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## 1. Bail in Money Laundering Cases and the 'Twin Test' under PMLA

### Recent events of importance

- **Why in News:** A trial court recently granted bail to Delhi Chief Minister Arvind Kejriwal, who is facing charges under the Prevention of Money Laundering Act (PMLA). However, the Delhi High Court stayed this order, highlighting the legal complexities surrounding bail in money laundering cases and the 'twin test' mandated by the PMLA.

### Bail in money laundering cases, and the 'twin test' under PMLA

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NEW DELHI, JUNE 21

After a trial court granted bail to Delhi Chief Minister Arvind Kejriwal who is in jail on charges under the Prevention of Money Laundering Act (PMLA), the Delhi High Court stayed the order.

A Bench headed by Justice Sanjay Kumar on Friday heard an urgent plea by the Enforcement Directorate seeking stay on the bail and ordered it to be set aside. The court also directed the trial court to review the bail order.

Section 45 and twin test

Section 45 of the PMLA, which deals with bail, states that no court shall grant bail for an offence under this law, unless it is satisfied that the accused is not likely to commit any offence while on bail.

The provision in the PMLA, for example, states that "no person accused of an offence punishable under Chapter IV (Penalties for Terrorist Activities), and IV (Terrorist Organisations) of this Act shall, be released on bail or on his own bond unless the Public

Prosecutor has been given an opportunity of being heard" or "the court is of the opinion that there are reasonable grounds for believing that the accused, is prima facie a 'terrorist'".

Legal challenges to twin test

The first blow to the constitutional validity of the twin test came in a 2017 ruling, *Mahesh Bhaskarrao Shinde v. Union of India*. A two-judge Bench comprising Justices Rohinton F. Karim and Sanjay Kumar struck down the bail provision as unconstitutional on the ground that the onerous conditions were not a reasonable classification. Reasonable classification is a feature of the right to equality, which is a fundamental right.

However, by a subsequent amendment, Parliament put these provisions back in the law through the Finance Act, 2018. This amendment was challenged before various High Courts and eventually before the Supreme Court, culminating in a batch of petitions that

were heard in 2022 in *Vijay Madanlal Choudhary v. Union of India*.

The petitioners argued that the underlying reasoning in *Mahesh Bhaskarrao Shinde* was valid even if Parliament brought back the law. However, a three-judge Bench headed by Justice A.M. Khanwilkar (now retired) refused to accept the previous ruling.

"We are unable to agree with the observations in *Mahesh Bhaskarrao Shinde* regarding the constitutionality of the twin test," the Bench said. "The twin test is a valid classification and does not violate the right to equality."

Current position in law

One key aspect of the challenge to the amendment (twin test) conditions still remains open even after the *Vijay Madanlal Choudhary* ruling: the passing of these amendments through the Finance Bill route. A separate larger Bench challenge is pending before the SC on whether certain

years. Only in money laundering cases where the scheduled offence involves sanctions, is the maximum sentence extended to 10 years.

In response, the government had argued in court that persons who are involved in money laundering are "sophisticated, intelligent, and resourceful, and the crime is committed with full premeditation, which ensures that offence is not detected and concealment is facilitated, investigation agency cannot trace the evidence".

The government has defended the constitutional conditions on the ground that the offence committed "with the help of advanced technology so as to conceal the transaction".

However, an accused can still get the benefits available under Section 43A of the Code of Criminal Procedure (CrP), under which he is entitled to bail after serving half of the maximum sentence as an undertrial.

This means that in most money laundering cases, if the Enforcement Directorate is unable to finish the trial within three and a half years, the accused is entitled to bail, irrespective of the twin test.

laws, such as the Aadhaar Act, service conditions of PS and members, etc., can be passed as a Money Bill. A Bench is yet to be constituted on that issue.

Although the Supreme Court has agreed to review its *Vijay Madanlal Choudhary* ruling itself, it is still valid law since no stay is operating on the judgment.

As per the ruling, the twin test has to be rigorously applied by all courts – special courts trying money laundering offences as well as constitutional courts. It would also apply in the same way for both regular bail and anticipatory bail.

