Delhi High Court Decriminalises Beggary

The Delhi High Court has decriminalised beggary by striking down Delhi Prevention of Begging Rules, 1960, formulated under the Bombay Prevention of Begging Act, 1959 as unconstitutional.

- The court has held that the Begging Act **violated Article 14 (equality before law) and Article 21 (right to life and personal liberty)** of the Constitution.
- The court noted that the definition of begging under the Act was arbitrary.
- It also held that under Article 21 of the Constitution, it was the **state's responsibility to provide the basic necessities for survival** (food, clothing, shelter), to all its citizens. Poverty was the result of the state's inability or unwillingness to discharge these obligations.
- A move to criminalise them will make them invisible without addressing the root causes of the problem. The root cause is poverty, which has many structural reasons: no access to education, social protection, discrimination based on caste and ethnicity, landlessness, physical and mental challenges, and isolation.
- The court said that the state is at liberty to bring in alternative legislation to curb any racket of forced begging after undertaking an empirical examination on the sociological and economic aspects of the matter.
- Provisions including those permitting the arrest, without a warrant, any person found begging, taking the person to court, conducting a summary inquiry and detaining the person for up to 10 years have been struck down.
- The court has not struck down provisions that do not treat beggary per se as an offence, including the provision which deals with penalty for employing or causing persons to beg. This addresses forced begging or begging rackets, which are used to justify retaining the Act.

Bombay Prevention of Begging Act, 1959

- There is **no central Act on beggary**, many states and Union Territories have used the Bombay Act as the basis for their own laws.
- The Act **defines a "beggar"** as anyone having no visible means of subsistence, and wandering about or remaining in any public place in such condition or manner, as makes it likely that the person doing so exists by soliciting or receiving alms.
- "**Begging**" under the Act includes soliciting or receiving alms in a public place, whether or not under any pretence of singing, dancing, fortune-telling, performing or offering any article for sale.
- The Act gives the police the power to arrest individuals without a warrant. It gives magistrates the power to commit them to a a detention centre for up to three years on the commission of the first "offence", and up to 10 years upon the second "offence". Before that, it strips them of their privacy and dignity by compelling them to allow themselves to be fingerprinted.
- The Act also authorises the detention of the family of the beggar, and the separation of children over the age of five.
- Certified institutions or detention centres have absolute power over detainees, including the power of punishment, and the power to exact "manual work". Disobeying the rules of the institution can land an individual in jail.

History of Legislation

- The Act was formulated with the objective of keeping the streets of then Bombay clear of the destitute, leprosy patients or the mentally ill so they could be sent into institutions.

- The Act gave powers to a chief commissioner to order the immediate, indefinite detention of any person detained in a certified institution who is considered blind, a cripple or otherwise incurably helpless.
- The Act has been seen as one strand from the colonial laws that dehumanised communities and ways of life.
- The Act has been criticised for treating individuals as subjects to be controlled and administered, rather than rights-bearing citizens.

Significance

- In decriminalising begging, the court has validated the idea that **poverty is a human rights issue**. It has emphasised that the denial of the right to life, livelihood and dignity to the poor is a patent violation of fundamental rights that cannot and should not be tolerated in a country governed by rule of law.
- The judgment recognises the Constitution as a transformative document, which seeks to undo legacies of injustice and lift up all individuals and communities to the plane of equal citizenship.

Way Forward

- A court can strike down an unconstitutional law, but it cannot reform society. Poverty is a systemic and structural problem.
- It is the task of the Legislative Assembly and the government to replace the punitive structure of the Begging Act with a new set of measures that genuinely focus on the rehabilitation and integration of the most vulnerable and marginalised members within the society.