



SC Judgement on Delhi-Centre Tussle

The Supreme Court (SC) has delivered a split verdict on the contentious issue of division of powers between the Delhi government and the Central government over control of services, covering issues like transfer of officials, and referred the matter to a larger bench.

Background

- In June 2018, a five-judge Constitution Bench ruled that decisions of the Delhi government will not require the concurrence of the Lieutenant-Governor, except in matters relating to Land, Home, and Public Order.
- However, that judgment was silent on matters relating to services and other issues.
- Recently a number of petitions were filed challenging various notifications including on control of services and power of Anti-Corruption Bureau (ACB).
- The SC gave a verdict on the remaining issues recently.

SC Judgement

- **Control of Services in National Capital**
 - The bench differed on the issue of control of services in the national capital.
 - Justice Sikri said that to facilitate smooth governance in Delhi, transfer, and posting of secretaries and Head of Departments can be done by Lieutenant Governor (LG) while in case of officer of Delhi, Andaman and Nicobar Islands Civil Service (DANICS) and Delhi, Andaman and Nicobar Islands Police Service (DANIPS), the files need to be sent from the council of ministers to the LG.
 - Justice Bhushan, however, differed with the opinion expressed by Justice Sikri and said that under the law, the Delhi government has no power to exercise control over services.
 - After the difference of opinion on the issue of control of services, the bench decided that the matter needs to be referred to a larger bench.
- **Exclusion of the jurisdiction of the Anti-Corruption Branch (ACB) of the Delhi government to investigate officers of Central government**
 - The Supreme Court has stated that the anti-corruption bureau is under the exclusive authority of the lieutenant governor and Delhi government has no power in this regard.
 - SC also said that ACB is not empowered to investigate the offenses of Central Government employees under the Prevention of Corruption Act. Admittedly, this investigation is carried out by the CBI. Therefore, it leads to a conflict of jurisdiction as well.
- **Power to set up Commission Of Inquiry**
 - SC has held that the Delhi state government has no power to set up an inquiry commission to probe corruption cases.
- **The power to appoint the Special Public Prosecutor**
 - SC held that Lieutenant Governor while appointing the Special Public Prosecutor, is to act on the aid and advice of the Council of Ministers.

Article 239 AA and 239AB

- The 69th Amendment Act, 1992 has added two new Articles 239AA and 239AB under which the Union Territory of Delhi has been given a special status.
- Art. 239AA provides that the Union Territory of Delhi shall now be called the National Capital

Territory of Delhi and its administrator shall be known as Lt. Governor.

- It also creates a legislative assembly for Delhi which can make laws on subjects under the State List and Concurrent List except on these matters: public order, land, and police.
- Article 239AB provides that the President may by order suspend the operation of any provision of Article 239AA or of all or any of the provisions of any law made in pursuance of that article. This provision resembles Art.356 (President's Rule)
- It also provides for a Council of Ministers for Delhi consisting of not more than 10% of the total number of members in the assembly.

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