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News Analysis (17 Dec, 2019)

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Annulment of Election of MLA

Why in News

Recently, the Allahabad High Court **annulled the election** of Mohammad Abdullah Azam Khan, as a **Member of Legislative Assembly (MLA) from Uttar Pradesh** on the grounds of being **underage at the time of the assembly elections (2017)**.

The order was passed on a **petition** which claimed that the candidate was **less than 25 years of age at the time of filing the nomination and hence was ineligible to contest**.

Background

- The Constitution of India as well as the Parliament of India has laid down qualifications and disqualifications for being elected as a member of State Legislative Assembly and State Legislative Council.

- **Qualifications:**

- **Constitutional Provisions:**

1. Citizenship of India
2. Subscription to an oath or affirmation before the person authorised by the Election Commission.
3. Age must be not less than **25 years for the legislative assembly** and **not less than 30 years for the legislative council**.
4. Need to possess other qualifications prescribed by Parliament.

- **Parliamentary Provisions** through **Representation of People Act (1951)**:

1. A person to be elected to the legislative assembly must be an elector for an assembly constituency in the concerned state.
2. A person to be elected to the legislative council must be an elector for an assembly constituency in the concerned state and to be qualified for the governor's nomination, he must be a resident in the concerned state.
3. He must be a member of a scheduled caste or scheduled tribe if he wants to contest a seat reserved for them. However, a member of scheduled castes or scheduled tribes can also contest a seat not reserved for them.

- **Disqualifications:**

- **Constitutional Provisions:**

1. Any **office of profit** under the Union or State government (except that of a minister or any other office exempted by the state legislature),
2. **Unsound mind** and stands so declared by a court,
3. **Undischarged insolvent**,
4. Not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state,
5. Disqualified under any law made by Parliament.

■ **Parliamentary Provisions through Representation of People Act (1951)**

:

1. Must **not** have been found guilty of certain **election offences or corrupt practices** in the elections.
 2. Must **not** have been convicted for any offence resulting in imprisonment for two or more years. But, the detention of a person under a **preventive detention law is not a disqualification**.
 3. Must **not fail** to lodge an account of **election expenses** within the time.
 4. Must **not** have any interest in **government contracts**, works or services.
 5. Must **not** be a **director** or managing agent nor hold an office of profit in a corporation in which the **government has at least 25 per cent share**.
 6. Must **not** have been **dismissed from government service** for **corruption** or **disloyalty to the state**.
 7. Must **not** have been convicted for promoting enmity between different groups or for the **offence of bribery**.
 8. Must **not** have been punished for preaching and practicing **social crimes** such as untouchability, dowry and sati.
- On the question of whether a member has become subject to any of the above disqualifications, the **governor's decision is final**. However, he should obtain the opinion of the Election Commission and act accordingly.

● **Election Petition:**

- The **Constitution** lays down that no election to the Parliament or the state legislature is to be questioned except by an election petition presented to such authority and in such manner as provided by the appropriate legislature.
- **Since 1966**, the election petitions are triable by **high courts alone**. Whereas the **appellate jurisdiction** lies with the **Supreme Court alone**.
- **Article 323 B** empowers the appropriate legislature (Parliament or a state legislature) to establish a tribunal for the adjudication of election disputes.
 - It also provides for the exclusion of the jurisdiction of all courts (except the special leave appeal jurisdiction of the Supreme Court) in such disputes.
 - So far, no such tribunal has been established.
- In **Chandra Kumar case (1997)**, the clause of **the exclusion of the jurisdiction of all courts in election disputes** was declared **unconstitutional** by the Supreme Court.
- Consequently, if at any time an election tribunal is established, an appeal from its decision lies to the high court.

Source: TH

Privilege Motion

Why in News

A Privilege Motion has been moved against the Union Textile Minister Smriti Irani in the Lok Sabha.