- **Key Highlights of the Issue**
  - **Provision under PMLA:** Section 45 of the PMLA makes bail an exception rather than the rule. It mandates hearing the public prosecutor in all bail applications and requires the court to apply the 'twin test' when the prosecutor opposes bail.
  - **The Twin Test:** The two conditions under the 'twin test' are:
    - ◆ Reasonable grounds for believing that the accused is not guilty.
    - ◆ The accused is not likely to commit any offence while on bail.
  - **Legal Challenges:** The 'twin test' has faced several legal challenges, including its constitutional validity and its stringent nature compared to other laws.
- **Reasons behind the Strict Bail Provisions**
  - **Severity of the Offence:** Money laundering is considered a severe offence, often involving influential, intelligent, and resourceful individuals who commit the crime with premeditation, making detection and evidence gathering challenging.
  - **Government's Argument:** The government argues that the stringent bail conditions are necessary due to the sophisticated methods used in money laundering, which can pose a significant threat to national security and financial systems.
  - **Judicial Precedents:** The Supreme Court has upheld the stringent bail conditions, emphasizing the need to apply the 'twin test' rigorously to prevent misuse of bail provisions in serious offences like money laundering.
- **Impact of the 'Twin Test' on Judicial Proceedings**
  - **Prolonged Incarceration:** The strict application of the 'twin test' often results in prolonged incarceration of the accused, as proving innocence before the trial is challenging.
  - **Judicial Discretion:** The mandatory application of the 'twin test' limits judicial discretion in granting bail, leading to debates on the balance between individual rights and societal interests.
  - **Impact on Legal Strategy:** Defense strategies in money laundering cases must account for the rigorous requirements of the 'twin test,' often focusing on disproving the allegations at the bail stage itself.
- **Required Measures for a Balanced Approach**
  - **Legal Reforms:** There is a need for legal reforms to ensure that the bail provisions under PMLA strike a balance between preventing misuse and protecting individual rights.
  - **Judicial Training:** Judges need specialized training to handle the complexities of money laundering cases and apply the 'twin test' judiciously without compromising on fairness.
  - **Policy Review:** Periodic review of the policy and its implementation can help identify areas of improvement and ensure that the stringent bail provisions serve their intended purpose without causing undue hardship to the accused.

### ● Enforcement Directorate (ED):

- Directorate of Enforcement is a **Multi-Disciplinary Organization** mandated with the task of enforcing the provisions of **two special fiscal laws** – **Foreign Exchange Management Act, 1999 (FEMA)** and **Prevention of Money Laundering Act, 2002 (PMLA)**.
- Whenever any offence is registered by a local police station, which has generated proceeds of crime **over and above Rs 1 crore**, the ED steps in.
- As per the Prevention of Money Laundering Act, the ED got its power to investigate under **Sections 48** (authorities under act) and **49** (appointment and powers of authorities and other officers).
- If money has been laundered abroad, **the PMLA court** (constituted as per the Act) has the right to send a letter of rogatory **under Section 105** (reciprocal arrangements regarding processes) of the Code of Criminal Procedure.

## 2. Patent Filings Credit Bharat Biotech as 'Inventor' of Covaxin, Omit ICMR

### GS 3 (Science and Tech)

- **Why in News:** India's first indigenously developed coronavirus vaccine, Covaxin, was a joint collaboration between the Indian Council of Medical Research (ICMR) and Bharat Biotech International Limited (BBIL). However, recent patent filings by BBIL in India, the United States, and Europe credit only BBIL scientists as inventors, omitting any mention of ICMR scientists.

### ● Key Highlights of the Issue

- **ICMR and BBIL Collaboration:** The official records state that Covaxin's intellectual property (IP) rights are jointly shared between ICMR and BBIL. ICMR provided the virus strain, while BBIL developed the final vaccine.
- **Patent Filings:** Documents show that BBIL personnel, such as Deepak Kumar and Krishna Murthy Ella, are credited as inventors. This contradicts statements by the Union Health Ministry that the IP rights are jointly owned.
- **Government Response:** In July 2021, the Health Ministry stated in the Rajya Sabha that the IP rights over Covaxin would be jointly owned by ICMR and BBIL, and ICMR would receive a 5% royalty from net sales.
- **Financial Contributions:** ICMR did not fund BBIL for Covaxin development but spent ₹35 crore through its institute, ICMR-National Institute of Virology (NIV), Pune, and on phase-3 clinical trials. As of January 2022, ICMR received ₹171 crore in royalties.
- **Discrepancies in Intellectual Property Credit**
  - **Patent Credit Controversy:** The omission of ICMR scientists in the patent filings contradicts the government's statement about joint IP ownership, raising questions about transparency and recognition in public-private collaborations.
  - **Legal and Ethical Concerns:** This discrepancy highlights potential legal and ethical issues in acknowledging contributions from all collaborators, which is crucial for fostering trust and fairness in joint ventures
- **Impact on Public Health and Governance**
  - **Public Trust:** Such discrepancies can undermine public trust in governmental institutions and their collaborations with private entities, affecting public health initiatives' credibility.
  - **Policy Implications:** This situation calls for clearer policies and guidelines on IP rights and credit-sharing in government-funded research to prevent similar issues in future collaborations
- **Required Measures**
  - **Clear Guidelines and Agreements:** Establish comprehensive guidelines and transparent agreements on IP rights and credit-sharing at the start of collaborations to avoid disputes.
  - **Strengthening Oversight:** Enhance oversight mechanisms to ensure all contributors are adequately credited and their contributions are recognized in patents and other formal documents.
  - **Promoting Fair Practices:** Foster a culture of fairness and recognition in scientific collaborations to encourage future public-private partnerships and innovation in public health.

