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## Supreme Court on Right to Protest

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### Why in News

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Recently, the **Supreme Court** (SC) has upheld the right to peaceful protest against the law but also cleared that public ways and public spaces cannot be occupied and that too indefinitely.

### Key Points

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- **Background:**

- The ruling came after a **petition was filed in the SC** highlighting problems caused by the protests which led to the roadblock and traffic problems.  
Sit-in protests against the **Citizenship (Amendment) Act (CAA), 2019** were organised in the **Shaheen Bagh area of the capital** from **December 2019 to March 2020**.
- The petition highlighted that the Delhi High Court (HC) should have intervened positively and not left the situation fluid and the administration too should have talked to the protesters.
  - Earlier, the petition was filed in **Delhi HC**, which **heard and disposed of the plea the same day without any specific direction**.
  - Despite a lapse of a considerable period of time, there was **neither any negotiations nor any action by the administration**.

- **Issues with the Protest and its Location:**

- Protesters **did not fully realise the ramifications of the Covid-19 pandemic** and **continued large gatherings in a small place** and there was also a general **unwillingness to relocate** to another site.
- The protest seemed typical of the many **digitally-fuelled “leaderless” dissent** seen in modern times.
- The presence of various groups of protesters had resulted in **many influencers, acting possibly at cross-purposes with each other**.

- **Rulings:**

- **On Assembly:**

The **court cannot accept the plea of the applicants** (who sought to intervene in the matter in defence of the protesters) that an **indeterminable number of people can assemble whenever they choose to protest.**

- **On Role of Administration:**

- Such kind of occupation of public ways, whether at the site in question or anywhere else for protests, is **not acceptable and the administration should take action to keep the areas clear** of encroachments or obstructions.
- It highlighted that the State or UT administrations have the **entire responsibility to prevent encroachments** in public spaces and **should not wait for courts** to pass suitable orders.

- **Reference:**

- SC referred to its **2018 judgment** in the *Mazdoor Kisan Shakti Sangathan vs Union of India and Another case*, which dealt with demonstrations at Delhi's Jantar Mantar.
- The judgment **tried to balance the interests of local residents with those of protesters** to hold demonstrations and directed the police to devise a proper mechanism for limited use of the area for peaceful protests and demonstrations and to lay down parameters for this.

- **On technology Involvement:**

- The verdict also **dwelt on the merits and demerits of technology impacting social movements.**
- The ability to scale up quickly, using digital infrastructure, has empowered movements to embrace their **often-leaderless aspirations and evade usual restrictions of censorship.**
- However, social media channels pose the **danger of creating highly polarised environments**, which often see **parallel conversations running with no constructive outcome** evident.

- **SC's Observations on Dissent:**

- SC **appreciated the existence of the right to peaceful protest against the legislation** and held that “**democracy and dissent go hand in hand**, but then the demonstrations expressing dissent have to be in designated places alone”.
- The **seeds of protest and dissent were sown deep during the Freedom struggle** but dissent against the **colonial rule cannot be equated with dissent in a self-ruled democracy**.
- The Constitution **guarantees the right** to protest and express dissent, **but with an obligation towards certain duties**.
  - **Article 19** confers upon citizens the right to freedom of speech and expression under **Article 19(1)(a)** and right to assemble peacefully without arms under **Article 19(1)(b)**.
  - These rights, in cohesion, enable every citizen to assemble peacefully and protest against action or inaction of the State.
- In a democracy, the rights of free speech and peaceful protest are “treasured” and must be **encouraged and respected**.

However, these rights are **also subject to reasonable restrictions** mentioned under **Article 19(2)**, imposed in the interest of sovereignty, integrity and public order with the help of police regulations.
- **Fundamental rights do not live in isolation**. The right of the protester has to be **balanced with the right of the commuter and has to co-exist** in mutual respect.

**Source: TH**