



Government of NCT of Delhi (Amendment) Act, 2021

Why in News

The **Government of National Capital Territory (GNCT) of Delhi (Amendment) Act, 2021**, which gives **primacy to the Lieutenant Governor (L-G) over the elected government** in the city, has **come into force**.

Key Points

▪ Provisions of the GNCT of Delhi (Amendment) Act 2021:

- It **amended the Sections 21, 24, 33 and 44 of the 1991 Act**.
- States that the **“government”** in the National Capital Territory of Delhi **meant the Lieutenant-Governor** of Delhi.
- It **gives discretionary powers to the L-G** even in matters where the Legislative Assembly of Delhi is empowered to make laws.
- It **seeks to ensure that the L-G is “necessarily granted an opportunity”** to give her or his opinion before any decision taken by the Council of Ministers (or the Delhi Cabinet) is implemented.
- It **bars the Assembly or its committees from making rules** to take up matters concerning day-to-day administration, or to conduct inquiries in relation to administrative decisions.

▪ Criticism:

- The latest amendment will **greatly reduce the efficiency and timeliness of the Delhi government** by making it imperative for it to hold consultations with the L-G even when a situation demands urgent action.
- Significantly, the **L-G is not obliged to give his opinion to the State government within a time frame**. Critics argue that the L-G could politically exploit these unbridled powers to hamper the government’s administrative work and thus turn the political tides against the incumbent if he so desires.
- It is **against the spirit of ‘Federalism.’**

▪ Union Government’s Stand:

- It is in **keeping with the Supreme Court’s July 2018 ruling** on the ambit of powers of the L-G and the Delhi government following several headliner controversies between the two.
- The purported fair objectives of the Act, include **enhancing public accountability and easing out technical ambiguities** related to everyday administration.
- This will **increase administrative efficiency of Delhi** and will **ensure better relationship between the executive and the legislator**.

Background

▪ Enactment of GNCTD Act:

- The **GNCTD Act was enacted in 1991** to **“supplement provisions of the**

Constitution relating to the Legislative Assembly and a Council of Ministers for the National Capital Territory of Delhi”.

- It **enabled the process of an elected government in Delhi**.
- The **Supreme Court had in the past appreciated the 1991 developments**, stating that the real purpose behind the **Constitution (69th Amendment) Act, 1991** is to establish a democratic set-up and representative form of government wherein the majority has a right to embody their opinions in laws and policies pertaining to the NCT of Delhi subject to the limitations imposed by the Constitution.

69th Amendment Act, 1992

- It **added two new Articles 239AA and 239AB** under which the Union Territory of Delhi has been given a special status.
- **Article 239AA** provides that the Union Territory of Delhi be called the National Capital Territory of Delhi and its administrator shall be known as Lt. Governor.
 - It also **creates a legislative assembly for Delhi** which can make laws on subjects under the State List and Concurrent List **except on these matters**: public order, land, and police.
 - It also **provides for a Council of Ministers for Delhi** consisting of not more than 10% of the total number of members in the assembly.
- **Article 239AB** provides that the **President may by order suspend the operation of any provision of Article 239AA** or of all or any of the provisions of any law made in pursuance of that article. This provision **resembles Article 356 (President’s Rule)**.
- **Point of Friction:**
 - However, over the years, there was **friction between the Chief Minister and the Lieutenant Governor (L-G)** over power-sharing.
 - The focal point of these conflicts was that **in case of a difference between the L-G and the Council of Ministers on any matter,**
 - The **matter was to be referred to the President** by the L-G for his decision,
 - And **pending such a decision the L-G was empowered to take any action** on the matter as he deemed right.
- **Judgement of the Supreme Court:**
 - In the **Government of NCT of Delhi vs Union of India and Another in 2018** case, the SC held that:
 - The **government was not under obligation to seek the concurrence of the L-G** on its decisions and
 - That **any differences between them should be resolved keeping in view the constitutional primacy of representative government** and cooperative federalism.
 - Essentially, the SC judgment **made it extremely difficult for the L-G to refer such matters to the President.**

Source:TH