



## Section 144 CrPC

**For Prelims:** Section 144, CrPC, High Court, fundamental rights, Citizenship (Amendment) Act

**For Mains:** Issues with Section 144 CrPC, Issues Arising Out of Design & Implementation of Policies

### Why in News?

Recently, the administration of Uttarakhand's Haridwar district imposed prohibitory orders under [Section 144 of the Code Of Criminal Procedure \(CrPC\), 1973](#) near the town of Roorkee.

### What is Section 144 CrPC?

#### ▪ About:

- This law **empowers the magistrate of any state or union territory in India** to pass an order prohibiting the gathering of four or more people in a specified area.
- It is **imposed in urgent cases of nuisance or apprehended danger** of some event that has the potential to cause trouble or damage to human life or property.
- This order can be **passed against a particular individual or general public.**

#### ▪ Features of Section 144:

- It **places restrictions on handling or transporting** any kind of weapon in the given jurisdiction.
  - The **maximum punishment for such an act is three years.**
- According to the order under this section, **there shall be no movement of public** and all educational institutions shall also remain closed.
- Further, **there will be a complete bar on holding any kind of public meeting or rallies** during the period of operation of this order.
- It is **deemed a punishable offence to obstruct law enforcement agencies** from disbanding an unlawful assembly.
- It also **empowers the authorities to [block internet access](#)** in the region.
- The ultimate purpose of Section 144 is to **maintain peace and order in the areas** where trouble could erupt to disrupt the regular life.

#### ▪ Duration of Section 144 Order:

- **No order** under this section **can remain in force for a period of more than 2 months.**
- Under the state government's discretion, **it can choose to extend the validity for two more months** with the **maximum validity extendable to six months.**
- Once the situation becomes normal, **Section 144 levied can be withdrawn.**

### What is the Difference between Section 144 and Curfew?

- **Section 144 prohibits the gathering of four or more people** in the concerned area, while during **curfew people are instructed to stay indoors** for a particular period. The government puts a complete restriction on traffic as well.
- **Markets, schools, colleges and offices remain closed under the curfew** and only essential services are allowed to run on prior notice.

## Why has this Section been Criticized?

- **Gives Absolute Power:**
  - It is **too broad and the words of the section are wide enough** to give **absolute power to a magistrate** that may be exercised unjustifiably.
    - The **immediate remedy against such an order is a revision application** to the magistrate himself.
- **Infringement of Rights:**
  - An aggrieved individual can approach the **High Court** by filing a **writ petition** if his **fundamental rights** are at stake.
    - However, fears exist that before the High Court intervenes, **the rights could already have been infringed.**
- **Imposing Prohibition on Large Area not Justifiable:**
  - **Imposing prohibitory orders over a very large area is not justified** because the security situation differs from place to place and cannot be dealt with in the same manner.
    - Prohibitory orders over a very large area were ordered in all of Uttar Pradesh during the protests against the **Citizenship (Amendment) Bill.**

## What has been the Court's Ruling on Section 144?

- **Dr Ram Manohar Lohiya case 1967:** The **Supreme Court** held that “no democracy can exist if ‘public order’ is freely allowed to be disturbed by a section of the citizens”.
- **‘Madhu Limaye vs Sub-Divisional Magistrate, 1970:**
  - A seven-judge Bench headed by then Chief Justice of India M Hidayatullah said the **power of a magistrate under Section 144 “is not an ordinary power flowing from administration** but a power used in a judicial manner and which can stand further judicial scrutiny.
    - The court, however, **upheld the constitutionality of the law**, ruling that the **restrictions imposed through Section 144 are covered under the “reasonable restrictions”** to the fundamental rights laid down under **Article 19(2) of the Constitution.**
    - The Court held that the fact that the **“law may be abused” is no reason to strike it down.**
- In 2012, the Supreme Court **criticised the government for using Section 144** against a sleeping crowd in Ramlila Maidan.
  - The court held that such a provision **can be used only in grave circumstances** for maintenance of public peace.
  - The efficacy of the provision is to **prevent some harmful occurrence immediately.** Therefore, the emergency must be sudden and the consequences sufficiently grave.
- The Supreme Court also held that **such a section cannot be used to impose restrictions on citizens' fundamental right** to assemble peacefully, cannot be invoked as a 'tool' to 'prevent the legitimate expression of opinion or grievance or exercise of any democratic rights'.

## Way Forward

- Section 144 is a **useful tool to help deal with emergencies.** However, absence of any narrow tailoring of wide executive powers with specific objectives, coupled with very limited judicial oversight over the executive branch, makes it ripe for abuse and misuse.
- Before proceeding under this section, the **Magistrate should hold an enquiry and record the urgency of the matter.**
- There is a **need to balance the granting of plenary powers** by the legislature to deal with emergent situations, and the need to protect the personal liberty and other freedoms granted to the citizens under the fundamental rights of the Constitution.

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