



THE GOVERNMENT OF NCT OF DELHI (AMENDMENT) BILL 2021

Context

- The Government of National Capital Territory of Delhi (Amendment) Bill, 2021 was passed in Lok Sabha and Rajya Sabha.
- The Bill amends the Government of National Capital Territory of Delhi Act, 1991.
- The Act provides a framework for the functioning of the Legislative Assembly and the government of the National Capital Territory (NCT) of Delhi.

Features

- The Bill provides that the term “government” referred to in any law made by the Legislative Assembly will imply Lieutenant Governor.
- The Bill provides that Rules made to Rules to regulate the procedure and conduct of business in the Assembly must be consistent with the Rules of Procedure and Conduct of Business in the Lok Sabha.
- The Bill prohibits the Legislative Assembly from making any rule to enable itself or its Committees to: (i) consider the matters of day-to-day administration of the NCT of Delhi and (ii) conduct any inquiry in relation to administrative decisions.
- The Bill requires the LG to also reserve those Bills for the President which incidentally cover any of the matters outside the purview of the powers of the Legislative Assembly.
- The Bill adds that on certain matters, as specified by the LG, his opinion must be obtained before taking any executive action on the decisions of the Minister/ Council of Ministers.

Legal controversy between L-G & Delhi Govt.

- Due to the co-existence of Article 239 and 239AA, there is a jurisdictional conflict between the government of NCT and the Union Government and its representative, the Lieutenant Governor.
- According to the Union government, New Delhi being a Union Territory Article 239 empowers the Lieutenant Governor to act independently of his Council of Ministers.
- However, the state government of Delhi held that the Article 239AA of the Constitution bestows special status to Delhi of having its own legislatively elected government.
- This creates a tussle around the administrative powers of the LG and state government.

Highlights of the 2018 judgement

- Administration of Union Territory under Article 239(1) is different from Article 239AA which provides for an elected Legislature.
- The court held that Parliament can legislate for Delhi on any matter in the State List and the Concurrent List but the executive power in relation to Delhi except the 'Police', 'Land' and 'Public Orders' vests only in the state government headed by the Chief Minister.
- It also held that the executive power of the Union does not extend to any of the matters which come within the jurisdiction of the Delhi Assembly.
- LG to act on 'aid and advice' of the Council of Ministers
- The court held that for establishing a democratic and representative form of government for NCT of Delhi, Government of Delhi that enjoys the confidence of the people of Delhi should have the functional autonomy to legislate for the NCT of Delhi.

Article 239 AA and 239AB

- The 69th Amendment Act, 1992 has added two new Articles 239AA and 239AB under which the Union Territory of Delhi has been given a special status.
- Art. 239AA provides that the Union Territory of Delhi shall now 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.
- 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 Art.356 (President's Rule)
- 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.

