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**Constitution of India Art 15 - Prohibition of  
discrimination on grounds of religion, race, caste, sex  
or place of birth**

**(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.**

**(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—**

**(a) access to shops, public restaurants, hotels and places of public entertainment; or**

**(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.**

**(3) Nothing in this article shall prevent the State from making any special provision for women and children.**

**(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.**

**(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions,**

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 whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

**Explanation.**—For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.

#### NOTES

**Rights of Women:** Women have right to elimination of gender-based discrimination particularly in respect of property so as to attain economic empowerment.<sup>^1</sup>

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<sup>1</sup> C Masilamani Mudaliar v. Idol of Sri Swaminathaswami Thirukoil, (1996) 8 SCC 525 cited in Sankaranarayanan 2017

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**Proportionate Representation:** Reservation of seats under Articles 15(4) and 16(4) for socially and educationally backward classes (SEBCs) is an example of “proportionate representation”. Principle of “adequate representation” is adopted when it is found that a particular community is under-represented and measures are taken to achieve desired level of representation.<sup>^2</sup>

**Validity:** Article 15(5) held valid to the extent that it permits reservation for socially and educationally backward classes in State or State-aided educational institutions subject to the exclusion of the “creamy layer” for OBCs.<sup>^3</sup>

**Gender based Discrimination:** Categorisation of women doing household duties as non-workers clubbing them with beggars, prostitutes and prisoners betrays a totally insensitive and callous approach towards the dignity of labour of women. Census definition of work reflects gender discrimination.<sup>^4</sup>

**Place of Birth and Residence:** “Place of Birth” is different from “residence” and domicile implies residence.<sup>^5</sup>

**Reservation on the Basis of Domicile:** Article 16(2) has no application in case of reservation of seats made for admission to colleges or universities based on the basis of requirement of residence of candidate in the State or institutional preference.<sup>^6</sup>

**Discriminatory Practices:** In many parts of the State of Tamil Nadu, “two-tumbler-system” was prevalent. According to this practice, in the tea shops and restaurants, there were separate

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<sup>2</sup> Union of India v. Rakesh Kumar, (2010) 4 SCC 50: (2010) 1 SCC (L&S) 961 cited in Sankaranarayanan 2017

<sup>3</sup> Ashoka Kumar Thakur v. Union of India, (2008) 6 SCC 1 cited in Sankaranarayanan 2017

<sup>4</sup> Arun Kumar Agrawal v. National Insurance Co. Ltd., (2010) 9 SCC 218 cited in Sankaranarayanan 2017

<sup>5</sup> D.P. Joshi v. State of M.P., AIR 1955 SC 334 cited in Sankaranarayanan 2017

<sup>6</sup> Pradeep Jain v. Union of India, (1984) 3 SCC 654 cited in Sankaranarayanan 2017

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tumblers for serving tea or other beverages to SCs. The Supreme Court held that such practices are highly objectionable and a clear violation of Articles 15, 17 and 21 of the Indian Constitution and also a criminal offence under the SC/ST Act.<sup>7</sup>

**Object:** The object of Article 15(4) is to lift the prohibition of general equality guaranteed in Article 15(2) and Article 29(2) of the Constitution dealing with the right to admission into an educational institution maintained by the State or receiving aid from the State. Therefore, their object is distinct and different from Article 19(1)(c).<sup>8</sup>

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<sup>7</sup> Arumugam Servai v. State of T.N., (2011) 6 SCC 405 cited in Sankaranarayanan 2017

<sup>8</sup> State of U.P. v. C.O.D. Chheoki Employees' Coop. Society Ltd., (1997) 3 SCC 681 cited in Sankaranarayanan 2017