## Patent filings credit Bharat Biotech as 'inventor' of Covaxin, omit ICMR

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India's first indigenously developed coronavirus vaccine, Covaxin, was a joint collaboration between the Indian Council of Medical Research (ICMR) and the Hyderabad-based Bharat Biotech International Limited (BBIL) with intellectual property (IP) rights jointly shared between the two organisations. That is what the public record states.

However, filings by the BBIL at patent offices in India, the United States and Europe suggest that only its scientists and personnel are credited as 'inventors' of the vaccine with no



**Rights issue:** Health Ministry had claimed that the IP rights of the vaccine were 'jointly owned' by ICMR and Bharat Biotech. FILE PHOTO

mention of ICMR scientists.

The Hindu has viewed documents detailing these patent applications. If BBIL personnel, credited in applications as Deepak Kumar and Krishna Murthy Ella – Chairman and Found-

der, BBIL – are indeed the only inventors, it contradicts a statement by the Union Health Ministry in the Rajya Sabha, which claimed that the IP rights are 'jointly owned'.

In response to a question in the Rajya Sabha on

July 2021 by Congress president Mallikarjun Kharge, who demanded details of the agreement between the ICMR and the BBIL for the development of Covaxin, the then Minister of State (Health Ministry) Bhupendra Patel Meena laid out a detailed response.

The Minister's statement said the ICMR would provide a "well characterised" virus strain for vaccine development, the BBIL would develop the final vaccine formulation and, be given a "non-exclusive" licence granted to commercialise the product within two years.

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### 3. A progressive Indian policy on Myanmar outlined GS 2 (International Relations)

- **Why in News:** The ongoing military rule in Myanmar since February 2021 has resulted in severe human rights violations, including the deaths of over 5,000 people and the displacement of approximately 2.5 million. Despite this, India continues to maintain formal relations with the regime, prompting debates over its policy approach and the need for a more values-driven strategy.

#### ● Current Policy Stance and Criticism

- **Introduction to the Issue:** India's current policy of engaging with Myanmar's military regime is criticized for prioritizing strategic interests over democratic values, as the regime continues to commit widespread atrocities.
- **Debate Over Values vs. Interests:** Critics argue that India's narrow strategic focus undermines its broader national interests and fails to leverage its position as a major democracy in the region.
- **Potential for a Values-Driven Policy:** A progressive, values-driven policy that supports democracy and human security in Myanmar could better align with India's long-term interests and enhance its regional influence.
- **Strategic Recommendations for Policy Shift**
  - **Leveraging Democratic Credentials:** India should utilize its status as the largest federal democracy to support Myanmar's pro-democracy movement, offering capacity-building and knowledge exchange to aid the National Unity Government (NUG) and other resistance groups.
  - **Halting Military Support:** Immediate cessation of all weapon sales and military aid to the Myanmar junta is crucial, as these resources are used to perpetuate violence against civilians.
  - **Establishing Humanitarian Corridors:** India should open cross-border humanitarian corridors to provide relief to civilians affected by conflict in Myanmar's border regions, reinstating the Free Movement Regime (FMR) and collaborating with local and international NGOs for aid distribution.
- **Humanitarian and Ethical Considerations**
  - **Stopping Deportation of Asylum Seekers:** India must halt the detention and deportation of Myanmar asylum seekers, treating them as refugees in need of protection rather than illegal immigrants, in accordance with international legal principles and humanitarian considerations.
  - **Promoting Inclusive Refugee Policies:** The government should ensure humane treatment and shelter for refugees, learning from best practices in other countries and adhering to international standards.

### 4. In the Name of Merit: An Overemphasis on Merit Recent events of importance

- **Why in News:**
  - **The Indian Constitution embodies the principle of social justice**, allowing the state to implement special provisions for the underprivileged.
  - Despite the political motives often driving the expansion of reservation policies, **the judiciary has frequently intervened, emphasising the need for merit and efficiency in administration.**
  - Therefore, **considering the recent Patna High Court order on 65% reservation, it is important to explore the complexities of India's reservation policies**, judicial responses, and the underlying tensions between constitutional mandates and socio-political realities.
- **Indian Judiciary's Response to Reservation Policies**
  - **The Strict Scrutiny Doctrine**
    - ◆ The strict scrutiny doctrine employed by the Indian judiciary mandates that any policy affecting fundamental rights must be narrowly tailored to achieve a compelling governmental interest.
    - ◆ In the context of reservation policies, this doctrine has been used to assess whether the reservations are justified, necessary, and whether they disproportionately affect other groups.
    - ◆ This rigorous standard has led to the invalidation of several attempts by state governments to extend reservations to various communities.

