



Gujarat Prohibition Law

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Why in News

Recently, the **Gujarat Prohibition Act, 1949** has been challenged before the Gujarat High Court, more than seven decades after it came into effect as the **Bombay Prohibition Act**.

The **prohibition on manufacture, sale and consumption of liquor in the state vide the Gujarat Prohibition Act, 1949**, has been challenged on grounds of 'manifest arbitrariness' and violation of 'right to privacy'.

Key Points

- **Background:**

- **Bombay Abkari Act, 1878:** The first hint at the prohibition of liquor was through the Bombay Abkari Act, 1878 (in the Province of Bombay).

This Act dealt with levying of duties on intoxicants, among other things and aspects of prohibition via amendments made in 1939 and 1947.
- **Bombay Prohibition Act, 1949:** There were “many lacuna” in the Bombay Abkari Act, 1878, from the point of view of the government’s decision to enforce prohibition.
 - This led to the birth of **Bombay Prohibition Act, 1949**.
 - The **Supreme Court (SC)** upheld the Act broadly barring a few sections in 1951 in the judgment of ***State of Bombay and another versus FN Balsara***.
- **Gujarat Prohibition Act, 1949:**
 - Following the **reorganisation of Bombay province into the states of Maharashtra and Gujarat in 1960**, there was continued amendment and **liberalisation in the state of Maharashtra**, especially in 1963.

The ground for the liberalisation of the law was to check the business of illicit liquor.
 - Gujarat **adopted the prohibition policy in 1960** and subsequently chose to enforce it with greater rigidity, but also made processes easier for foreign tourists and visitors to get liquor permits.
 - In 2011, the Act was **renamed as Gujarat Prohibition Act**. In 2017, the **Gujarat Prohibition (Amendment) Act** was passed with provision of up to ten years jail for manufacturing, purchase, sale and transportation of liquor in the dry state.

- **Grounds for Challenging the Act:**

- **The right of privacy:** Any invasion by the state in an individual’s right to choice of food and beverage amounts to an unreasonable restriction and destroys the individual’s decisional and bodily autonomy.

Right to privacy has been held as a fundamental right by the Supreme Court in several judgments since 2017.
- **Ground of Manifest Arbitrariness:** It has been especially highlighted while **challenging sections pertaining to grant of health permits and temporary permits to out-of-state tourists**.

The petitioner says that there are no intelligible differences in the classes thus being created by the state on who gets to drink and who does not and **violates the Right to Equality under Article 14 of the Constitution**.

- **Counter Argument:**
 - **Aggravate the Sense of Violence:** Various research and studies have shown that alcohol tends to aggravate the sense of violence.
 - Most of the domestic violence crimes against women and children are committed behind closed doors.
 - **Constitutional Obligation of State:** Challenging the law, is an “attack on the constitutional obligation of the primary duty of the State as the guardian of the population to protect the health and lives of its people”.
 - **National Prohibition** was advocated by Mahatma Gandhi.
- **Arguments Against Prohibition:**
 - **Loss of Revenue:** Tax revenues from alcohol is a major part of any government’s revenues. These enable the government to finance several public welfare schemes. Absence of these revenues severely impacts state’s ability to run public welfare programmes.
 - **Burden on Judiciary:** Bihar introduced complete prohibition in April 2016. While it certainly has led to reduction in alcohol consumption, the related social, economic, and administrative costs have been far too much to justify gains. Prohibition crippled the judicial administration.
 - So far over 2.14 lakh cases have been registered under the Act; 2.55 lakh people have been booked and 1.67 lakh arrests have been made.
 - Ironically, liquor sales in districts in Uttar Pradesh and West Bengal bordering Bihar have seen a sharp rise.
 - **Source of Employment:** Today, Indian Made Foreign Liquors (IMFL) industry contributes over 1 lakh crore in taxes every year. It supports the livelihood of 35 lakh farming families and provides direct and indirect employment to lakhs of workers employed in the industry.
- **Prohibition in Other States:**

Alcohol prohibition is in force in the states of **Bihar, Mizoram, Nagaland** and the **union territory of Lakshadweep**.
- **Related Constitutional Provisions:**
 - **State Subject:** Alcohol is a subject in the **State list under the seventh schedule of the Indian Constitution**.
 - **Article 47:** The **Directive Principle in the Constitution of India** states that “The state shall undertake rules to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health”.

Way Forward

- Between issues such as morality, prohibition or freedom of choice, there are also **factors like economy, jobs, etc, which cannot be ignored**. What is required is an informed and constructive dialogue on the causes and effects.

- Policy makers should **focus on framing laws which encourage responsible behavior and compliance.**
 - Drinking age should be made uniform across the country and no person below that should be permitted to buy alcohol.
 - Tough laws should be made against drunken behaviour in public, domestic violence under influence, and drinking and driving.
 - The governments should set aside part of revenue earned from alcohol for social education, de-addiction, and community support.

Source: IE