Privilege Motion

- It is concerned with the **breach of parliamentary privileges** by a minister.
- **Breach of Privileges**
 - Parliamentary Privileges are **certain rights and immunities** enjoyed by members of Parliament, individually and collectively, so that they can “effectively discharge their functions”.
 - When any of these rights and immunities are disregarded, the offence is called a breach of privilege and is **punishable under law of Parliament**.
 - **A notice is moved in the form of a motion** by any member of either House against those being held guilty of breach of privilege.
- **Role of the Speaker/Rajya Sabha (RS) Chair**
 - The Speaker/RS chairperson is the **first level of scrutiny** of a privilege motion.
 - The Speaker/Chair can decide on the privilege motion himself or herself or refer it to the **privileges committee** of Parliament. If the Speaker/Chair gives consent under relevant rules, the member concerned is given an opportunity to make a short statement.
- **Rules governing Privilege**
 - Rule No 222 in Chapter 20 of the Lok Sabha Rule Book and correspondingly Rule 187 in Chapter 16 of the Rajya Sabha rulebook governs privilege.
 - Rules say that a member may, with the consent of the Speaker or the Chairperson, raise a question involving a breach of privilege either of a member or of the House or a committee thereof.

Parliamentary Privileges

- Parliamentary privileges are special rights, immunities and exemptions enjoyed by the two Houses of Parliament, their committees and their members.
- The Constitution also extends the parliamentary privileges to those persons who are entitled to speak and take part in the proceedings of a House of Parliament or any of its committees. These include the **Attorney General of India and Union ministers**.
- The parliamentary privileges **do not extend to the President** who is also an integral part of the Parliament. **Article 361** of the Constitution provides for privileges for the President.

- **Article 105** of the Constitution expressly mentions two privileges, that is, freedom of speech in Parliament and right of publication of its proceedings.
- Apart from the privileges as specified in the Constitution, **the Code of Civil Procedure, 1908**, provides for freedom from arrest and detention of members under civil process during the continuance of the meeting of the House or of a committee thereof and forty days before its commencement and forty days after its conclusion.
- It needs to be noted that the **Parliament, till now, has not made any special law** to exhaustively codify all the privileges.

Privilege Committee

- It is a **Standing Committee**. It examines the cases of breach of the privileges of the House and its members and recommends appropriate action.
- The **Lok Sabha** committee has **15** members, while the **Rajya Sabha** committee has **10** members.

Source: IE

National Electronic Fund Transfer (NEFT)

Why in News

The **Reserve Bank of India (RBI)** has operationalised **round-the-clock (24 X 7) availability of the National Electronic Fund Transfer (NEFT)**.

The RBI has also asked banks not to levy any charges from savings bank account holders for funds transfers done through NEFT system which are initiated online (internet banking and/ or mobile apps of the banks).

Key Points

- Through this move, the **RBI has joined an elite club of countries** having payment systems which enable round-the-clock fund transfer and settlement of any value.
- **Benefit to Customers:** Customers can now transfer money through NEFT without paying any charges any time of the day whereas banks charge a fee for fund transfer through cheques and Demand Draft (DD).

Background

- The NEFT system, **introduced in 2005**, has seen exponential growth in recent years reflecting its popularity as well as increasing customer acceptance. Despite such growth, many banks continued to levy the maximum permissible charges to their customers.
- It was desirable that the benefits accruing on account of increasing volume of transactions are passed on to the customers so as to **incentivise greater use of the electronic payment system** in place of cumbersome paper-based mechanism like cheques/DDs.

National Electronic Fund Transfer

- **National Electronic Funds Transfer (NEFT)** is a nation-wide payment system facilitating one-to-one funds transfer. Under this Scheme, individuals, firms and corporates can electronically transfer funds from any bank branch to any individual, firm or corporate having an account with any other bank branch in the country participating in the Scheme.
- NEFT is **different from Real Time Gross Settlement (RTGS)**. RTGS can be explained as a system where there is continuous and real-time settlement of fund-transfers, individually on a transaction by transaction basis.
 - NEFT settlements happen in batches, so there might be a slight delay for the actual transfer to take place RTGS transactions, on the other hand, happen in real time.
 - There is no limit – either minimum or maximum – on the amount of funds that could be transferred using NEFT. However, the maximum amount per transaction is limited to ₹ 50,000/- for cash-based remittances within India and also for remittances to Nepal under the Indo-Nepal Remittance Facility Scheme.
 - The minimum amount to be remitted through RTGS is ₹ 2,00,000/- with no upper or maximum ceiling.