Three years on, the military in Myanmar, which overthrew the elected civilian government in February 2021, continues to kill, maim and displace its own people. India has steadfastly maintained formal relations with this regime, which has so far murdered more than 5,000 people and displaced some 2.5 million people. In its second tenure, the Narendra Modi government did very little to engage with the pro-democracy resistance, which now has both political and military wings. Indian foreign policy scholars and practitioners have dogmatically defended this policy by arguing that India needs to work with the junta if it has to protect its "interests" in Myanmar and not get swept by an idealistic preoccupation with "values".

How India can step out of China's shadow has, in foreign policy, there is no clear line between "values" and "interests" simply because neither has a standard definition. It all depends on how a country defines these terms. This is also the case with India's Myanmar policy. New Delhi has long defined its "interests" in the beleaguered Asian country in narrow strategic terms. But now, it needs to leverage a unique set of "values" to better define its interests. It is possible for India to put in place a more progressive, values-driven Myanmar policy that works in favour, and not against, its national interests.

This new policy should have two key prongs, namely, its strategic interests. The new National Democratic Alliance (NDA) government, therefore, needs to take four interlocking steps immediately.

First, India needs to be as credible as the largest federal democracy in the region to urge its influence in Myanmar. For long, Myanmar's pro-democracy political elites and civil society have looked up to India as a model of a federal democratic union with a well-oiled power-sharing arrangement between the centre and various subnational units. This is even more relevant today as the democratic resistance in Myanmar, which is led by the National Unity Government (NUG), claims of ethnic revolutionary organisations, civil society organisations, and trade unions, aims to replace the military-drafted 2008 constitution with a



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federal constitution. By helping this vibrant opposition achieve its aim through capacity-building and knowledge exchange programmes, India can distinguish itself from China, its primary regional competitor in Myanmar. Both Beijing and New Delhi can sell military hardware to Myanmar, but only India can sell the spirit of federal cooperation. There is a chance for the new Indian government to outmanoeuvre the Chinese in their own backyard.

**Weapons sales and humanitarian outreach** Second, India needs to immediately halt all weapons sales to the Myanmar military. According to the advocacy group, Justice for Myanmar (JFM), Indian state-owned military hardware manufacturers have sold a range of small arms and small calibre equipment to the junta since the 2021 coup. In its most recent report, published on March 22, the group claimed that on January 2, the Indian Air Force transferred a package which had 52 items, including navigation and communication parts, to its Myanmar counterpart. Another recent investigation by Frontier Myanmar claims that India sold more than \$1.5 million worth of army-grade diesel to junta-linked entities since the coup. New Delhi needs to immediately put a stop to these, as the Myanmar military continues to use all its three arteries—the army, air force, and navy—to attack and terrorise civilians using improvised lethal tactics.

New Delhi's stance of defining its "interests" in the Southeast Asian country in narrow strategic terms needs to change

or the FMR, which the Union Home Ministry suspended in February 2021. Then, it should engage existing humanitarian aid networks along the India-Myanmar border to send emergency relief supplies including medicines, food and tarpaulins to the other side. Myanmar, where a multi-layered asylum and aid ecosystem is already operational, is a good starting point. India should also collaborate with local and international non-governmental organisations with experience in the field. Best practices from Thailand, which recently started cross-border aid deliveries into Myanmar, should also be adopted. New Delhi should use its clout to ensure that the aid is not distributed by the junta, which not only has a dissonant track record in this field, but is also not even in control of large areas along the India-Myanmar border. It is also possible to run cross-border aid corridors without allowing contraband to pass through, with stringent checks and pre-delivery vetting.

**Detention of asylum seekers** Fourth, the Narendra Modi government should immediately halt the detention and deportation of asylum seekers from Myanmar. This is especially so in the case of Bangladesh, where the lifted government has so far deported 600 asylum seekers to Myanmar—the latest named was on June 11. These are people who entered India not by force, and were welcomed to or with mutual consent, because they were fleeing it. Regardless of the fact that India has not ratified the 1951 Refugee Convention, it is incumbent upon the government to treat them as refugees in need of humanitarian assistance and protection rather than as "illegal immigrants". Both the Indian Constitution and international law allow the Indian state to do so. In fact, the customary international legal principle of non-refoulement discourages India from deporting refugees back to a home country where they face a real risk of persecution or death. The Centre should also stop the 300 asylum seekers detained in the 27 Chin refugees detained in the State and house them in a voluntary refugee shelter.

India, the "Vishvachakra", routinely claims to stand with the people of Myanmar. It should now walk the talk.

