions seek to re-litigate the issues, which were raised in the petitions challenging the constitutional validity of the amendment to Section 9 of the 1995 Act and the surveys conducted earlier.

8.8 Lastly, he contended that the balance of convenience is also squarely in favour of the State, as the necessary arrangements have been made and over 1.6 lakh persons have been mobilized to conduct the impugned survey at substantial cost. Interdiction of the survey at this stage, would result in huge monetary cost to the exchequer.

9. The first question to be considered is whether the impugned orders violate Article 342A of the Constitution of India. The said Article was introduced by the Constitution (One Hundred and Second Amendment) Act, 2018 [the 102nd Amendment]. The said amendment also introduced Article 338B for establishing a Commission for the socially and

educationally backward classes to be known as 'the National Commission for Backward Classes'. The said Commission is, *inter alia*, charged with the function to investigate and monitor all the matters relating to the safeguards provided for the socially and educationally backward classes under the Constitution and under any other law and to evaluate the working of such safeguards.

10. Additionally, Clause (26C) was also introduced in Article 366 of the Constitution of India to define the expression "socially and educationally backward classes".

11. Article 342A and Clause (26C) of Article 366 of the Constitution of India as introduced by virtue of the 102nd Amendment are set out below:

"342A. (1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the socially and educationally backward classes which shall for the purposes of this Constitution be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

Clause (26C) of Article 366 is set out below:

"(26C) "socially and educationally backward classes" means such backward classes as are so deemed under article 342A for the purposes of this Constitution;"

12. The import of the 102nd Amendment was considered by the Constitution Bench of the Supreme Court in ***Dr. Jaishri Laxmanrao Patil v. Chief Minister and others: (2021) 8 SCC 1***. One of the point for consideration referred to the Constitution Bench was:

"Whether, States' power to legislate in relation to "any backward class" under Articles 15(4) and 16(4) is anyway abridged by Article 342-A read with Article 366(26-C) of the Constitution of India."

13. The said question was answered in the affirmative and the Supreme Court held as under:

"If one interprets the entire scheme involving Articles 366(26-C), 342-A(1) and 342-A(2), the irresistible conclusion that follows is that the power of publishing the list of SEBCs, *in relation to every State and Union Territory for the purposes of the Constitution is with the President only*. Such notification is later called as the Central List by Article 342-A(2); it can only be amended by Parliament."

14. Subsequent to the decision of the Supreme Court in ***Dr. Jaishri Laxmanrao Patil (supra)***, the Constitution (One Hundred and Fifth Amendment) Act, 2021 [the 105th

Amendment] was enacted for restoring the authority of the State Governments to identify and notify the backward classes in their respective States and Union Territories. By virtue of the 105th Amendment, Article 338B of the Constitution was amended and a proviso was introduced after Clause (9) of the said Article. Clause (9) and the proviso as introduced in Article. 338B of the Constitution of India are set out below:

"(9) The Union and every State Government shall consult the Commission on all major policy matters affecting the socially and educationally backward classes.

Provided that nothing in this clause shall apply for the purposes of clause (3) of article 342A."

15. Article 342A was also amended by virtue of the 105th

Amendment. Section 3 of the said Act is set out below:

"(a) in clause (1), for the words "the socially and educationally backward classes which shall for the purposes of this Constitution", the words "the socially and educationally backward classes in the Central List which shall for the purposes of the Central Government" shall be substituted;

(b) after clause (2), the following shall be inserted, namely:-

Explanation.-For the purposes of clauses (1) and (2), the expression "Central List" means the list of socially and educationally backward classes prepared and maintained by and for the Central Government.

(3) Notwithstanding anything contained in clauses (1) and (2), every State or Union territory may, by law, prepare and maintain, for its own purposes, a list of socially and educationally backward classes, entries in which may be different from the Central List."

16. Article 342A of the Constitution of India as amended by virtue of the 105th Amendment reads as under:

"(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the socially and educationally backward classes in the Central List which shall for the purposes of the Central Government be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

Explanation.—For the purposes of clauses (1) and (2), the expression "Central List" means the list of socially and educationally backward classes prepared and maintained by and for the Central Government.

(3) Notwithstanding anything contained in clauses (1) and (2), every State or Union territory may, by law, prepare and maintain, for its own purposes, a list of socially and educationally backward classes, entries in which may be different from the Central List."

17. Correspondingly, Clause (26C) of Article 366 was also substituted to read as under:

"(26C) "socially and educationally backward classes" means such backward classes as are so deemed under article 342A for the purposes of the Central Government or the State or Union territory, as the case may be."

