



Section 144 of CrPC

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Why in News

Section 144 of the Code of Criminal Procedure (CrPC) of 1973 has been imposed in **Gurugram**, owing to the rising number of **Covid-19** cases.

Section 144 has often been used to clamp down on telecommunication services and order Internet shutdowns.

Key Points

- **About Section 144 CrPC:**
 - This law empowers the **magistrate of any state or union territory** in India to pass an order **prohibiting the gathering of four or more people in a specified area.**
 - It is **imposed in urgent cases of nuisance or apprehended danger of some event** that has the potential to cause trouble or damage to human life or property.
 - This order can be passed **against a particular individual or general public.**
- **Features of Section 144:**
 - It places **restrictions on handling or transporting any kind of weapon** in the given jurisdiction. The **maximum punishment** for such an act is **three years.**
 - According to the order under this section, there shall be **no movement of public and all educational institutions** shall also remain closed.
 - Further, there will be a **complete bar on holding any kind of public meetings or rallies** during the period of operation of this order.
 - It is **deemed a punishable offence to obstruct law enforcement agencies** from disbanding an unlawful assembly.
 - It **also empowers the authorities to block internet access in the region.**
 - The ultimate purpose of Section 144 is **to maintain peace and order** in the areas where trouble could erupt to disrupt the regular life.

- **Duration of Section 144 Order:**
 - No order under this section can remain in force for a **period of more than 2 months.**
 - Under the state government's discretion, it can choose to **extend the validity for two more months with the maximum validity extendable to six months.**
 - Once the situation becomes normal, Section 144 levied can be withdrawn.
- **Difference between Section 144 and Curfew:**
 - **Section 144 prohibits gathering of four or more people** in the concerned area, while **during curfew people are instructed to stay indoors** for a particular period of time. The government **puts a complete restriction on traffic as well.**
 - Markets, schools, colleges and offices remain closed under the curfew and only essential services are allowed to run on prior notice.
- **Criticism of the Section:**
 - The criticism is that it is **too broad and the words of the section are wide enough** to give **absolute power to a magistrate** that may be exercised unjustifiably.
 - The **immediate remedy** against such an order is a **revision application to the magistrate himself.**
 - An aggrieved individual **can approach the High Court** by filing a writ petition if his fundamental rights are at stake. However, fears exist that before the High Court intervenes, the **rights could already have been infringed.**
- **Court's Ruling on Section 144:**
 - ***Dr Ram Manohar Lohiya case 1967***, the Supreme Court held that "no democracy can exist if 'public order' is freely allowed to be disturbed by a section of the citizens".
 - The Supreme court in another recent judgement said that the **section cannot be used to impose restrictions on citizens' fundamental right to assemble peacefully**, cannot be invoked as a 'tool' to 'prevent the legitimate expression of opinion or grievance or exercise of any democratic rights'.

Way forward

- Section 144 is a **useful tool to help deal with emergencies. However, absence of any narrow tailoring of wide executive powers with specific objectives, coupled with very limited judicial oversight** over the executive branch, makes it ripe for abuse and misuse.
- Before proceeding under this section, the **Magistrate should hold an enquiry and record the urgency of the matter.**
- There is a **need to balance the granting of plenary powers by the legislature to deal with emergent situations, and the need to protect the personal liberty and other freedoms granted to the citizens** under the fundamental rights of the Constitution.

Source: TH