## ■ The 50 Percent Cap on Reservations

- ◆ The judiciary's steadfast adherence to the 50 percent ceiling for reservations is another critical aspect of its response.
- ◆ This cap was first articulated in the M R Balaji case of 1962, where the Supreme Court deemed that reservations exceeding 50 percent would violate the right to equality.
- ◆ This principle has been reaffirmed in numerous cases, such as Devadasan (1964), N M Thomas (1976), and Indra Sawhney (1992).
- ◆ The judiciary has maintained that while exceptions might be made for remote or underdeveloped areas, the 50 percent limit is generally sacrosanct.

## In the name of merit



Patna High Court striking down expansion of quota is in line with SC rulings. But 50 per cent cap seems selective

THE INDIAN CONSTITUTION guarantees social justice and permits the state to make special provisions in favour of the underprivileged. Governments of all political parties, including the BJP, have tried to expand reservation—more or less without consideration of the constitutional principles. However, a closer look at the judicial response to these reservation policies demonstrates that our judiciary, through the "strict scrutiny" doctrine, has been quick to nullify such policies with respect to Jats, Gujars, Marathas, Patidars and Muslims. The judiciary has seemed more concerned with "merit" and "efficiency in administration."

In a 17-page judgment by Chief Justice K Vinod Chandan and Justice Harish Kumar of the Patna High Court, which struck down 65 per cent reservation in Bihar, this expansion was based on the much-discussed Caste Survey of 2023. The verdict is consistent with the jurisprudence of the Supreme Court. It is a setback for the Congress party, which has promised a Caste Survey in all states, removal of the 50 per cent upper limit of reservations and giving a proportionate share to the Other Backward Classes. The High Court did state that the only consideration that the Nitish Kumar government weighed in with was that the Backward Classes constitute a major part of the state's population and their representation in non-proportionate categories served justice.

The judgment has categorically rejected the "proportionate representation" of Backward Classes and held that the term "proportionate" is alien to Articles 15 and 16. The expression "proportionate representation" has been used in Articles 330(2), 343D and 343E with respect to the representation of Scheduled Castes and Tribes in the Lok Sabha, panchayats and municipalities, respectively.

Article 16 uses the term "adequacy of representation." The High Court rightly noted in Indra Sawhney (1992) in which the SC had observed that "adequate representation cannot be read as proportionate representation." But then adequacy is indeed related to the proper proportion of representation of any backward class and the required reservation was not really proportionate as Scheduled Castes, Scheduled Tribes and backward classes constitute 84.48 per cent of Bihar's population. And the SC has acknowledged

in Indra Sawhney itself that "proportionate representation of backward classes in the total population would certainly be relevant." It is not a fact that prior to extending 65% reservation on the eve of the 2019 general elections, no survey was done to ensure the adequacy of representation of the OBC category. True, the policy was brought through a constitutional amendment, which restricted to judicial scrutiny only on the basis of "basic structure." However, Justice Dhillon (2022) in a unique pronouncement in which the consistent judicial approach of strict scrutiny was diluted.

The other major ground for striking down the Bihar reservation amendment is the breach of the 50 per cent cap for reservation. In M R Balaji (1962), the SC came upon the judicial pronouncement of the 50 per cent limit, holding it to be a violation of the right to equality. It has been consistently followed in a catena of judgments such as Devadasan (1964), N M Thomas (1976) and Indra Sawhney (1992). But even Indra Sawhney said that this limit need not be religiously adhered to in far-flung or remote areas in which the representation of the majority of the population is in the minority.

The High Court refused to accept that Bihar is not in the national mainstream. Bihar has indeed been at the epicentre of national politics. But the government did not inform the court that Bihar has the lowest per capita income (less than \$800) in the country—30 per cent of what the average Indian earns—and the highest fertility rate. Only 12 per cent of its population lives in urban areas compared to the 35 per cent national average. The state's college density is the lowest in the country and every third person lives below the poverty line. These are compelling reasons. In fact, one was surprised by the apex court's judgment in the EWS case (2022) applying the sacrosanct 50 per cent cap on reservation only for SCs, STs and OBCs, and not the EWS category.

The High Court has rightly observed that the representation of the National Backward Classes Commission or the State Backward Classes Commission is not necessary but its existence is the so-called "analysis" of the Caste Survey and consultation with the experts would be in the future and additional reasons on the government's affirmation as

tion policies. Indra Sawhney (1992) did refer to consultation with experts led by sociologist M V Srinivas (who, along with another expert, Sugender Singh and H R Barman, disowned the report) but since Mandal's 1990 order of the SC, there was no need for expert inputs after the massive exercise of surveying a population of 11 crore. The government was well within its rights to act on the report and from the assembly unanimously passed the amendment enhancing reservation from the BJP which had opposed the Caste Survey, supported the reservation amendment.