18. By virtue of the non obstante clause in clause (3) of Article 342A of the, the main provision of Clause (3) of Article 342A of the Constitution of India would require to be given its full effect, notwithstanding anything inconsistent contained in Clauses (1) and (2) of Article 342A of the Constitution. Thus, every State and Union Territory can, by law, prepare and maintain, for its own purposes, a list of socially and educationally backward classes, the entries in which may be different from the Central List.

19. As noted above, Clause (1) of Article 342A was also amended and the words "*the socially and educationally backward classes which shall for the purposes of this Constitution*" were substituted for the words "*the socially and educationally backward classes in the Central List which shall for the purposes of the Central Government*". Thus, the scope of clause (1) was to confined to the specifying socially and

backward classes in the Central List for the purposes of the Central Government.

20. It was not disputed by the learned counsel for the petitioners that by virtue of Clause (3) of Article 342A of the Constitution, every State or Union Territory could prepare and maintain a list of socially and educationally backward classes, the entries in which may be different from the Central List. They, however, submitted that such a list could be prepared and maintained by the State only "by law". It was earnestly contended that no law had been enacted after the enactment of Constitution (One Hundred and Fifth Amendment) Act, 2021, which would permit the preparation and maintenance of such a list. They further stated that the 1995 Act could not be construed as 'a law' as contemplated under Clause (3) of Article 342A of the Constitution. *Prima facie*, we are not persuaded to accept the said contention.

21. The 1995 Act, although under challenge in these proceedings, is on the statute book. It is also relevant to refer to Clause (ii) of Sub-section (1) of Section 9 of the 1995 Act, which contemplates revision of list of backward classes.

22. Sections 9 and 11 of the 1995 Act are set out below:

"9. Functions of the Commission.- (1) The functions of the Commission shall be as follows:-

(i) to examine requests for inclusion of any class of citizens as a Backward Class in the lists and hear complaints of over inclusion or under inclusion of any Backward Class in such lists and tender such advice to the State Government as it deems appropriate;

(ii) to conduct survey on social and educational status of the citizens of the State, to identify the classes of citizens who are socially and educationally backward and to recommend to State Government for necessary measures;

(iii) to supervise the implementation of various welfare schemes meant for the Backward Classes;

(2) The advice of the Commission shall ordinarily be binding upon the Government.

11. Periodic revision of lists by the State Government.- (1) The State Government may at any time, and shall, at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists, new backward classes.

(2) The State Government shall, while undertaking any revision referred to in subsection (1), consult the Commission."

23. *Prima facie*, the 1995 Act – which is undisputedly a law in force – empowers the State to maintain a list of backward classes and revise the same periodically.

24. Next question to be considered is whether the State has the legislative competence of conducting the impugned survey.

25. The contention that the State does not have the legislative competence to enact a law for carrying out a survey, as is currently being carried out in exercise of powers under 1995 Act, is premised on the basis that the State is conducting a census – a subject which falls in List-I of the Seventh Schedule to the Constitution of India. The Union of India has exclusive powers in regard to the said subject – “Census” – by virtue of Article 246 of the Constitution of India read with Entry 69 of List-I of the Seventh Schedule to the Constitution of India. It is further contended that the Census Act, 1948 [**the Census Act**] occupies the legislative field.

26. We may also note that Mr. Aravind K. Kamath, the learned Additional Solicitor General of India appearing for the Union of India had clarified that there is no cavil that the State has the power to conduct a survey. He, however, stated that the impugned survey is akin to a census and the same is beyond the competence of the State. He submitted that the right to conduct a survey is constrained by the constitutional scheme of placing the subject of ‘census’ in list-I. Therefore, the same is within the exclusive domain of the Union of India. He submitted that a survey would assume the

character of a census if the same entails a universal enumeration of all households and individuals in the State. He submitted that the State may, for policy purposes conduct surveys to collect information on specific issues. However, if this exercise involves enumeration of households and individuals and gathering of socio-economic and caste particulars on a comprehensive basis, it ceases to be a survey.

27. Undeniably, the contentions require examination. However, at this stage, our examination is confined to considering the question whether an interim order restraining the State / Commission from carrying out the survey is required to be issued. Unless, it is established to the contrary, we must accept that the survey is being conducted for the stated purpose of ascertaining the social and educational status of the populace of the State of Karnataka. It is contended that since the impugned survey would cover the entire population of Karnataka, the same assumes the character of a census.

28. Indisputably, the State cannot legislate and enact laws, which in their pith and substance are in respect of the subject of 'census'. The Union of India has the exclusive power to legislate in respect of the said subject. However, a survey cannot be conflated with a census. Although a survey as well as a census may involve

collection of data, they are qualitatively different. Thus merely because a survey covers the entire populace, the same cannot be construed as a census.

