



Power of LG to Nominate MCD Aldermen

For Prelims: [Lieutenant Governor \(LG\), Aldermen, Delhi Municipal Corporation Act, 1957, Local Government, Wards Committee, Standing Committee, Article 239AA, Council of Ministers, 69th Amendment Act, 1991, Purposive Construction, Federalism](#)

For Mains: Governance Model of New Delhi and Power Tussle Between Elected Legislative Assembly and LG.

[Source: IE](#)

Why in News?

The Supreme Court (SC) ruled that the [Lieutenant Governor \(LG\)](#) of Delhi can **nominate “aldermen”** to the Municipal Corporation of Delhi (MCD) without needing advice from the Delhi Government’s Council of Ministers.

What did the Supreme Court Rule on the Nomination of MCD Aldermen?

- The SC ruled that **Section 3** of the [Delhi Municipal Corporation Act, 1957 \(DMC Act\)](#) gives the Delhi LG the **“explicit” power** to nominate aldermen without any requirement to consult the Council of Ministers.
- The Supreme Court referred to the **five-judge bench** decision in **Government of NCT of Delhi v. Union of India, 2023**, to arrive at its decision.
 - In 2023, the apex court held that **Parliament** would have the power to legislate over subjects in the State List as well, when it comes to the **NCT of Delhi**.
 - In this case, it would involve enacting laws regarding **'local government,'** which falls under the **State List** and pertains to the **DMC Act, 1957**.

What were the Issues in the Nomination of Aldermen?

- **Constitutional Provision:** [Article 239AA](#) of the Indian Constitution mandates that the Council of Ministers and the Chief Minister should **“aid and advise”** the L-G on matters within the **Legislative Assembly’s power, except when the L-G must act in discretion as per the law**.
 - The Delhi Legislative Assembly has the power to make laws on most subjects except for **'Public order,' 'Police,' and 'Land.'**
- **Aldermen Nomination:** On 3rd January 2023, the Delhi LG nominated **10 aldermen** under **Section 3 of the DMC Act, 1957**.
- **Legal Challenge:** The Delhi government challenged the nominations in the Supreme Court.
 - The Delhi government referenced the Supreme Court decision in **Government of NCT of Delhi Vs. Union of India, 2018** which held that the LG must follow the aid and advice of the Council of Ministers for matters under the **State and Concurrent lists**.
- **L-G’s Argument:** The Delhi LG contended that the **DMC Act, 1957** specifically grants him the **power to nominate aldermen** without requiring the Council of Ministers' advice.

What is the Position of Aldermen in MCD?

- **About:** Alderman refers to a **member of a city council or municipal body**.
 - It originally referred to **elders of a clan or tribe** and soon it became a term for **king's viceroys**. Later, it denoted a more specific title "**chief magistrate of a county**," having both civic and military duties.
 - Aldermen are **expected to have special knowledge** or experience in municipal administration who are meant to assist the house in taking decisions of public importance.
- **Role of Aldermen:** Under the Delhi Municipal Corporation (DMC) Act, 1957 Delhi is divided into **12 zones**, each with a **'Wards Committee'** comprising elected representatives and **nominated aldermen**.
- **Nomination:** The Delhi LG can nominate **10 aldermen** who are at least **25 years old** and have **experience** in municipal administration.
- **Voting Rights:** Aldermen **do not vote in MCD** meetings but are crucial in **Wards Committees**, where they can **vote and stand** for election to the MCD Standing Committee.
- **Standing Committee:** This committee, which includes aldermen, manages the MCD's functions and is essential for decisions like contracts over Rs. 5 crore, budget revisions, and appointing officers.
 - Without aldermen, the **Standing Committee** cannot be formed, halting key MCD functions.

What is the Governance Model of Delhi?

- The **69th Amendment Act, 1991** inserted **Article 239AA**, which renamed the **Union Territory of Delhi to National Capital Territory (NCT)** to be administered by a **LG** who works on **aid and advice of the Council of Ministers**.
 - The **'aid and advice'** rule applies only to matters where the Delhi Assembly has authority, covering subjects in the **State and Concurrent Lists**. It does **not** apply to **public order, police and land**.
- Also, Article 239AA, empowers the **LG** to refer a **difference of opinion on 'any matter'** with the Council of Ministers to the President.
- **Judiciary's Opinion on the Governance Model of Delhi:** In the **Government of NCT of Delhi Vs. Union of India, 2018**, the Constitutional bench of the Supreme Court gave the following judgements.
 - **Purposive Construction:** The court invoked the rule of **purposive construction** to say that the objectives behind the **69th Amendment Act, 1991** shall guide the interpretation of **Article 239AA**.
 - It means that Article 239AA incorporates principles of **federalism** and **democracy**, giving Delhi a **unique status** compared to other Union Territories.
 - **LG to Act on Aid and Advice:** The Court declared that the **LG is bound** by the **"aid and advice" of the Council of Ministers**, noting that the Delhi Assembly also has the power to make laws over all subjects that figure in the Concurrent List, and all, except three excluded subjects (Public order, Police and Land) in the State List.
 - The LG ought to act on the **"aid and advice"** of the Council of Ministers, **except** when he **refers** a matter to the **President** for a final decision.
 - **Any Matter is Not Every Matter:** The Supreme Court ruled that the LG can only refer a matter to the President in **exceptional cases**, **not** for **every disagreement** with the Council of Ministers.
 - **LG as Facilitator:** LG shall act as a **facilitator** rather than acting as an **adversary** to the elected Council of Ministers.
 - **New Delhi Cannot be Given Statehood:** At the same time, the Court ruled that the National Capital Territory of Delhi **cannot** be granted the status of a **State** under the constitutional scheme.

Conclusion

The Supreme Court emphasised that Delhi's governance relies on constitutional trust and collaboration. The principle of subsidiarity requires strong local governments, so India should grant more power to city

governments, following the example of global megacities like Jakarta, Seoul, London, and Paris.

Drishti Mains Question:

Q. What are the key points of the 69th Constitutional Amendment Act and issues have caused conflicts between Delhi's elected representatives and the Lieutenant Governor? Elucidate.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Mains

Q. Discuss the essentials of the 69th Constitutional Amendment Act and anomalies, if any, that have led to recent reported conflicts between the elected representatives and the institution of the Lieutenant Governor in the administration of Delhi. Do you think that this will give rise to a new trend in the functioning of Indian federal politics? **(2016)**

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

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