



Government of NCT of Delhi (Amendment) Bill, 2021

Why in News

Recently, the central government introduced the **Government of National Capital Territory of Delhi (Amendment) Bill, 2021** in the Lok Sabha to amend the [Government of National Capital Territory of Delhi Act, 1991](#).

- It aims to "further define the responsibilities of the elected government and Lieutenant Governor (LG) in Delhi".

// Centre vs Delhi govt again

WHAT THE BILL PROPOSES

- The term "Government" in any law by the legislative assembly will mean "Lieutenant Governor"
- The assembly shall not make rules or committees to consider day-to-day administration or conduct inquiries
- Rule or committee made before the new amendment comes into force "shall be void"
- Before taking any executive action, opinion of the L-G shall be obtained by a general or special order
- L-G shall have power to reserve for consideration any bill, and any of the matters outside the purview of the powers conferred on the legislative assembly



Bill will define responsibilities in line with the constitutional scheme of governance of national Capital, as interpreted by SC
— AMIT SHAH, UNION HOME MINISTER

DELHI GOVT'S RESERVATIONS

- Article 239AA says legislature can make laws on any matters on state and concurrent list except for issues relating to public order, police and land.
- SC's Constitution bench in 2018 recognised assembly's right, and said Union has exclusive powers only in the above 3 issues.
- SC said L-G should work with aid and advice of council of ministers
- SC order clarified that L-G has not been entrusted with any independent decision-making power
- While any matter of dispute can be sent to President, the SC said it does not mean every matter should be

After being rejected by people of Delhi, BJP seeks to drastically curtail powers of elected govt. Bill is dilution of SC judgment.
— ARVIND KEJRIWAL, CM



Key Points

- **Provisions of the Bill:**
 - **"Government" to mean "Lieutenant Governor (LG)":** The expression 'Government' referred to in any law to be made by the Legislative Assembly **shall mean the Lieutenant Governor (LG)**.
 - **Widening of Discretionary Powers of LG:** The Bill gives discretionary powers to the LG

even in matters **where the Legislative Assembly of Delhi is empowered to make laws.**

- **Necessarily Granted an Opportunity to LG:** It seeks to ensure that the LG is “necessarily granted an opportunity” to give her/his **opinion before any decision taken by the Council of Ministers** (or the Delhi Cabinet) is implemented.
- **Related to Administrative Decisions:** The amendment also says that “**Legislative Assembly shall not make any rule to enable itself to consider the matters of day-to-day administration** of the Capital or conduct inquiries in relation to the administrative decisions”.

▪ **Need of the Amendment:**

- **For Structural Clarity:** The Ministry of Home Affairs’ statement on “**objects and reasons**” of the Bill stated that Section 44 of the 1991 Act deals with conduct of business and there **is no structural mechanism for effective time-bound implementation** of the said section.

- Also, there is no clarity as to what proposal or matters are required to be submitted to Lieutenant Governor before issuing order thereon.
- **Section 44 of the 1991 Act says that** all executive actions of the LG, whether taken on the advice of his Ministers or otherwise shall be expressed to be taken in the name of the LG.

▪ **Background of the Events:**

- In its **2018 verdict**, the five-judge Bench had held that the **LG’s concurrence is not required on issues other than police, public order and land.**
 - It had added that decisions of the **Council of Ministers** will, however, have to be communicated to the LG.
 - The LG was bound by the aid and advice of the council of ministers.
- The court also said that **the status of the LG of Delhi is not that of a Governor of a State**, rather he remains an Administrator, in a limited sense, working with the designation of Lieutenant Governor”.
 - It had also pointed out that the **elected government must keep in mind that Delhi is not a state.**
- Encouraged by the Supreme Court verdict, the elected government had stopped sending files on executive matters to the LG before the implementation of any decision.
 - It has been keeping the LG informed of all administrative developments, but not necessarily before implementing or executing any decision.
 - But the **amendment**, if cleared, **will force the elected government to take LG's advice before** taking any action on any cabinet decision.

Government of National Capital Territory of Delhi Act, 1991

- Delhi’s current status as a Union Territory with a Legislative Assembly is an outcome of the **69th Amendment Act** through which **Articles 239AA and 239BB** were introduced in the Constitution.
- The Government of National Capital Territory of Delhi (GNCTD) Act was passed simultaneously to supplement the constitutional provisions relating to the Assembly and the Council of Ministers in the national capital.
- For all practical purposes, the GNCTD Act **outlines the powers of the Assembly, the discretionary powers enjoyed by the LG**, and the **duties of the Chief Minister** with respect to the need to furnish information to the LG.

