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SC Upheld Authority of Delhi's Peace and Harmony Committee

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Why in News

Recently, the **Supreme Court (SC)** upheld the authority of **Delhi Assembly's Peace and Harmony Committee to summon Facebook India's senior official** in connection with the February 2020 communal violence.

Key Points

- **Central Governments and Facebook's Claim:**

The formation of the Peace and Harmony committee was not within the authority of the Delhi Assembly as **law and order and police of Delhi is a central subject**.

- **Delhi Government's Justification:**

The Delhi Assembly had **relied on various entries in the state list and concurrent list**, by which the Delhi Assembly derived its power to discuss and debate on the issue in question.

- It cited **entry 1 in the state list dealing with public order**, which is distinct from **law and order and entry 1 in concurrent list** which gives sweeping **power to state assemblies to legislate on the subject 'criminal law'**.
- **Entry 39 in the state list that gave assemblies power to enforce the attendance of witnesses for the purpose of recording statements** was also relied upon.

- **SC's Ruling:**

- **Rejected Facebook's abstention:**

- Rejected the simplistic approach adopted by Facebook — that it is merely a platform posting third-party information and has **no role in generating, controlling or modulating that information.**
- Facebook **cannot claim any “exceptional privilege” to abstain** from appearing before the Peace Harmony Committee constituted by the Delhi Assembly.

- **Committee's Competence/Powers:**

An **“informed deliberation” by the Assembly's elected representatives on the best measures to combat online mass hate and violence** in their geographical jurisdiction was very much **within the Committee's competence.**

However Facebook representatives appearing before the Committee **need not answer any query from the Committee directly regarding law, order and the police**, which are subjects on which the Delhi Assembly cannot legislate.

- **Legislative Assembly's Power:**

- Dismissed Facebook's argument that the **Assembly ought to confine itself to making laws** rather than enquire into the circumstances of the riots.
- The Assembly does not only perform the function of legislating; **there are many other aspects of governance** which can form part of the essential functions of the Legislative Assembly and consequently the Committee.
 - **Legislative Privileges** are the rights belonging to the Legislature for effective discharge of their legislative functions.
 - **Article 105 and Article 194** of the Indian Constitution lay down the powers, privileges and immunities of Members of Parliament (MPs) and State Assemblies respectively.
- In the larger context, **the concept of peace and harmony goes much beyond law and order and police**, more so in view of on-the-ground governance being in the hands of the Delhi Government

- **Hybrid Governance:**

- The Centre and Delhi government must work together on governance issues in the Capital. And need to show maturity at their ends.

The social media company(Facebook) sought to take advantage of **“divergence of view”** and the **inability of both the Centre and State government** to “see eye to eye on governance issues in Delhi”.
- The SC Noted that **Delhi's hybrid administration – in which the Union government holds the prerogative for several key areas of governance** –has worked well for many years with different political dispensations in power both at the Centre and State.

Lists to Differentiate Legislative Powers:

There are **three Lists** which provide for distribution of legislative powers (**under 7th Schedule to the Constitution**):

- **Union List (List I)** - It contains **98 subjects (originally 97)** and comprises the **subjects which are of national importance and admit of uniform laws for the whole of the country.**
 - Only the **Union Parliament can legislate with respect to these matters** e.g. Defence, Foreign Affairs, Banking, Currency, Union Taxes, etc.
- **State List (List II)** - It contains **59 subjects (originally 66)** and comprises subjects of local or State interest.
 - It **lies within the legislative competence of the State Legislatures**, viz. Public Order and Police, Health, Agriculture, etc.
- **Concurrent List (List III)** - It contains **52 (Originally 47)** with respect to which; **both Union Parliament and the State Legislature have concurrent power of legislation.** The Concurrent List (not found in any federal Constitution) was to **serve as a device to avoid excessive rigidity to a two-fold distribution.**
 - It is a 'twilight zone', as for not so important matters, the **States can take initiative, while for the important matters, the Parliament can do so.**

Way Forward

- Misinformation on social media has had a **direct impact on vast areas of subject matter which ultimately affect the governance of States.**
- As the court found that the Peace and Harmony Committee still could summon the Facebook official without encroaching upon the turf of the Centre **now opens the gates for scrutiny of social media platforms by other States**, which however have significantly more powers with respect to law and order than the Delhi government.

Source: TH