29. We may note that the Census Act contains extensive provisions for conducting a census. It not only confers authority on the officers to conduct the census but, also contains penal provisions. In terms of Section 5 of the Census Act, the Census Commissioner, all Directors of Census Operations and Census-Officers are deemed to be public servants within the meaning of the Indian Penal Code. Section 6 of the Census Act mandates certain officials and persons in charge of certain establishments to perform the duties of a Census Officer, if so ordered by the District Magistrate or by such authority that the Central Government may specify.

30. In terms of Section 7 of the Act, the District Magistrate or the specified authority has power to call upon certain persons to give such assistance as may be specified. The Central Government is also empowered to requisition premises, vehicles, vessels or animals as required for conducting the census. A person authorized by the Central Government has the power to enter into any premises and inspect the premises, such vehicles, vessels or animals, for the purpose of determining whether an order for

requisitioning the same can be made or with a view to secure compliance for any order made under Section 7A of the Act.

31. It is also relevant to refer to Section 8 of the Census Act, which reads as under:

"8. Asking of questions and obligation to answer.—(1) A census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the 1[Central Government] and published in the Official Gazette, he may be directed to ask.

(2) Every person of whom any question is asked under sub-section (1) shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of his household, and no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention."

32. Thus, every person to whom any question is asked by a Census Officer is obliged to answer the same to the best of his knowledge.

33. Clearly the provisions of the Census Act have been enacted to empower the Central Government and the specified officers to conduct a census as required and to gather authentic demographic data. A survey conducted by the State for the purpose of preparing or maintaining a list of socially and educationally backward classes is a data gathering exercise where there is no obligation on any

citizen to disclose any information in his possession or to answer the questions, which may be posed to collect any information.

34. There is no penalty provided for a person declining to participate in the survey. *Prima facie*, merely because the impugned survey extends to the entire population of the State of Karnataka would not render the survey a census as they are qualitatively different.

35. We may also refer to the decision of the Supreme Court in ***Indra Sawhney & Ors. v. Union of India: (1992) Supp (3) SCC 217***. The said decision also contain observations which expressly indicates that the survey must necessarily cover the entire population. The relevant extract of the said decision is set out below:

"859. We may summarise our answers to the various questions dealt with and answered hereinabove:

** ** ** **

(3) (a) A caste can be and quite often is a social class in India. If it is backward socially, it would be a backward class for the purposes of Article 16(4). Among non-Hindus, there are several occupational groups, sects and denominations, which for historical reasons, are socially backward. They too represent backward social collectivities for the purposes of Article 16(4).

(b) Neither the Constitution nor the law prescribes the procedure or method of identification of backward classes. Nor is it

possible or advisable for the court to lay down any such procedure or method. It must be left to the authority appointed to identify. It can adopt such method/procedure as it thinks convenient and so long as its survey covers the entire populace, no objection can be taken to it."

[Emphasis added]

36. The following observations of the Supreme Court may also be of some significance:

"782. Coming back to the question of identification, the fact remains that one has to begin somewhere – with some group, class or section. There is no set or recognise method. There is no law or other statutory instrument prescribing the methodology. The ultimate idea is to survey the entire populace..."

[Emphasis added]

37. In ***M. Nagaraj and others v. Union of India and others*** : **(2006) 8 SCC 212**, the Supreme Court had emphasized that "the State has to collect quantifiable data showing backwardness of the class" in the context of representation of the class in public employment.

38. *Prima facie*, the State is empowered to prepare and maintain the list of socially and educationally backward classes. It follows that it would be necessary that the same be based on empirical data and material to avoid any arbitrariness.

39. Thus, an exercise to collect certain empirical data for taking an informed decision regarding the social and educational

backwardness of the classes in the State may not be amenable to challenge on the ground of lack of competence.

40. There is no serious dispute that the State has the power to conduct a survey. *Prima facie*, we find it difficult to accept that such a survey should necessarily be confined only to a part of the population.

41. It is also contended by Mr. K.N.Phanindra, the learned Senior Counsel who appears for the Karnataka State Backward Castes Federation (R) that it may not be necessary to survey affluent areas in Bengaluru or other cities as the persons residing in such areas could clearly not be considered as backward. We find no merit in this contention. The survey contemplated under Section 9 of the 1995 Act would also require to ascertain classes, which do not fall within the scope of socially and educationally backward classes. Thus, it may be necessary to take a measure of the affluent classes if only for determining a standard for ascertaining backwardness.

