



Protecting the Honour of National Anthem

For Prelims: Article 51 (A), History and evolution of national anthem, Prevention of Insults to National Honour Act 1971

For Mains: Prevention of National Symbols, Honour of National Anthem and Supreme Court's Judgements

Why in News?

Recently the **Executive Magistrate** in Srinagar sent 11 men to jail after detaining them for **allegedly not rising for the National Anthem** at an event where J&K Lt Governor was present.

- The order noted that “there is every likelihood that they may **commit breach of peace and disturb public tranquillity** if released”.
- They were “bound down” for good behaviour under sections **107/151 of CrPC**.

Note:

- In legal terms, to be “bound down” means to be **required to appear before the investigating officer or the court** on a given date.
- The **accused is bound by surety or personal guarantee** to appear before the court.

Who is an Executive Magistrate?

- The CrPC classifies magistrates into 2 types - Executive Magistrates and Judicial Magistrates. Section 3(4) of the CrPC enforces on good relations between the two.
- An Executive Magistrate (EM) is an **officer (or officers) of the Executive branch** who has powers under both **Indian Penal Code (IPC)** and Criminal Procedure Code (CrPC).
- The EMs are **appointed by state governments**, and they focus mainly on **maintaining law & order and performing police and administrative functions**.
 - On the other hand, **Judicial Magistrates give verdicts pronouncing punishments/ penalty/ detention and go through the evidence** in the process of investigation.
 - Also, the Judicial Magistrates are **under direct control of High Courts**.
- EMs **sometimes act as courts** when they take up functions that are judicial in nature while conducting an inquiry (**CrPC Sec.116**) in connection with maintaining peace and order (**CrPC Sec.107**).

What are Section 107 and Section 151 of CrPC?

- **Section 107:** When an EM receives information that any person has disturbed (or is likely to disturb) the peace or public tranquillity, s/he may ask such person to **show cause why they should not be ordered to execute a bond for keeping the peace** (maximum period one

year).

- Any EM can take such an action provided either one (if not both) falls in his/her jurisdiction:
 - The place where such breach of peace is likely to occur
 - The person who is likely to disturb the peace
- **Section 151:** It provides for the **arrest to prevent the commission of [cognisable offences](#)**.
 - It authorises a police officer who comes to know of some persons planning to commit any such offences, to arrest them without a warrant or Magistrate orders.
 - However, they **cannot be held in custody for more than 24 hours** unless further orders (or any other law) provide so.

What is the National Anthem of India?

- **About:**
 - It is one of the [national symbols](#) of India, composed by [Rabindranath Tagore](#). The anthem **highlights India's national heritage** and demonstrates patriotism and loyalty to the country.
- **Origin:**
 - On December 27, **1911**, Tagore performed the anthem for the **first time in an INC session in Calcutta**.
 - It was again performed in **1941** by [Subhash Chandra Bose](#) but he adopted a slightly different version from the original song, called '**Shubh Sukh Chain**'.
- **Evolution and Adoption:**
 - Tagore wrote the first anthem in Bengali '**Bharoto Bhagyo Bidhata**' which later was edited and translated as '**Jana Gana Mana**'.
 - It was adopted as the national anthem on January 24, 1950, announced by the then President [Dr Rajendra Prasad](#).

What are the Safeguards to Protect the Honour of the National Anthem?

- **Article 51 (A):**
 - It is part of the [Fundamental duties](#) of the citizens of India.
 - **Every Indian citizen has a responsibility** to uphold the Constitution's values and institutions, as well as the National Flag and the **National Anthem**.
- **Prevention of Insults to National Honour (PINH) Act, 1971:**
 - The Act stated that **strict punishment** will be meted out for **disrespecting the national anthem and breaking its restrictions**.
 - The accused shall be punished with **imprisonment for up to 3 years or a fine** or both.
- **National Anthem Code of Conduct:**
 - It provides that whenever the Anthem is sung or played, the **audience shall stand to attention**.
 - However, when in the course of a newsreel or documentary the Anthem is played as a part of the film, it is **not expected of the audience to stand**.
 - It also lists the occasions where the short or full versions of the National Anthem will be played.

What are the SC's Views Regarding Honour of the National Anthem?

- ***Bijoe Emmanuel & Ors vs State of Kerala & Ors. (1986):***
 - The law around alleged disrespect to the National Anthem was laid down by the [Supreme Court \(SC\)](#) in this case.
 - The SC granted protection to 3 children belonging a Christian sect, iterating that forcing them to sing the national anthem was **violative of their fundamental right to [freedom of religion \(Article 25\)](#)**.
 - Their parents pleaded before Kerala HC that the Jehovah's Witnesses sect of Christianity permitted worship of only Jehovah (Hebrew name for God). **Since the anthem is a prayer, they could stand up in respect, but could not sing**.

- The SC held that standing up respectfully but not singing oneself **neither prevents the singing of the National Anthem nor causes disturbance** to people assembled to sing. Hence, it **does not constitute an offence under PINH Act 1971.**
- **Shyam Narayan Chouksey vs Union of India (2018):**
 - While hearing the same case in 2016, the SC had passed an interim order **mandating all the Indian cinema halls to play the National Anthem** before the beginning of the film and **all those present in the hall are obliged to stand up.**
 - However, in its final judgement on the case in **Jan 2018, the SC modified its order** - "Playing of the National Anthem prior to the screening of feature films in cinema halls is **not mandatory, but optional or directory**".

UPSC Civil Services Examination Previous Year Question (PYQ)

Q. With reference to Madanapalle of Andhra Pradesh, which one of the following statements is correct? (2021)

- (a) Pingali Venkayya designed the tricolour Indian National Flag here.
- (b) Pattabhi Sitaramaiah led the Quit India Movement of Andhra region from here.
- (c) Rabindranath Tagore translated the National Anthem from Bengali to English here.
- (d) Madame Blavatsky and Colonel Olcott set up headquarters of Theosophical Society first here.

Ans: (c)

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