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Cabinet Clears Bill to Restore the Provisions of SC/ST Act

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The Centre has decided to introduce a Bill to restore the original provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, which the Supreme Court had struck down in a March, 2018 ruling.

The Amendment Bill seeks to insert three new clauses to the original Act:

- For the purposes of the Act, preliminary enquiry shall not be required for registration of a First Information Report against any person.
- The arrest of a person accused of having committed an offence under the Act would not require any approval.
- The provisions of Section 438 of the Code of Criminal Procedure which deals with anticipatory bail shall not apply to a case under this Act, notwithstanding any judgment or order of any Court.
- The preamble of the amendment says that the decision to arrest or not to arrest cannot be taken away from the investigating officer, a power given under the criminal procedure code in which there is no provision for a preliminary enquiry.

Background

- The SC ruling resulted in the protests from dalit groups, which said the order diluted the law. The demand for introduction of an ordinance or an Amendment Bill to restore the provisions was demanded by the dalit groups.
- The Supreme Court had observed in the judgment that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has become an instrument to blackmail innocent citizens and public servants.
- The court observed that the past three decades have seen complainants who belong to the marginalised sections of society, use the POA to exact vengeance and satisfy vested interests.
- The court also observed that instead of blurring caste lines, the Act has been misused to file false complaints to promote caste hatred.

- On March 20, the SC struck down the provision that made immediate arrest of an accused under the 1989 law mandatory.
- The court also allowed the accused persons to apply for anticipatory bail. The 1989 law, in fact, prohibits anticipatory bail, saying the accused on bail could terrorise the victims.
- The Supreme Court issued a slew of guidelines to protect people against arbitrary arrests under the Act, directing that public servants could be arrested only with the written permission of their appointing authority, while in the case of private employees, the Senior Superintendent of Police concerned should allow it.
- A preliminary inquiry should be conducted before the FIR was registered to check if the case fell within the ambit of the Act, and whether it was frivolous or motivated, the court ruled.

Salient Features of the Act

- The Act delineates specific crimes against Scheduled Castes and Scheduled Tribes as atrocities, and describes strategies and prescribes punishments to counter these acts.
- The Act identifies what acts constitute “atrocities.” All offences listed in the Act are cognizable. The police can arrest the offender without warrant and start investigation into the case without taking any orders from the court.
- The Act calls upon all the states to convert an existing sessions court in each district into a Special Court to try cases registered under it.
- The Act creates provisions for states to declare areas with high levels of caste violence to be “atrocities-prone” and to appoint qualified officers to monitor and maintain law and order.
- The Act provides for the punishment for wilful neglect of duties by non-SC/ST public servants.
- The Act designates for each District a Court of Session as a Special Court for speedy trial of offences under the Act
- The Act provides for the appointment of Public Prosecutors/Special Public Prosecutors for conducting cases in special courts.
- The Act is implemented by the respective State Governments and Union Territory Administrations, which are provided due central assistance under the Centrally Sponsored Scheme for effective implementation of the provisions of the Act.

Provisions Against Untouchability in India

- **Article 17-** Abolition of Untouchability. It is a Fundamental Right (Part III), available against individual; Article 17 does not define the term ‘untouchability’.

- To expand the ambit of Article 17, the government came up with the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989. The new legislation was enacted to deal with more violent caste-driven atrocities against scheduled castes and scheduled tribes.
- Above provisions are not exhaustive, there are many other provisions which prevent any form of discrimination or promote the weaker section. E.g. **Article 46 from Directive Principles of State Policy** talks about promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
- **Article 330** provides for the reservation of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and **Article 332** provides for the reservation of seats in the Legislative Assemblies of the States.