



## 91st Amendment & Ceiling on Cabinet

**For Prelims:** Public interest Litigation (PIL), Cabinet minister, 91st Amendment) Act, 2003

**For Mains:** Public Interest Litigation, Parliament

### Why in News?

Recently, the **High Court of Bombay** noted that **arguable issues have been raised** in a [Public Interest Litigation \(PIL\)](#) challenging the “lifetime status of the rank of [Cabinet minister](#)” according to **Pratap Singh Rane, a six-time Chief Minister of Goa** and a **legislator for a full 50 years**.

- The PIL has contended that Goa has a **12-member Cabinet**, and the conferment of Cabinet status on Rane results in the number of **Cabinet ranks rising to 13**, which exceeds the **ceiling mandated by the Constitution**.
- This limit was set by **91<sup>st</sup> Amendment) Act, 2003** to the Indian Constitution.

### What is the 91<sup>st</sup> Amendment Act?

- The Constitution (**91<sup>st</sup> Amendment) Act, 2003** inserted **clause 1A in Article 164**, which says “the **total number of Ministers, including the Chief Minister, in the Council of Ministers in a State** shall not exceed **15%** of the **total number of members of the Legislative Assembly of that State**.”
  - It also provided that the number of Ministers, including the Chief Minister in a State shall **not be less than twelve**”.
- Similar amendments were also **made under Article 75**.
  - According to it, the PM shall be appointed by the [President](#) and the other Ministers **shall be appointed by the President on the advice of the PM**.
  - The total number of ministers, including the Prime Minister, in the COM shall not exceed **15% of the total strength of the Lok Sabha**.
- The purpose of the 91<sup>st</sup> Amendment was to prevent jumbo Cabinets and the resultant drain on the public exchequer.

### What is the Council of Ministers?

- **Article 74 of the Constitution** deals with the status of the **council of ministers** while Article 75 deals with the appointment, tenure, responsibility, qualification, oath and salaries and allowances of the ministers.
- The **COM consists of three categories of ministers, namely, cabinet ministers, ministers of state, and deputy ministers**. At the top of all these ministers stands the Prime Minister.
  - **Cabinet Ministers:** These head the important ministries of the Central government like home, defense, finance, external affairs and so forth.
    - The Cabinet is the chief policy formulating body of the Central government.
  - **Ministers of State:** These can either be given independent charge of ministries/ departments or can be attached to cabinet ministers.

- **Deputy Ministers:** They are attached to the cabinet ministers or ministers of state and assist them in their administrative, political, and parliamentary duties.

## What is Public Interest Litigation?

- Public interest Litigation (PIL) means **litigation filed in a court of law**, for the protection of **“Public Interest”**, such as **Pollution, Terrorism, Road safety, Constructional hazards etc.**
  - Any matter where the interest of the public at large is affected can be redressed by filing a Public Interest Litigation in a court of law.
- Public interest litigation is **not defined in any statute or in any act**. It has been interpreted by judges to consider the intent of the public at large.
- Public interest litigation is the **power given to the public by courts through judicial activism**.
  - However, the person filing the **petition must prove to the satisfaction of the court that the petition is being filed for a public interest** and not just as frivolous litigation by a busy body.
- The court can itself take **cognizance of the matter and proceed suo motu** or cases can commence on the petition of any public spirited individual.
- **Some of the matters which are entertained under PIL are:**
  - **Bonded Labour** matters
  - Neglected Children
  - Non-payment of minimum wages to workers and exploitation of casual workers
  - Atrocities on women
  - Environmental pollution and disturbance of ecological balance
  - Food adulteration
  - Maintenance of heritage and culture
- The era of the PIL movement was heralded by **Justice P.N. Bhagawati** in the case of **S.P. Gupta vs. Union of India 1981**.
  - In this case it was held that “any member of the public or social action group acting Bonafide” can invoke the **Writ Jurisdiction of the High Courts (under article 226) or the Supreme Court (under Article 32)**.
  - Through PIL any person can seek redressal against violation of legal or constitutional rights of persons who due to social or economic or any other disability cannot approach the Court.

## UPSC Civil Services Examination Previous Year Questions

**Q. Out of the following statements, choose the one that brings out the principle underlying the Cabinet form of Government: (2017)**

- (a) An arrangement for minimizing the criticism against the Government whose responsibilities are complex and hard to carry out to the satisfaction of all.
- (b) A mechanism for speeding up the activities of the Government whose responsibilities are increasing day by day.
- (c) A mechanism of parliamentary democracy for ensuring collective responsibility of the Government to the people.
- (d) A device for strengthening the hands of the head of the Government whose hold over the people is in a state of decline.

**Ans: (c)**

**Source: IE**

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