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Centre Moves Supreme Court on the OBC Creamy Layer Verdict

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CURATED & WRITTEN BY

**Bharat Choudhary**

UPSC Educator & Content Creator

[in linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)

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Centre Moves Supreme Court on the OBC Creamy Layer Verdict

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The Union government filed a **modification application** in the Supreme Court on **August 24, 2026**, challenging the Court's judgment of **March 11, 2026**. The background is a long-running dispute over how the creamy layer test applies to salaried parents. That judgment held that children of public sector undertaking and private sector employees cannot be denied Other Backward Classes reservation **solely on the basis of parental salary**. The matter is listed for hearing on **August 31, 2026**.

WHAT THE MARCH 2026 JUDGMENT HELD

The judgment, delivered by Justices **P. S. Narasimha** and **R. Mahadevan**, held that:

- A candidate cannot be excluded from OBC reservation **solely because of the parent's salary**.
- The **status and category of the post** held by the parent must be considered, not merely the income it pays.

The reasoning is coherent. The creamy layer test was designed to exclude those who have achieved social advancement, and rank in a hierarchical service is a better **proxy** for social advancement than a salary figure alone. A senior officer's child enjoys social capital that a highly paid but junior employee's child does not.

WHAT THE CENTRE IS ASKING FOR

REQUEST	CONTENT
Time	Two years to frame a uniform equivalence policy across government, PSU and private sectors, in consultation with all States and Union Territories
Prospectivity	Bar retrospective application of the ruling
Carve-out	Exclude recruitments and admissions where rights are already settled or the process has begun
Procedure	List the matter for a detailed physical hearing

The Centre's stated concern is that the ruling has "wide-ranging ramifications" for nearly **100 OBC candidates selected through the Civil Services Examination since 2016**, and that without equivalence criteria even candidates from families earning **over ₹1 crore a year** could claim non-creamy-layer benefit. Its immediate operative prayer is narrower and more concrete: permission to proceed with **service allocation of the 958 candidates recommended by the UPSC for CSE-2025** on the creamy-layer determination applied before the March 11 verdict.

THE DOCTRINAL BACKGROUND

Indra Sawhney

The creamy layer originates in **Indra Sawhney v. Union of India (1992)**, decided by a **nine-judge bench**, which:

- Upheld **27 per cent** reservation for OBCs
- **Mandated exclusion of the creamy layer**
- Capped total reservation at **50 per cent**

How It Was Operationalised

The concept was given effect by the **Department of Personnel and Training Office Memorandum of September 8, 1993**, based on the criteria of the **Justice R. N. Prasad Committee**. The schedule to that memorandum excludes:

CATEGORY	BASIS OF EXCLUSION
Constitutional posts	Holders and their children
Service category	Group A and Group B officers, with rules on both parents
PSU equivalence	Posts deemed equivalent to Group A and B
Income and wealth	The income test

The current income ceiling is **₹8 lakh per annum**, and critically, **salary and agricultural income are excluded** from that computation. That exclusion is precisely why a salary-based test alone produces anomalies, and it is the root of the present dispute.

The Constitutional Provisions

PROVISION	CONTENT
Articles 15(4), 15(5), 16(4)	Enabling provisions for reservation and special measures
Article 338B	National Commission for Backward Classes, given constitutional status by the 102nd Amendment, 2018
Article 342A	Specification of socially and educationally backward classes
105th Amendment, 2021	Restored States' power to identify their own SEBCs

CRITICAL ANALYSIS

The equivalence problem is genuinely hard, not merely bureaucratic. Government service has a clear rank hierarchy: Group A, Group B, and so on. The private sector does not. There is no principled way to say that a particular designation in a private firm is “equivalent to Group A”, because private hierarchies vary by firm, sector and size. The Court has identified a real defect in the salary-only test; the Centre has identified a real difficulty in fixing it. **Both are right, which is why this is hard.**

Prospectivity versus remedial justice is the sharpest tension. If the ruling applies retrospectively, appointments made since 2016 become vulnerable, and settled expectations of serving officers are disturbed. If it applies only prospectively, candidates wrongly excluded under the old test get no remedy at all. Courts routinely resolve this through **prospective overruling**, and that is effectively what the Centre is requesting.

