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# OBC Creamy Layer: Supreme Court Rules Status Trumps Income in Eligibility Test

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## ✍ WHY IN NEWS

The Supreme Court of India, in **Union of India v. Rohith Nathan** (March 2026), delivered a landmark ruling clarifying that **parental income alone cannot determine “creamy layer” status for OBC candidates**. A bench of **Justices P.S. Narasimha and R. Mahadevan** held that the existing rule which excluded children of PSU and private sector employees based on salary while allowing equivalent government employees’ children to retain reservation benefits constitutes **hostile discrimination** violating **Articles 14, 15, and 16** of the Constitution. The Court dismissed the Union Government’s appeals and affirmed directions issued by the High Courts.

## BACKGROUND: WHAT IS THE CREAMY LAYER?

The “**creamy layer**” concept was introduced by the Supreme Court in the landmark **Indra Sawhney v. Union of India (1992)** judgment — one of the most consequential constitutional decisions on reservations in India. In that judgment, a nine-judge bench upheld the **Mandal Commission recommendations** for 27% OBC reservation in central government jobs while simultaneously mandating that the “more advanced sections” among OBCs — those who had already achieved sufficient social and economic advancement — must be excluded from reservation benefits.

The rationale: reservation is meant to address social and educational backwardness. Families that have already broken the cycle of backwardness through education, wealth, or high government service no longer need the protective advantage that reservation provides. Extending reservation to these families denies the benefit to those at the actual bottom of the OBC hierarchy.

## THE CONSTITUTIONAL FRAMEWORK

**Article 15(4)**: Permits the State to make special provisions for the advancement of socially and educationally backward classes — the constitutional basis for OBC reservations.

**Article 16(4)**: Permits the State to make provisions for reservation of appointments in favour of backward classes not adequately represented in services.

**Articles 14 and 15** — the equality provisions — are the basis for the creamy layer requirement itself: the State cannot treat materially unequal groups identically, but neither can it treat equals unequally.

## THE DOPT RULES AND THE CONTRADICTION

The Department of Personnel and Training (DoPT) has issued two instruments governing creamy layer determination that contradicted each other and created systemic inequality:

### 1993 Office Memorandum (OM)

The original 1993 OM clearly stated that **income from salaries and agricultural land should not be counted** in the income/wealth test for creamy layer determination. This reflected the policy intent that the creamy layer exclusion was about social advancement — particularly through occupational status — not purely income.

Under this framework, a government employee’s child retains OBC reservation benefits unless their parent holds a **Group A (Class I) officer post** or both parents are **Group B officers** — the basis being that these positions confer social advancement beyond mere income.

## 2004 Clarificatory Letter (14 October 2004)

A DoPT clarificatory letter dated **14 October 2004** introduced a different rule for **PSU employees and private sector employees**: it directed that their salary income be included for the creamy layer income test. This meant that if a PSU or private sector employee's salary crossed the income threshold, their child was excluded from OBC reservation benefits.

### The Inequality This Created

The combined effect was stark: a **government employee** earning ₹12 lakh annually (Group C post) retains OBC reservation for their children based on their low-status government post. A **PSU employee** earning the same ₹12 lakh loses OBC reservation for their children because salary counts in their case. The two employees are economically identical but treated completely differently.

## THE SUPREME COURT'S RULING (UNION OF INDIA V. ROHITH NATHAN)

The SC's 2026 judgment (Justices P.S. Narasimha and R. Mahadevan) resolves this contradiction by establishing that **creamy layer determination is fundamentally status-based, not income-based**. The Court reaffirmed the 1993 OM's multi-dimensional criteria and rejected the 2004 clarification.

The Court's core holding: what matters is whether a family's social position has advanced to the point where reservation no longer serves its constitutional purpose. For government employees, the relevant indicator is the **pay grade or post category** (Group A/B/C/D) because it directly reflects social standing within a hierarchical institution. For PSU and private sector employees, a similar status assessment — looking at the seniority and category of the post, not just the salary drawn — must apply.

Applying only a salary threshold to PSU/private sector employees while applying a post-status test to government employees violates **Article 14** (equality before law) by creating an arbitrary classification with no rational basis.

### Relief Ordered

The Court directed the government to **revise the creamy layer criteria** for PSU and private sector employees to align with the post/status-based framework applied to government employees. It further directed that if this revision expands OBC reservation eligibility, the government should **create supernumerary posts** if necessary to accommodate candidates who were wrongly excluded in earlier recruitment cycles.

