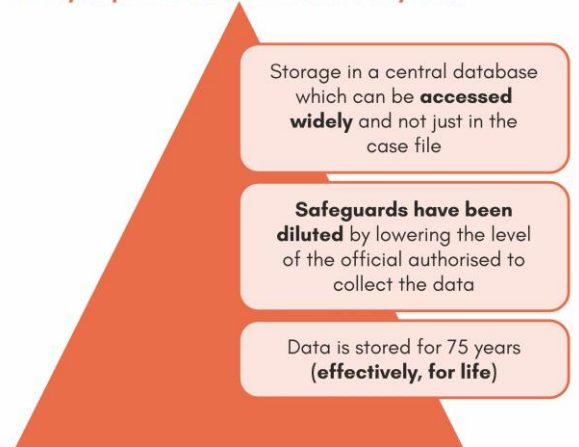


- **Metropolitan Magistrate or Judicial Magistrate** of first class. In case of persons required to maintain good behaviour or peace, the **Executive Magistrate**.

### Concerns about the Act

- **Act may violate right to privacy:** The information specified under the Act **forms part of the personal data** of individuals, thus protected under the **right to privacy**. Several provisions (Refer infographic) of Act may not meet the **necessity and proportionality standards laid out by Supreme Court in 2017**.
- **Differs from Law commission observation:** The Act expands the **set of persons whose data may be collected** to include persons convicted or arrested for any offence. This would include **someone arrested for rash and negligent driving**, which carries a penalty of a **maximum imprisonment of six months**.
  - It also **expands the power of the Magistrate** to order collection from any person (earlier only from those arrested) to aid investigation.
  - This differs from the observation of the **Law Commission (1980)** that the 1920 Act is based on the principle that the **less serious the offence, the more restricted should be the power** to take coercive measures.
- **Other issues:**
  - May also violate **Article 20(3)** of the Constitution, which is a fundamental right that guarantees the **right against self-incrimination**.
  - **Definition of measurements** to include several types of personal information, all of which have **varying degrees of reliability and usefulness** when it comes to criminal investigations, is **manifestly arbitrary**.
  - Concerns about the **need to conduct capacity building and training exercises** for individuals who will be collecting the measurements as **no standardised norms for collection** are prescribed.
  - **NCRB is ill-equipped** to deal with quality management for a database containing records of the proposed measurements, particularly of **biological samples and their analysis**.
  - **No limitations on the use** of the data collected and the term "**analysis**" is **left undefined**. **Lack of clarity** in the collection and usage of the 'measurements' **heightens the possibilities of misuse**.

### Provisions that may not meet the standards laid out by Supreme Court in Puttaswamy case



### Conclusion

A law that restricts fundamental rights must be sufficiently **clear and precise** in terms of the **extent, scope and nature** of the interference allowed, along with the **presence of sufficient safeguards** to prevent abuse of powers by authorities.

## 1.4. NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST)

### Why in news?

Standing Committee on Social Justice and Empowerment highlighted that **National Commission for Scheduled Tribes (NCST)** has been **dysfunctional** for the last four years and has **not delivered a single report** to Parliament.

### Need for NCST

- **Low literacy rate:** As per Census 2011, literacy rate of Scheduled Tribes (STs) **was 59%** whereas the overall literacy rate was **73% at all India level**.
- **Poor health indicators:** For example, according to the NFHS 4, the **under-5 mortality** among the tribal population was **57.2 per 1000 live births** compared to **38.5 among others**, and the **infant mortality rate (IMR)** **44.4 per 1000 live births** versus others of 32.156.

### About NCST

- NCST was established by amending Article 338 and inserting a new **Article 338A** in the Constitution through the **Constitution (89th Amendment) Act, 2003**.
- By this amendment, the **erstwhile National Commission for Scheduled Castes and Scheduled Tribes** was replaced by **two separate Commissions** namely National Commission for Scheduled Castes (NCSC), and the National Commission for Scheduled Tribes (NCST) w.e.f. **19 February 2004**.