The 50 per cent rule is justified in the name of efficiency and merit. The Patna High Court too observed that "merit" cannot be sacrificed completely. No scientific or empirical research has proved that SC/ST/OBC employees, in the performance of their duties, are less efficient than employees recruited under the general category. Justice Chinnappa Reddy in Mammath Kumar (1985) demolished the efficiency argument when he stated that "efficiency is very much on the lips of the privileged whenever reservation is mentioned. Efficiency, it seems, will be required if reservation exceeds 50 per cent; efficiency, it seems, will suffer if the carry forward rule is adopted; efficiency, it seems, will be required, if the rule of reservation is extended to promotional posts." The court went on to say that "the underlying assumption that those belonging to upper castes and classes who are appointed to non-reserved posts because of their 'reserved merit' naturally perform better than those who have been appointed to reserved posts and the clear stream of efficiency would be polluted by the infiltration of lower caste and the sacred precinct is a vicious assumption, typical of superior approach of elite classes."

Justice Chandrachud in K P Prasad (2005) observed that we need to redefine our notions of merit in terms of a more inclusive and plural society. Merit cannot lead to exclusion. He rightly held that the transformation of the Constitution cannot be hindered by the myths around "merit." Merit must be measured in terms of social good.

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## ■ Recent Verdict of Patna High Court on 65% Reservation in Bihar

- ◆ It struck down the 65 percent reservation in Bihar based on the 2023 Caste Survey.
- ◆ The court held that the Nitish Kumar government's rationale—that the Backward Classes constitute a major part of the state's population and are underrepresented in unreserved categories—was insufficient.
- ◆ The judgment reiterated that the term proportionate representation is alien to Articles 15 and 16, which emphasise "adequacy of representation" rather than strict proportionality.

## ■ Exceptions and Nuances

- ◆ Despite the rigid application of the 50 percent rule, the Supreme Court has recognised the need for flexibility in certain contexts.
- ◆ In Indra Sawhney, the court acknowledged that this limit need not be religiously adhered to in regions that are far-flung or outside the national mainstream.
- ◆ However, the Patna High Court did not extend this leniency to Bihar, despite its significant socio-economic challenges.
- ◆ The court's decision underscores the need for governments to present compelling evidence and context-specific arguments to justify deviations from established limits.

## ● The Reservation Debates on Proportionate vs. Adequate Representation and the Efficiency and Merit Argument

### ■ Proportionate vs. Adequate Representation

- ◆ The judiciary's emphasis on adequacy of representation over proportionate representation is rooted in the landmark Indra Sawhney case of 1992.
- ◆ The Supreme Court in this case opined that adequate representation cannot be read as proportionate representation, suggesting that reservations should aim to correct significant underrepresentation rather than mirror the exact demographic composition of backward classes.
- ◆ This interpretation has guided subsequent judgments, including the Patna High Court's ruling on Bihar's reservation policy.

### ■ The Efficiency and Merit Argument

- ◆ Another significant judicial concern is the potential impact of reservations on administrative efficiency and merit.
- ◆ Courts have often cited the need to balance affirmative action with the maintenance of standards in public administration.
- ◆ The Patna High Court, for instance, noted that merit should not be completely sacrificed.
- ◆ This view reflects a broader judicial apprehension that excessive reservations might undermine the quality of governance.
- ◆ However, critics argue that this perspective is based on unproven assumptions and fails to recognise the broader social benefits of inclusive policies.



## ● Judicial Flexibility and Recent Trends on Reservation Policies

- Recent judgments, such as the **SC's decision in the EWS case (2023)** and **Justice D Y Chandrachud's observations in B K Pavitra II (2019)**, indicate a gradual shift towards a more nuanced understanding of merit and efficiency.
- Justice Chandrachud's call for redefining merit in terms of social good highlights the judiciary's evolving approach.
- Its **emphases inclusivity and social equity over rigid adherence to traditional notions of merit**.

## ● Conclusion

- The **Indian judiciary's response to reservation policies illustrates the ongoing struggle to balance constitutional principles** with the practicalities of achieving social justice.
- While the **strict scrutiny doctrine and the 50 percent cap have shaped judicial intervention**, recent trends suggest a **growing recognition of the need for more flexible and context-sensitive approaches**.
- As India continues to grapple with deep-seated social inequalities, **the judiciary's role in shaping and refining reservation policies remains crucial**.

## 5. Claude 3.5 Sonnet

### GS 3 (Science and Tech)

- Why in News:** Recently, Anthropic has launched its latest AI model called Claude 3.5 Sonnet — the company's first release in the upcoming Claude 3.5 AI model series.

