



SC Upheld Authority of Delhi's Peace and Harmony Committee

Why in News

Recently, the [Supreme Court \(SC\)](#) upheld the authority of **Delhi Assembly's Peace and Harmony Committee to summon Facebook India's senior official** in connection with the February 2020 communal violence.

Key Points

▪ Central Governments and Facebook's Claim:

- The formation of the Peace and Harmony committee was not within the authority of the Delhi Assembly as **law and order and police of Delhi is a central subject**.

▪ Delhi Government's Justification:

- The Delhi Assembly had **relied on various entries in the state list and concurrent list**, by which the Delhi Assembly derived its power to discuss and debate on the issue in question.
 - It cited **entry 1 in the state list dealing with public order**, which is distinct from **law and order and entry 1 in concurrent list** which gives sweeping **power to state assemblies to legislate on the subject 'criminal law'**.
 - Entry **39 in the state list that gave assemblies power to enforce the attendance of witnesses for the purpose of recording statements** was also relied upon.

▪ SC's Ruling:

◦ Rejected Facebook's abstention:

- Rejected the simplistic approach adopted by Facebook — that it is merely a platform posting third-party information and has **no role in generating, controlling or modulating that information**.
- Facebook **cannot claim any "exceptional privilege" to abstain** from appearing before the Peace Harmony Committee constituted by the Delhi Assembly.

◦ Committee's Competence/Powers:

- An **"informed deliberation" by the Assembly's elected representatives on the best measures to combat online mass hate and violence** in their geographical jurisdiction was very much **within the Committee's competence**.

- However Facebook representatives appearing before the Committee **need not answer any query from the Committee directly regarding law, order and the police**, which are subjects on which the Delhi Assembly cannot legislate.

◦ Legislative Assembly's Power:

- Dismissed Facebook's argument that the **Assembly ought to confine itself to making laws** rather than enquire into the circumstances of the riots.
- The Assembly does not only perform the function of legislating; **there are many other aspects of governance** which can form part of the essential functions of the Legislative Assembly and consequently the Committee.
 - **Legislative Privileges** are the rights belonging to the Legislature for effective discharge of their legislative functions.
 - **Article 105 and Article 194** of the Indian Constitution lay down the powers, privileges and immunities of Members of Parliament (MPs) and State Assemblies respectively.
- In the larger context, **the concept of peace and harmony goes much beyond law and order and police**, more so in view of on-the-ground governance being in the hands of the Delhi Government
- **Hybrid Governance:**
 - The Centre and Delhi government must work together on governance issues in the Capital. And need to show maturity at their ends.
 - The social media company(Facebook) sought to take advantage of **"divergence of view"** and the **inability of both the Centre and State government** to "see eye to eye on governance issues in Delhi".
 - The SC Noted that **Delhi's hybrid administration - in which the Union government holds the prerogative for several key areas of governance** -has worked well for many years with different political dispensations in power both at the Centre and State.

Lists to Differentiate Legislative Powers:

- There are **three Lists** which provide for distribution of legislative powers (**under 7th Schedule to the Constitution**):
 - **Union List (List I)** - It contains **98 subjects (originally 97)** and comprises the **subjects which are of national importance and admit of uniform laws for the whole of the country**.
 - Only the **Union Parliament can legislate with respect to these matters** e.g. Defence, Foreign Affairs, Banking, Currency, Union Taxes, etc.
 - **State List (List II)** - It contains **59 subjects (originally 66)** and comprises subjects of local or State interest.
 - It **lies within the legislative competence of the State Legislatures**, viz. Public Order and Police, Health, Agriculture, etc.
 - **Concurrent List (List III)** - It contains **52 (Originally 47)** with respect to which; **both Union Parliament and the State Legislature have concurrent power of legislation**. The Concurrent List (not found in any federal Constitution) was to **serve as a device to avoid excessive rigidity to a two-fold distribution**.
 - It is a 'twilight zone', as for not so important matters, the **States can take initiative, while for the important matters, the Parliament can do so**.

Way Forward

- Misinformation on social media has had a **direct impact on vast areas of subject matter which ultimately affect the governance of States**.

- As the court found that the Peace and Harmony Committee still could summon the Facebook official without encroaching upon the turf of the Centre **now opens the gates for scrutiny of social media platforms by other States**, which however have significantly more powers with respect to law and order than the Delhi government.

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