



## Power Distribution Between Delhi Government and Centre

**For Prelims:** [Special Provisions for Delhi under Article 239AA](#), [NCT](#), [Schedule VII](#), [Government of National Capital Territory of Delhi \(Amendment\) Act 2021](#).

**For Mains:** Special Provisions for Delhi under Article 239AA, Administration of UTs.

### Why in News?

Recently, the [Supreme Court \(SC\)](#) has ruled in favor of the Delhi government on the issue of who controls the **Bureaucracy in the National Capital** where it ruled that the **Delhi government has legislative and executive powers over services** except for public order, police and land.

### What is the Issue About?

- The issue in the case is whether the Government of [NCT \(National Capital Territory\)](#) of Delhi has legislative and executive powers in relation to 'services' under **Schedule VII, List II, and Entry 41** of the Constitution of India and whether the **officers of the various 'services' such as IAS, IPS, DANICS, and DANIPS**, who have been allocated to Delhi by the Union of India, come under the **administrative control of the Government of NCT of Delhi**.
- The Issues of distribution of Power between Delhi government and Centre first arose from a reference made by a **two-judge Bench of the SC in 2019**, which left the question of **who will have control over the administrative services** for consideration by a larger Bench.
- The Delhi government challenged the constitutional validity of the [Government of National Capital Territory of Delhi \(Amendment\) Act 2021](#), which provided that the term "government" referred to in any law made by the Legislative Assembly of Delhi will imply the Lieutenant Governor (L-G).

### What is the Verdict of the SC?

- Ruling in Delhi govt's favour, the SC held that the Lt. Governor **shall be bound by the decision of Delhi government over services**, apart from public order, police and land.
- Disagreeing with the Centre which argued that the Constitution is a federal Constitution with a strong unitary bias as far as UTs are concerned, the **SC said, it is not unitary**.
  - "The **principles of democracy and federalism are essential features of our Constitution and form a part of the basic structure**," it said.
    - Federalism "is a means to reconcile the desire of commonality along with the desire for autonomy and accommodate diverse needs in a pluralistic society".
- The SC stated that **Article 239AA establishes a legislative assembly** for NCT of Delhi. Members of the **legislative assembly are elected by the Delhi electorate**.
  - If a democratically elected government is **not given the power to control the officers**, the principle of **triple chain of accountability will be redundant**.
  - The principle of **collective responsibility extends to the responsibility of officers**, who in turn report to the ministers. If the officers stop reporting to the ministers or do not abide by their directions, the entire principle of collective responsibility is affected.

- The Delhi government, much like other States, **represents the representative form of government** and any further expansion of the Union's power will be **contrary to the Constitutional scheme**.

## What is Article 239AA of the Constitution?

- Article 239 AA was inserted in the Constitution by **The Constitution (69<sup>th</sup> Amendment) Act, 1991** to give **Special Status to Delhi** following the recommendations of the S Balakrishnan Committee that was set up to look into demands for statehood for Delhi.
  - It says that the NCT of Delhi will have an **Administrator and a Legislative Assembly**.
  - Subject to the provisions of the Constitution, the Legislative Assembly “shall have power to make laws for the whole or any part of the NCT with respect to any of the **matters in the State List or Concurrent List** in so far as any such matter is applicable to Union territories” except on the subject of **police, public order, and land**.
- Further, the Article 239AA also notes that **L-G has to either act on the aid and advice of the Council of Ministers**, or he is bound to implement the decision taken by the President on a reference being made by him.
- Also, **Article 239AA, empowers the L-G to refer a difference of opinion** on ‘any matter’ with the Council of Ministers to the President.
- Thus, this dual control between L-G and the elected government leads to a power tussle.

## How are the UTs Administered in India?

- **About:**
  - Part VIII (Articles 239 to 241) of the Constitution deals with the Union Territories.
  - UTs in India are administered by the **President through an administrator appointed** by him/her. The administrator is not elected but rather a **representative of the President**.
    - In some UTs, such as Delhi and Puducherry, the administrator holds significant powers, including the ability to make laws and regulations for the UT.
    - In other UTs, such as Lakshadweep and Dadra and Nagar Haveli, the administrator's powers are limited to providing advice to the elected government.
  - The judiciary in UTs is also governed by the Constitution and the laws made by the Parliament. However, in some **UTs, such as Delhi, the High Court has wider powers than** in other UTs, such as Lakshadweep.
- **Special Provisions for Delhi and Puducherry:**
  - The Union Territories of **Puducherry (in 1963), Delhi (in 1992) and Jammu and Kashmir in 2019** (yet to be constituted) are provided with a **legislative assembly and a Council of Ministers** headed by a Chief Minister.
    - The Legislative assembly of the UT of Puducherry may make laws with respect to matters **enumerated in List II or List III in the Seventh Schedule of the Constitution** in so far as these matters are applicable in relation to the Union Territory.
    - The legislative assembly of National Capital Territory of Delhi also has these powers with the exception that **Entries 1, 2 and 18 of the List II are not within the legislative competence** of the legislative assembly.

## UPSC Civil Services Examination, Previous Year Questions (PYQs)

**Q.** Whether the Supreme Court Judgment (July 2018) can settle the political tussle between the Lt. Governor and elected government of Delhi? Examine. **(2018)**

**Source: IE**

PDF Refernece URL: <https://www.drishtias.com/printpdf/power-distribution-between-delhi-government-and-centre>