42. We may also note that there is no cavil that the State can enact laws under Articles 15 and 16 of the Constitution of India. The State also has the power to legislate in respect of economic and social planning [Entry-20 of List III] and “social security and social insurance; employment and unemployment” [Entry 23 of List

III]. Any executive orders or legislations in respect of the said subjects would also require to be based on material and data. In view of Entry 45 of List III, the State can legislate in respect of enquiries and statistics, for the purpose of any matters specified in list II or list III of the Seventh Schedule of the Constitution of India.

43. We may also refer to the decision of the Patna High Court in ***Youth for Equality v. State of Bihar : 2023 SCC OnLine Pat 2393***, where the Court had considered a similar contention regarding the legislative competence of the State to carry out a survey. The following extract of the said decision is relevant:

"37. Articles 15 & 16, while prohibiting any discrimination on grounds of religion, race, caste, sex or place of birth and providing for equality of opportunities in matters of public employment, inherently provides for beneficial schemes for the advancement of socially and educationally backward classes and reservation in favour of citizens, not adequately represented in, the services under the State, its instrumentalities and the various representative bodies of governance. Article 246, which is the source of all legislation has to be read with Articles 15 & 16, along with the fields of legislation as relied on by the State coming under List-III of the Seventh Schedule to the Constitution of India. Entry-20 of List-III refers to economic and social planning and Entry 23 deals with social security and social insurance; along with employment and unemployment. The power of the State legislature to make laws under the above fields of legislation, without repugnancy to any legislation brought out by the Union, cannot at all be disputed. In this context, Entry 45 of List-III also assumes significance in so far as it deals with inquiries and statistics for the purpose

of any of the matters specified in List II or III. Article 38 also obliges the State to secure a social order for promotion of the welfare of the people with every institution of national life permeated with justice, social, economic and political; striving to minimise and eliminate in-equalities amongst individuals and groups of people. Article 39 again exhorts the State to follow the principles of policy which would further equality in every aspect of human life. Though the provisions in Part IV are not enforceable, they are fundamental to the governance of the country and enjoins the State to apply it in making laws. It has been held in *Atam Prakash v. State of Haryana*, (1986) 2 SCC 249 : AIR 1986 SC 859 that while the Preamble to the Constitution is the guiding light; embodying the hopes and aspirations of the people, the Directive Principles set out the proximate goals. The collection of statistics to further, economic and social planning and ensure social security and insurance is definitely within the premise of the State and when such action is taken by way of a legislation or even by executive fiat, permissible under Article 162 of the Constitution of India, conferring privileges or favours on any particular community found to be backward or attempting to bringing in such schemes or welfare measures; that cannot be faulted.

38. The State has a duty to ensure and satisfy itself that benefits or privileges are provided to further the cause of a community or group which has been identified as backward, as has been argued by the learned Advocate General. For such satisfaction to be entered by the State, which should also be an objective satisfaction; either by its legislative body or the Government, which is the executive body, necessarily, there should be empirical data available as to the conditions of a community or group which is earmarked for the purpose of conferring such preferential benefits, as has been held in *Indra Sawhney*. While the State has the power to bring in affirmative action, it also has a corresponding duty to satisfy itself that the benefit conferred by such affirmative action satisfies the relevant criteria; which

satisfaction as has been declared, should be objective and not subjective. The instant survey is said to be under seventeen heads, as seen from the notification issued by the State Government, a brief perusal of which itself would satisfy any reasonable man that these heads would bring out the social, educational and economic condition under which a community or group exist within the larger society. We also have to specifically notice that the objection taken is only with respect to the collection of details of religion, caste and income; which we will deal with, a bit later. We cannot but; after the aforesaid discussions, at this point, emphatically say that the survey which is now initiated by the Government is within its competence since any affirmative action under Article 16 or beneficial legislation or scheme under Article 15 can be designed and implemented only after collection of the relevant data regarding the social, economic and educational situation in which the various groups or communities in the State live in and exist. We also have to notice the provisions under Article 243D & 243T which further enjoins reservation to local bodies, of not only S.C and S.T, but also backward class of citizens."

44. As noted above, it was pointed out that a notification has been issued to conduct the census in the year 2027. A decision has also been taken for including a caste census. The data as collected under a census under the Census Act is bound to be qualitatively different from the data collected under a survey. *Prima facie*, the data collected would be significantly more dependable in respect of data points covered under the census.

