



Contempt of Court

Why in News

Recently, the **Supreme Court held that its power to punish for contempt under Article 129 is a constitutional power**, which cannot be done away with even by any law.

Key Points

▪ Highlights of the Judgment:

- The power to punish for contempt is a constitutional power vested in this court which **cannot be abridged or taken away even by legislative enactment.**
- **Article 142 (2)** states that “subject to the provisions of any law made in this behalf by Parliament” the **Supreme Court shall have all and every power** to make any order on punishment of any contempt of itself.
 - However, **Article 129** lays down that the Supreme Court shall be a court of record, and shall have all the powers of such a court, **including the power to punish for contempt.**
- The comparison of the two provisions show that whereas the founding fathers felt that the powers under clause (2) of Article 142 could be subject to any law made by the Parliament, there is no such restriction as far as Article 129 is concerned.
- It emphasised that the rationale behind the **contempt jurisdiction is to maintain the dignity of the institution of judicial forums.**

▪ About ‘Contempt of Court’:

- Contempt of court is the power of the court to protect its own majesty and respect. The power is regulated but not restricted in the [Contempt of Courts Act, 1971](#).
 - The expression ‘contempt of court’ has **not been defined by the Constitution.**
 - However, **Article 129** of the Constitution conferred on the Supreme Court the power to punish contempt of itself.
 - **Article 215** conferred a corresponding power on the High Courts.
- The Contempt of Courts Act, 1971 defines both **civil and criminal contempt.**
 - **Civil contempt** refers to wilful disobedience to any judgment of the court.
 - **Criminal contempt** can be invoked if an act:
 - Tends to scandalise or lower the authority of the court.
 - Tends to interfere with the due course of any judicial proceeding.
 - Obstruct the administration of justice.

▪ Related Issues Regarding:

- **Open-Ended Terms:** Section 5 of the Act provides that “fair criticism” or “fair comment” on the merits of a finally decided case would not amount to contempt.
 - However, the determination of what is “fair” is left to the interpretation of judges.

- This open-ended interpretation sometimes **compromise freedom of speech and expression under Article 19.**
- **Violating Principle of Natural Justice:** The judges may often be seen to be acting in their own cause, thus violating the principles of natural justice and adversely affecting the public confidence they seek to preserve through the proceeding.

Way Forward

- Freedom of speech is the most fundamental of the fundamental rights and the restrictions thereupon have to be minimal.
 - The law of contempt of court can impose only such restrictions as are needed to sustain the legitimacy of the judicial institutions.
- Therefore, rules and guidelines must be framed defining the process that superior courts must employ while taking criminal contempt action, keeping in mind principles of natural justice and fairness.

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