## CURRENT CREAMY LAYER INCOME LIMIT

The creamy layer income limit for OBCs is currently **₹8 lakh per annum** (revised in September 2017 from ₹6 lakh set in 2013). Historical revisions: ₹1 lakh (1993) → ₹2.5 lakh (2004) → ₹4.5 lakh (2008) → ₹6 lakh (2013) → ₹8 lakh (2017). This threshold applies to non-government occupations — traders, businesspersons,

and others whose status is measured by income rather than occupational hierarchy. Importantly, the Court clarified that **income from salary and agriculture is excluded** from this threshold — only income from other non-salary sources (business, investments) is counted. A Parliamentary Committee (2025) has recommended raising the limit further.

## THE BROADER SIGNIFICANCE

This judgment has implications beyond the immediate legal correction. It reinforces that India’s reservation jurisprudence treats caste-based backwardness as a social phenomenon, not a purely economic one — and that remedies must be calibrated to address social disadvantage, not just income poverty. A financially well-off OBC family in a low-status occupation may still face discrimination; a financially identical family in a high-status government post may not.

The judgment also signals judicial vigilance against administrative rules that create arbitrary distinctions within reservation policy — even when those distinctions arise from bureaucratic oversight rather than deliberate discrimination.

### UPSC RELEVANCE

Union of India v. Rohith Nathan (2026), Indra Sawhney v. Union of India (1992), creamy layer, OBC (Other Backward Classes), DoPT (Department of Personnel and Training), Article 14, Article 15(4), Article 16(4), Mandal Commission, Group A/B/C/D posts, supernumerary posts.

### MAINS GS-2:

Reservation policy in India — constitutional basis, judicial evolution; creamy layer concept; OBC welfare; social justice.

### MAINS GS-1:

Social backwardness and caste — government interventions; Mandal Commission and its aftermath.

## ★ FACTS CORNER — KNOWLEDGE PEDIA

### SC RULING (2026) — CORE FACTS:

**Case:** Union of India v. Rohith Nathan (March 2026)

**Bench:** Justices P.S. Narasimha and R. Mahadevan

**Issue:** Income alone cannot determine OBC creamy layer; status/post category is primary criterion

**Violation found:** Hostile discrimination under Articles 14, 15, 16

**Reason:** Govt employees' children judged by post status; PSU/private employees' children judged by salary — treating equals unequally

**Key clarification:** Income from salary and agriculture excluded from creamy layer income test (for all categories)

**Relief:** Govt to revise creamy layer criteria + create supernumerary posts if needed; Union Govt's appeals dismissed

### CREAMY LAYER — ORIGIN AND RULES:

**Origin:** Indra Sawhney v. Union of India (1992) — 9-judge bench; upheld 27% OBC quota + mandated creamy layer exclusion

**Current income limit:** ₹8 lakh/year (revised Sept 2017; history: ₹1L→₹2.5L→₹4.5L→₹6L→₹8L)

**Administered by:** DoPT (Department of Personnel and Training), Ministry of Personnel

### GOVERNMENT EMPLOYEE CREAMY LAYER RULES:

Children of **Group A officers** → excluded (creamy layer)

Children of **two Group B officers** → excluded

Children of officers promoted to Group A **before age 40** → excluded

Children of **Group C/D** employees → generally retain OBC reservation

### CONSTITUTIONAL ARTICLES ON RESERVATIONS:

**Art. 15(4):** Special provisions for socially/educationally backward classes

**Art. 15(5):** Reservations in aided educational institutions

**Art. 16(4):** Reservation in public employment for backward classes

**Art. 16(4A):** Reservation in promotion (SC/ST)

**Art. 46:** DPSP — promote educational/economic interests of weaker sections

### DOPT INSTRUMENTS IN CONFLICT:

**1993 OM:** Salary not counted for creamy layer test

**2004 Letter (14 Oct 2004):** Salary counted for PSU/private sector employees → contradiction

**SC 2026:** Rejected 2004 clarification; reaffirmed 1993 OM

### OTHER RELEVANT FACTS:

Mandal Commission (est. 1979; report submitted 31 Dec 1980; Chairman: B.P. Mandal): Recommended 27% OBC reservation; implemented in 1990 (VP Singh govt)

OBCs constitute ~41–52% of India's population (varying estimates; no Census caste data since 1931 for OBCs)

**Economically Weaker Section (EWS) quota:** 10% for upper-caste poor (103rd Constitutional Amendment, 2019); upheld by SC in Janhit Abhiyan v. UoI (2022)

**50% ceiling rule:** SC in Indra Sawhney capped total reservations at 50% (subject to extraordinary circumstances)

Group A civil servants = IAS, IPS, IFS and other Central Services (Grade Pay ₹5400 and above)

Sources: [Drishiti IAS](#), [LiveLaw](#), [The Hindu](#), [PRS India](#)

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