



Civil Servants and Freedom of Speech

For Mains: Right of Civil Servants to Express their Views on Government Policy and Action

Why in News?

A senior IAS officer from Telangana, tweeted from her personal account in support of Ms. Bano and questioned the Gujarat government's decision of releasing **11 men convicted on charges of gang-raping Bilkis Bano** during the 2002 Gujarat riots.

- It prompted a debate about whether the officer **breached the Civil Service (Conduct) Rules of 1964** and revived the debate about **civil servants' right to express their personal views on matters of law and governance.**

What is Bilkis Bano Case?

- **About:**
 - On 15th August 2022, 11 convicts who were serving life sentences for rape and murder in the case, walked out of prison to a heroes' welcome.
 - Many also **pointed out that the release is in contravention of guidelines issued by both the federal government** and the Gujarat state government - both say that rape and murder convicts cannot be granted remission.
 - Life terms in these crimes are usually served until death in India.
 - The Supreme Court has asked the Gujarat government for its response after taking up petitions filed by opposition politicians and activists.
- **Role of Civil Servant:**
 - Adding the word "civil servant" by the officer in the tweet on Bilkis Bano Case is aligned with the sense that the **dharma of the civil servant is to uphold constitutional principles in letter and in spirit, and the rule of law.**
 - In this case, **both the spirit of the Constitution and the rule of law were being subverted.**
 - This **could be a very dangerous precedent**, as recently when the Andhra Pradesh government released eight murder convicts (on remission, despite them not completing the mandatory 14 years in jail).
 - For some actions if civil servants, whether retired or in service, speak up, that would have some kind of a deterrent [effect] on the arbitrary abuse of bureaucratic power.

Can a Civil Servant Express their Views on Government Policy and Action?

- A civil servant has the right to tweet because the citizens of this country have the **fundamental right of free speech (Article 19)** guaranteed to them under the Constitution, which is subject to reasonable restrictions in the interest of securing the state's sovereignty, international relations,

health, morality, etc.

- But when a **civil servant undertakes government service**, he/she subject themselves to certain disciplinary rules.
 - That prevents a **government servant from becoming a member of a political organisation, or any organisation** of such a nature, or expressing herself freely with regard to anything that has to do with the governance of the country.
 - This rule is from the British era and **there is no doubt that the British were very, very strict** and didn't want their officers to be talking about how bad the governance was.
- But in a democracy, the **right to criticise the government is a fundamental right**.

What are the Related Judgements?

- **Lipika Paul v. the State of Tripura:**
 - In a landmark judgment, in January of 2020, the **High Court of Tripura ruled that 'a government servant is not devoid of her right of free speech, a fundamental right.'**
 - The Court did **acknowledge that the expression of the right to speech is subject to curtailment in certain circumstances**; nevertheless, the judgment has significant implications concerning the right to freedom of expression for government employees.
 - In the Bilkis Bano case, the officer was entitled to hold her own beliefs and express them in the manner she desired, subject to not crossing the borders laid down in the Conduct Rules which were applicable in Tripura.
 - A fundamental right cannot be curtailed except by a valid law made by a legislature.
 - **Rule 9 of the Rules of the Central Civil Services (Conduct) Rules states**, "No Government servant shall... make any statement of fact or opinion... which has the effect of an adverse criticism of any current or recent policy or action of the Central Government or a State Government."
- **Kerala High Court Judgement:**
 - In 2018, the Kerala High Court had said "One cannot be prevented from expressing his views merely because he is an employee".
 - In a democratic society, **every institution is governed by democratic norms**.

Way Forward

- **Uphold Democratic Values:**
 - Nowadays, many government officers and ministers are encouraged to communicate government policies to the general public through social media.
 - Unfortunately, **government officers are given only one way of encouragement** i.e., to say good things in the media.
 - The problem with this is that if any policy is being implemented **everybody has a right to express his or her opinion, a right to object, a right to dissent in a democracy**.
- **Upholding Rights of the Officer:**
 - **Government officers have a duty to increase transparency about policies through social media**. A case-by-case approach must be followed.
- **Need is to make Differentiation:**
 - The **need** of the hour is to **make a differentiation between what is something that's going to hurt society, hurt the Constitution, and the rule of law**.
 - In the case of Bilkis Bano, the **Supreme Court ordained the release of convicts on remission**, which was executed by the Gujarat government, and the (question is over how it has been done), which was an exception.

[Source: TH](#)