## ● About Claude 3.5 Sonnet:

- It is a **large language model (LLM)**, and is part of the family of LLMs which is being developed by Anthropic.
- These models are known as **generative pre-trained transformers**, which mean they have been pre-trained to predict the next word in large amounts of text.
- It is likely to be the **middle model** (based on parameter size) in the upcoming series of AI models by Anthropic — the smallest and biggest models are yet to be released.
- Anthropic has said Claude 3.5 Sonnet outperforms Claude 3 Opus by a huge margin. The new model is claimed to be **twice as fast as the Claude 3 Sonnet**.
- It is Anthropic's **strongest vision model**. A vision model in AI is a model capable of interpreting and analysing visual data such as images and videos.
- According to the company, the improvements in Claude 3.5 Sonnet are most noticeable for tasks that require visual reasoning such as decoding charts and graphs. The model is also capable of accurately **transcribing text from imperfect images**.

## ● How does Claude 3.5 Sonnet perform?

- According to Anthropic, Claude 3.5 Sonnet sets some new industry benchmarks in capabilities such as **coding proficiency (HumanEval)**, **graduate-level reasoning (GPQA)**, and **undergraduate-level knowledge (MMLU)**.
- The new model has also shown significant improvement in grasping nuance, humour, and complex instructions.
- It is exceptional at **writing high-quality content** with a natural and relatable tone, according to Anthropic.

### WHAT IS CLAUDE 3.5 SONNET & HOW IS IT BETTER THAN ITS RIVAL AI MODELS?

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ANTHROPIC, OPENAI's biggest rival, has launched its latest AI model called Claude 3.5 Sonnet — the company's first release in the upcoming Claude 3.5 AI model series. Anthropic has claimed that its latest offering outperforms its peers such as OpenAI's GPT-4o, Google's Gemini-1.5 Pro, Meta's Llama-400b, and even the company's proprietary models — Claude 3 Haiku and Claude 3 Opus.

"Claude 3.5 Sonnet operates at twice the speed of Claude 3 Opus. This performance boost, combined with cost-effective pricing, makes Claude 3.5 Sonnet ideal for complex tasks such as content-sensitive customer support and orchestrating multi-step workflows," Anthropic said in a statement.

What is Claude 3.5 Sonnet?  
Claude 3.5 Sonnet is a large language model (LLM), and is part of the family of LLMs which is being developed by Anthropic. These models are known as generative pre-trained transformers, which means they have been pre-trained to predict the next word in large amounts of text. Claude 3.5 Sonnet is the predecessor to the Claude 3 Sonnet, introduced in March this year.

Claude 3.5 Sonnet is likely to be the middle model (based on parameter size) in the upcoming series of AI models by Anthropic — the smallest and biggest models are yet to be released. Anthropic has said Claude 3.5 Sonnet outperforms Claude 3 Opus by a huge margin. The new model is claimed to be twice as fast as the Claude 3 Sonnet.

How does Claude 3.5 Sonnet perform?  
According to Anthropic, Claude 3.5 Sonnet sets some new industry benchmarks in capabilities such as coding proficiency (HumanEval), graduate-level reasoning (GPQA), and undergraduate-level knowledge (MMLU).

marks in capabilities such as coding proficiency (HumanEval), graduate-level reasoning (GPQA), and undergraduate-level knowledge (MMLU).

The company claims that the new model has also shown significant improvement in grasping nuance, humour, and complex instructions. Claude 3.5 Sonnet is exceptional at writing high-quality content with a natural and relatable tone, according to Anthropic.

Based on the benchmark scores shared by Anthropic on its official website, Claude 3.5 Sonnet seems outstanding. It has outdone GPT-4o, Gemini 1.5 Pro, and Meta's Llama 3.400B in seven out of eight overall benchmarks.

However, benchmark scores should not be taken too seriously — many AI startups have been accused of cherry-picking scores under categories that make them look good.

What about Claude 3.5 Sonnet's vision capabilities?

Anthropic claims that Claude 3.5 Sonnet is its strongest vision model. A vision model in AI is a model capable of interpreting and analysing visual data such as images and videos.

According to the company, the improvements in Claude 3.5 Sonnet are most noticeable for tasks that require visual reasoning such as decoding charts and graphs. The model is also capable of accurately transcribing text from imperfect images. For instance, *The Indian Express* clicked a random picture from Claude's iOS app and asked about the location. The model immediately identified the location by reading a poster and text on the distant wall.

This ability to transcribe is what makes Claude 3.5 Sonnet beneficial for retail, logistics, and financial services, where AI may rely more on insights from an image, graphic, or illustration than from text, according to Anthropic.