Source: IE

Maternity Scheme Exclusionary: PMMVY

Why in News

The **Pradhan Mantri Matru Vandana Yojana (PMMVY)** which is a pan-India maternity benefit programme has been criticised for its **exclusionary nature**. It has led to **single women and young brides** being left out of its purview.

Issues with the Scheme

- Registration for the scheme requires an applicant to **provide her husband's Aadhaar details** along with her own. It affects **single women, including unwed mothers,**

deserted wives and widows.

Tedious documentation

HOW PMMVY EXCLUDES

- 1 Only for the first born
- 2 Provided after meeting several conditionalities -registration of pregnancy, at least one ante-natal check-up, registration of child birth and vaccinations
- 3 Proof of address of marital home
- 4 Husband's Aadhaar card
- 5 Minimum age of 19 years
- 6 Father and mother need to give separate undertaking that the child is the first living child for both of them

LIST OF DOCUMENTS

- Total 6 application forms to be filled, with total 30 of 32 pages to be filled by the beneficiary
- As many as 9 IDs to be produced: copy of Aadhaar card (or enrolment slip), copy of Identity proof, copy of Voter ID card (as age proof) for both husband and wife, copy of ration card (as proof of address of marital home), copy of passbook, Mother and Child Protection Card

The form also requires separate undertakings on **“the first living child”** from the **woman and her husband.**

- A mother seeking benefits needs to provide **address proof of her marital home.** It is **challenging for a newlywed** expecting a child and often residing in her natal home during pregnancy.
- The scheme requires an applicant to be **at least 19 years old** which leaves out younger brides, who get married at the legal age of 18 years but hesitate in getting their marriages registered.
 - 30-35% of first-time mothers are under the age of 18 years.**
- The documentation work **leaves out many women living on the margins** such as sex workers, women in custody, migrant and those living in post-conflict situations. They all are unable to claim benefits even though **they are most in need of monetary compensation.**
- Women have to pay a **hefty bribe** during the application process. It goes as high as ₹500/- for each of the three forms so it is not easy for the women coming from financially weaker sections.

Suggestions

- There is a need for reviewing the scheme and **making it universal by removing restrictions** on the number of children as well as including all women, whether they are in the formal or informal sector, engaged in paid or unpaid work.

- The sum promised should be at least **on par with minimum wages for women in self-employment**, unpaid work, or working for less than minimum wages.
- Activists and grassroots workers must make a formal representation to the government highlighting their concerns so that corrective actions can be taken.

Source: TH

Destruction of Public Property

Why in News

- Recently, the **Supreme Court of India** has expressed displeasure over rioting and destruction of public property. In India, the **Prevention of Damage to Public Property Act, 1984** deals with such issues mainly.
- Despite a law against the destruction of property, incidents of rioting, vandalism, and arson have been common during protests across the country.

Prevention of Damage to Public Property Act, 1984

- It punishes anyone **“who commits mischief by doing any act in respect of any public property”** with a jail term of up to five years and a fine or both. Provisions of this law can be coupled with those under the Indian Penal Code.
- Under this Act, **public property includes** “any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy; any oil installation; any sewage works; any mine or factory; any means of public transportation or of telecommunications, or any building, installation or other property used in connection therewith”.
- **In 2007**, the Supreme Court took **suo motu cognizance** on the issue of public and private properties’ destruction and **set up two committees to suggest changes to the law.**

- **Thomas Committee**

- It was headed by former apex court judge **Justice K T Thomas**.
- It suggested that the **prosecution should be required to prove that public property had been damaged in direct action** called by an organisation and that the accused also participated in such direct action.

