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States Planning to Bypass Central Legislation

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Why in News

Recently, many states are exploring the possibilities of passing legislation under **Article 254(2)** of the Constitution, to negate the enforcement of **three Farm Acts** passed by the Central government under **Entry 33 of the Concurrent List**.

Entry 33 of the Concurrent List mentions trade and commerce, production, supply and distribution of domestic and imported products of an industry; foodstuffs, including oilseeds and oils; cattle fodder; raw cotton and jute.

Key Points

- **The Article 254(2):**
 - It enables a State government to pass a law, on any subject in the Concurrent List, that may contradict a Central law, provided it gets the President's assent.

In 2014, the Rajasthan government took this Article 254 (2) route to make changes to the central labour laws — the Factories Act, the Industrial Disputes act, and the Contract Labour Act — which subsequently got the President's assent.
 - However, the Parliament is not barred from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

- **Background:**
 - The three Farm Acts includes:
 - **Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020**
 - **Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020**
 - **Essential Commodities (Amendment) Act, 2020.**
 - In short, the **Acts aim to do away with government interference in agricultural trade by creating trading areas free of middlemen and government taxes outside the structure of Agricultural Produce Market Committees (APMCs).**
 They also aim to **remove restrictions on private stock holding of agricultural produce.**

Distribution of Legislative Subjects

- **Article 246** adopts a **threefold distribution of legislative power** between the Union and the states.
- The subject-wise distribution of this power is given in the three lists of the **Seventh Schedule** of the constitution:
 - List-I- the **Union List**
 - List-II- the **State List**
 - List-III- the **Concurrent List**
- **Union List:** Parliament has exclusive powers to make laws with respect to any of the matters enumerated in the Union List.
 - It includes the **matters of national importance** and the matters which require uniformity of legislation nationwide.
 - This list includes **98 subjects (originally 97)** like defence, banking, foreign affairs, currency, atomic energy, insurance, communication, inter-state trade and commerce, census, audit and so on.
- **State List:** The state legislature has exclusive powers (not during emergency) to make laws with respect to any of the matters enumerated in the State List.
 - It includes the **matters of regional and local importance** and the matters which permit diversity of interest.
 - This list includes **59 subjects (originally 66)** like public order, police, public health and sanitation, agriculture, prisons, local government, fisheries, markets, theaters, gambling and so on.

- **Concurrent List:** Both, the **Parliament and state legislature** can make laws with respect to any of the matters enumerated in the Concurrent List.
 - It includes the matters on which **uniformity of legislation throughout the country is desirable** but not essential.
 - However **State legislation operates to the extent that it is not in conflict with the Central legislation.** At times, the very presence of a central legislation can negate the state's ability to legislate.
 - This list has at present **52 subjects (originally 47)** like criminal law and procedure, civil procedure, marriage and divorce, population control and family planning, electricity, labour welfare, economic and social planning, drugs, newspapers, books and printing press, and others.
 - The **42nd Amendment Act of 1976** transferred five subjects to Concurrent List from State List i.e **education, forests, weights and measures, protection of wild animals and birds, and administration of justice; constitution and organisation of all courts except the Supreme Court and the High Courts.**

- **Other Features:**

- The power to make laws with respect to **residuary subjects** i.e. the matters which are not enumerated in any of the three lists, is vested in the Parliament.
- Parliament has power to make laws with respect to any part of the territory of India not included in a state even though that matter is one which is enumerated in the State List.

This provision is related to the Union Territories or the Acquired Territories (if any).

Source: TH