## 6. Verification of EVM Burnt Memory in 2024 Elections

### GS 2 (Elections)

- Why in News:** For the first time, 11 candidates from the 2024 Lok Sabha and state Assembly elections have requested verification of the burnt memory in the Ballot Units (BUs), Control Units (CUs), and Voter Verified Paper Audit Trail (VVPAT) units of electronic voting machines (EVMs).
- Key Highlights of the Supreme Court Order**
  - Provision:** The Supreme Court allowed second- and third-placed candidates to seek verification of up to 5% of the burnt memory of EVMs and VVPATs in an Assembly constituency or segment of a Lok Sabha constituency.
  - Requirements:** Candidates must identify the EVMs to be verified, make requests within seven days of the result declaration, and pay for verification costs, refundable if tampering is found.

- **Technical SOP Pending:** The Election Commission of India (ECI) is yet to finalize the technical standard operating procedure (SOP), but it has released the administrative SOP.

- **Candidates' Request:** Both the second and third-placed candidates can request verification for up to 5% of the EVMs and VVPATs in their constituency.

## Submission of Applications: DEOs will forward all applications to the state Chief Electoral Officer, who will notify the manufacturers (Bharat Electronics Ltd and Electronics Corporation of India Ltd).

- **Verification Timeline:** Checking will commence 45 days post-results if no election petitions are filed; otherwise, it begins after court approval.

- **Security Measures:** Verification will occur in designated halls with strong rooms and CCTV, and entry is restricted with police presence.

■ **Application Statistics:** 11 candidates have applied, covering 118 polling stations.

- **Trust in EVMs:** The limited number of requests (118 out of thousands of polling stations) suggests a general trust in the EVM system.

- **Criticism of the Process:** Jagdeep Chhokar of the Association for Democratic Reforms criticized the verification process as being potentially discouraging due to its cost and execution by the original manufacturers of the EVMs.

- The Election Commission is a body established under Article 324 of the Constitution.
- It is vested with the authority of superintendence, direction, and control of elections for the conduct of elections to Parliament, State Legislatures and the offices of the President and the Vice-President.

- **Part XV (Article 324-329)** of the Indian Constitution: It deals with elections and establishes a commission for these matters.

■ **Article 324:** Superintendence, direction and control of elections to be vested in an Election Commission.

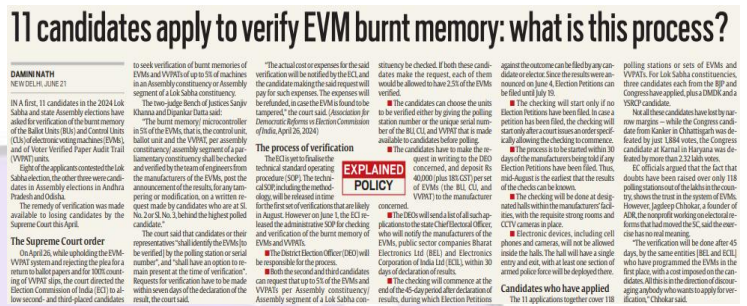
■ **Article 325:** No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.

■ **Article 326:** Elections to the House of the People and to the Legislative Assemblies of States to be based on adult suffrage.

■ **Article 327:** Power of Parliament to make provision with respect to elections to Legislatures.

■ **Article 328:** Power of Legislature of a State to make provision with respect to elections to such Legislature.

- **Article 329:** Bar to interference by courts in electoral matters.





## MCQ Current Affairs

22<sup>nd</sup> June, 2024**1. With reference to the Central Board of Film Certification (CBFC), consider the following statements:**

- A. It is a statutory body under the Ministry of Information and Broadcasting.
  - B. Films can be publicly exhibited in India only after they have been certified by the CBFC.
  - C. The Chairperson and members of the CBFC are appointed by the Central Government.
- How many of the statements given above are correct?

- a) One only
- b) Two only
- c) All three
- d) None

**2. The “Fire Dragon 480”, recently seen in the news, is a:**

- a) tactical ballistic missile
- b) new commercial satellite
- c) precision-guided artillery shell
- d) space exploration rover

**3. “World Investment Report”, recently seen in news, is published by:**

- a) UN Conference on Trade and Development
- b) World Bank
- c) World Economic Forum
- d) International Monetary Fund

**4. Consider the following statements with reference to the Cycad Plants:**

- A. These are the oldest surviving plant species on Earth.
- B. These are gymnosperms and reproduce using cones.

Which of the statements given above is/are correct?

- a) A only
- b) B only
- c) A and B
- d) Neither of two

**5. “Claude 3.5 Sonnet”, a large language model recently seen in news is developed by:**

- a) Wrlld Bank
- b) NVIDIA
- c) Facebook
- d) Anthropic

**Answers Current Affairs**  
**22<sup>nd</sup> June, 2024**

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1. c
2. a
3. a
4. c
5. d