The court accepted the suggestion and added that the law must be amended to give the court the power to draw a presumption that the accused is guilty of destroying public property and it would then be open to the accused to rebut such presumption.

- Such a reversal of the burden of proof is applicable in cases of sexual violence, among others. Generally, the law presumes that the accused is innocent until the prosecution proves its case.

- **Nariman Committee**

- It was headed by a senior advocate **Fali Nariman**.
- The recommendations of this committee dealt with **extracting damages for destruction**.
- The court accepted them and ruled that the rioters should be made strictly liable and compensation must be collected for the damage done.
- Apart from this, the Supreme Court **directed High Courts to order suo motu action** and to set up a machinery to investigate the damage caused and award compensation wherever mass destruction to the property takes place due to protests.

Way Forward

- Even though guidelines have been issued by the Supreme Court, they have a **limited impact** because the identification of protesters remains difficult especially in protests without leaders.
 - Even if a person has been identified, he/she could not be held liable for loss of property unless there is evidence of him/her calling for violence.
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DSC Prize for South Asian Literature 2019

Why in News

Author Amitabha Bagchi has won the **DSC Prize for South Asian Literature 2019** for his fiction novel - Half The Night Is Gone.

- The DSC Prize for South Asian Literature celebrates the rich and varied world of **literature of the South Asian region**. Authors could belong to this region through birth or be of any ethnicity but the writing should pertain to the South Asian region in terms of content and theme.

The South Asian region includes Afghanistan, Bangladesh, Bhutan, India, the Maldives, Myanmar, Nepal, Pakistan and Sri Lanka.

- The DSC Prize for South Asian Literature was **instituted in 2010** by its founders, Surina Narula and Manhad Narula. The prize is now **administered by the South Asian Literature Prize & Events Trust** which is focused on improving the quality of life in South Asian society.
- The DSC Prize carries an **award of US \$25,000** and over the last eight years, the prize has generated tremendous response in international literary forums.
- **DSC Prize Secretariat** is located in **New Delhi**.

Source: TH

Cauvery Wildlife Sanctuary

Why in News

Several cases of wild elephants dying of electrocution near the **Cauvery Wildlife Sanctuary in Karnataka** have been reported recently.

Cauvery Wildlife Sanctuary

- It was **constituted in 1987 under the Wildlife Protection Act, 1973** for the purpose of Protecting, Propagating or developing Wildlife and its environment.
- It consists of reserve forests in Chamarajnagar, Ramanagar and Mandya Districts of Karnataka State.
- The river **Cauvery forms the boundary** of the sanctuary and also gives it its name.
- Cauvery supports a diversified aquatic fauna, predominant species being **Crocodiles (listed in Schedule I of the Wildlife Protection Act), Otters and Hump-backed Mahseer Fish**.

Hump-backed Mahseer

- **Scientific name:** Tor remadevii.
- These are large freshwater fish, also called the tiger of the water and **found only in the Cauvery river basin (including Kerala's Pambar, Kabini and Bhavani rivers)**. It is **critically endangered in the IUCN's red list**.

NOTE: The Wildlife Protection Act states that no person shall hunt any **'wild animal'**. Most

of the freshwater fishes are included within the definition of 'wildlife' and not 'wild animal' under the Indian Wildlife (Protection) Act 1972. Therefore, majority of fishes are not protected under the act.

Source: TH

Vijay Diwas

Why in News

- Vijay Diwas is observed on **16th December every year** to mark **India's victory over Pakistan in 1971 war**.
- On **16th December 1971**, the chief of the Pakistani forces had surrendered unconditionally to the allied forces consisting of Indian Army and Mukti Bahini in Dhaka.
- The end of the **14-day war** resulted in subsequent **secession of East Pakistan into Bangladesh**.
- To mark the event, Indian Air Force has also felicitated a team of **25 Air Warriors** for undertaking a running expedition from **Kargil to Kohima- aptly named as K2K Ultra Marathon-Glory Run**.

Source: PIB