45. We may also now briefly examine whether the impugned survey can be interdicted on the ground that it is arbitrary and

vague. According to the petitioners, the commission has listed 1561 number of castes and sub-castes for conducting the survey, which is significantly higher than the number of the castes/sub-castes, which were listed in earlier surveys. It is also contended that some of the castes are illusory and do not exist and further there is intermingling of religion and castes. We had pointedly asked Mr. Ravi Verma Kumar, the learned Senior Counsel for the Commission to respond whether there was any material on the basis of which the list was prepared. He submitted that the list is based on the previous survey that was conducted as well as representations received from various persons regarding exclusion of their castes. He also assured the Court that no data regarding the said castes would be revealed, including to the Government. He submitted that the said classification is for its internal use and it is possible that the survey finds that there are no persons in a particular caste or sub-caste as enumerated. In that event the same would be excluded from consideration. He submitted that the object of the survey is also to identify various castes.

46. At this stage-when the survey has already begun and a large number of persons have been mobilized to conduct the same we do not consider it apposite to examine in detail the grounds on

which list of castes was prepared. However, it may be relevant to examine the said question at a subsequent stage, if necessary.

47. The next aspect to be examined is the issue of privacy and the use of the Aadhar card. It is contended by the learned Senior counsel for the Commission that the Aadhar card is used only for the purposes of identity of the responder and to ensure that there is no duplication. He contended that once the Aadhar number is entered into, the details would not even be visible to the Commission as well. He also submitted there is no compulsion for a person to participate in the survey or give details of his Aadhar card. He submitted that whether the respondent responds to the queries and participates in the survey is entirely optional. And, No person would be compelled to hand over his identity document or to provide his details.

48. He submitted that the enumerators have also been specifically instructed in this regard. And the Commission has no reservation in issuing public notices to the effect that participation in the survey is optional and any person who has any reservation is not obliged to participate in the impugned survey. Thus if any person or household, has any reservation in this regard, they can decline to participate in the survey.

49. The petitioners have highlighted the issue regarding privacy and protection of the information being collected. The questionnaire indicates that the Commission is collecting data on various aspects including religion, caste, sub-caste, disabilities, educational qualifications, marital status, benefits received, employment details, income, property owned including real estate and indebtedness. Given the nature of information being collected, it would be imperative that adequate safeguards are put in place to ensure that data collected is fully protected and the same is not used in any manner other than for the purposes for which they were furnished by the responders.

50. According to the petitioners, collection of such data, seriously invades the right to privacy and such data cannot be collected and stored without statutory safeguards. This is an issue that requires consideration.

51. Having stated the above, we note that the impugned survey has already begun. Although the impugned order for conducting the impugned survey was issued on 13.08.2025, the petitioners moved this Court on the date of commencement of the impugned survey. The State has already committed significant resources for conducting impugned survey, as contended on behalf of the State and Commission. A sum of over Rs.20 crores has already been

spent and a further sum of Rs.350 crores has been committed. About 1.75 lakh enumerators are already mobilised. Whilst the petitioners have raised several questions that require examination, at this stage, it is not apposite to stop the exercise which is underway. However, certain protective directions are necessary.

52. We note that similar issues as are raised in these petitions were also raised in *Youth for Equality vs. State of Bihar* (supra). No interim orders were either granted by the Hon'ble Patna High Court or the Hon'ble Supreme Court. Prayers for staying the order enabling caste based survey [G.O. dated 23.01.2014] were also made in writ petition No.9258 of 2015, no interim stay was granted. The petitioners have not pointed out any case where a survey by the State for the purposes of ascertaining the socio-educational backwardness has been interdicted.

53. In view of the above, we do not consider it apposite to interdict the impugned survey mid way. However, we consider it necessary to issue the following directions:

- (a) The data collected during the survey shall not be disclosed to any person, including the Government. The Commission shall ensure that the data is fully protected and is kept confidential.

- (b) The Commission shall issue public notice clarifying that participation in this survey is voluntary and no person is obligated to disclose any information as sought. The participation in the impugned survey and disclosure of any information is purely voluntary.
 - (c) The above information would necessarily have to be communicated to all participants at the outset by the enumerators before calling upon them to answer any queries or to participate in the impugned survey.
 - (d) If the participant declines to participate in the survey or answer any query, the enumerators would take no further steps to pressurize the participants, in any manner, to divulge any information or his identity.
 - (e) The Commission shall file an affidavit within a period of one working day, clearly disclosing the steps taken for ensuring that the data collected will be kept confidential and it will not be accessible to any person other than the Commission.
54. The respondents may file their statement of objections within the period of four weeks. The counsel for the parties are at liberty to file comprehensive set of their submissions along with the authorities relied upon by them within a period of four weeks from date.

55. The rejoinder(s), if any, be file within a period of two weeks thereafter.

56. List on 05.12.2025.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C M JOSHI)
JUDGE**

KS/AHB/SD
List No.: 1 Sl No.: 119