

CENTRE VS DELHI GOVT AGAIN

WHAT THE BILL PROPOSES

- The term "Government" in any law by the legislative assembly will mean "Lieutenant Governor"
- The assembly shall not make rules or committees to consider day-to-day administration or conduct inquiries
- Rule or committee made before the new amendment comes into force "shall be void"
- Before taking any executive action, opinion of the L-G shall be obtained by a general or special order
- L-G shall have power to reserve for consideration any bill, and any of the matters outside the purview of the powers conferred on the legislative assembly



Bill will define responsibilities in line with the constitutional scheme of governance of national Capital, as interpreted by SC

—AMIT SHAH, UNION HOME MINISTER

DELHI GOVT'S RESERVATIONS

- Article 239AA says legislature can make laws on any matters on state and concurrent list except for issues relating to public order, police and land.
- SC's Constitution bench in 2018 recognised assembly's right, and said Union has exclusive powers only in the above 3 issues.
- SC said L-G should work with aid and advice of council of ministers
- SC order clarified that L-G has not been entrusted with any independent decision-making power
- While any matter of dispute can be sent to President, the SC said it does not mean every matter should be

After being rejected by people of Delhi, BJP seeks to drastically curtail powers of elected govt. Bill is dilution of SC judgment.



—ARVIND KEJRIWAL, CM—

Contentions, Post the 2018 Verdict

- **Tussle Related to control over agencies:** Namely the Anti-Corruption Bureau, the Civil Services, and the Electricity Board.
- **Issues related to the Power of appointment:** Appointing the Public Prosecutor in Delhi and a Commission of Enquiry under the Commissions of Enquiry Act, 1952.
- **Split SC verdict on services:** While one Judge found that services were totally outside the purview of the Government of NCT, the other held that officers below the rank of the joint secretary are under the control of the Government of NCT, thus needing a reference to a larger bench.
- **The GNCTD Amendment Act, 2021:** The introduced amendment tilted the balance of power in favor of the L-G, defining the word Government as "L-G". This prompted fierce protests from the Delhi government and revived an old power tussle for control of the Capital.
- **The Delhi Municipal Corporation (Amendment) Bill, 2022:** legislation to unify 3 municipal corporations of Delhi into one entity reignited the debate over control of municipal bodies and the efficient use of resources.

Way Forward

- Decentralisation of decision-making based on **Principle of Subsidiarity**.
- **Defining contours of Jurisdiction:** Delhi's governing structure is by far the most convoluted with a multiplicity of overlapping sub-national jurisdictions, including the Delhi government, New Delhi Municipal Council, Municipal Corporation of Delhi, and Cantonment Board, each supervised by a different agency or government.
 - ◆ Clear demarcation of functions of multiple agencies.
- **Rationalizing bodies:** There are over 100 para-statal institutions involved in providing different services, often duplicating each other's works in Delhi.
- **Cooperative Federalism:** Taking decisions in the spirit of cooperative and collaborative federalism.
- **A Committee for quick decisions** can be formed including representatives of both LG and elected government to analyze the matter which could help in taking decisions quicker.
- **Role of Supreme Court:** Ensuring time-bound settlement of contentions with an aim to achieve **Ease of Governance**.
- **Institutionalized dispute resolution mechanism** to ensure amicable settlement of disputes.
- **Mutual Trust and respecting the Principles of Democratic polity** with an aim to achieve Public good.
- **Learning from International examples:** Brasilia and Canberra are pretty similar to Delhi in structure and form and enjoy more devolved powers.

“ The Gist

Delhi's governance needs a new re-imagination. Learning from international examples, and conceptualizing a new structure, can be a way forward. The harmonious relationship between the LG/Union Government and the Delhi Government is necessary to preserve the solid foundations of federalism and democracy on which our country has thrived.

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI (AMENDMENT) ACT 2021

- It provided that the term "**government**" referred to in any law made by the Legislative Assembly of Delhi will imply the Lieutenant Governor (L-G).
- **Rules of Procedure of the Assembly:** The Act provides that the rules to regulate the procedure and conduct of business in the Assembly must be consistent with the Rules of Procedure and Conduct of Business in the Lok Sabha.
- **Inquiry by the Assembly into administrative decisions:** It prohibits the Legislative Assembly from making any rule to enable itself or its Committees to consider the matters of day-to-day administration and conducting any inquiry in relation to administrative decisions.
- **LG's opinion for executive actions:** The Act adds that on certain matters, as specified by the LG, his opinion must be obtained before taking any executive action on the decisions of the Minister/ Council of Ministers..