The income ceiling excludes salary, which is the underlying anomaly. Because the ₹8 lakh ceiling does not count salary, a salaried family can earn well above it and remain non-creamy-layer, while a family with equivalent business income is excluded. This is not a loophole discovered by litigants; it is a design feature that has never been reconciled.

The deeper question is whether income proxies social backwardness at all. Indra Sawhney’s premise is that economic advancement eventually delivers social advancement. Whether that holds for communities facing continuing social discrimination independent of income is a live debate, and it connects directly to the sub-classification question the Court addressed in **State of Punjab v. Davinder Singh (2024)**.

UPSC RELEVANCE

GS Paper 2 (Polity and Social Justice): Mechanisms, laws, institutions and bodies constituted for the protection and betterment of vulnerable sections; welfare schemes; judicial interventions.

Prelims focus: Indra Sawhney's bench strength and holdings; the DoPT OM of 1993 and the Justice R. N. Prasad Committee; the ₹8 lakh ceiling and the exclusion of salary and agricultural income; Article 338B via the 102nd Amendment; the 105th Amendment's restoration of State power.

Mains angle: Frame the creamy layer as **the doctrinal bridge between substantive equality and elite capture within reserved categories**. The unsolved administrative problem is equivalence between public and private hierarchies, and a strong answer states plainly that the Court's objection and the Government's difficulty are both valid.

Way forward: Frame equivalence criteria that use **post responsibility, organisational tier and social indicators** rather than salary alone; apply the change prospectively while providing a remedy for pending cases; revisit the exclusion of salary from the income ceiling, which is the source of the anomaly; and consider a periodic **statutory** review of creamy layer criteria rather than leaving them to episodic litigation.

★ FACTS CORNER — KNOWLEDGE PEDIA

THE CASE AND ITS BACKGROUND:

Case: Union of India v. Rohith Nathan and Others

Union government modification application filed August 24, 2026; hearing listed August 31, 2026

Operative prayer: allow service allocation of the 958 candidates recommended by the UPSC for CSE-2025

The Court agreed on August 25 to consider constituting a special bench, and indicated the same bench that delivered the background verdict of March 11 will take it up

Challenges the Supreme Court judgment of March 11, 2026 by Justices P. S. Narasimha and R. Mahadevan

That judgment held parental salary alone cannot exclude a candidate; the post's status and category must be considered

Centre seeks two years to frame a uniform equivalence policy, prospective application only, and carve-outs for settled rights

Concerns nearly 100 OBC candidates selected through the Civil Services Examination since 2016

INDRA SAWHNEY V. UNION OF INDIA (1992):

Nine-judge bench; upheld 27 per cent OBC reservation

Mandated exclusion of the creamy layer; capped total reservation at 50 per cent

OPERATIONALISATION:

DoPT Office Memorandum of September 8, 1993, based on the Justice R. N. Prasad Committee

Current income ceiling: ₹8 lakh per annum, EXCLUDING salary and agricultural income

Exclusion categories: constitutional posts, Group A and B service, PSU equivalence, income and wealth test

CONSTITUTIONAL PROVISIONS:

Articles 15(4), 15(5) and 16(4): enabling provisions

Article 338B: NCBC, constitutional status via the 102nd Amendment, 2018

Article 342A: specification of SEBCs; 105th Amendment, 2021 restored States' power to identify SEBCs

OTHER RELEVANT FACTS:

The creamy layer does NOT apply to Scheduled Castes and Scheduled Tribes for reservation in initial appointment; Jarnail Singh applied it to promotions, which is a separate line of cases

State of Punjab v. Davinder Singh (2024) permitted sub-classification within Scheduled Castes

Sources: *ThePrint*, *Supreme Court of India*, *DoPT*

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CURATED & WRITTEN BY

Bharat Choudhary

UPSC Educator & Content Creator

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