

Supreme Court Rules in Favour of Delhi Govt in Tussle with Centre

May 12, 2023 • vajiramandravi.com



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Why in News?

- A five-judge constitutional bench of the Supreme Court held that the Delhi G will have legislative and executive control over administrative services in the National Capital Territory of Delhi (NCTD) except with regard to public order, police and land.

Background of the Case

- A five-judge Constitution Bench of the Supreme Court was hearing the dispute between the Delhi government and the Central government.
- The dispute was over matters pertaining to **control over the transfers and the overall functioning of administrative services in the National Capital Territory (NCT) of Delhi**.
- The administrative services include appointments and transfers, in the national capital.

What gave Rise to this Dispute?

- **Article 239 AA** was inserted in the Constitution by the **69th Constitutional Amendment Act, 1991**.
 - Based on the recommendations of **S Balakrishnan Committee**, it gave special status to Delhi.
- It says that the **National Capital Territory (NCT) of Delhi will have an Administrator and a Legislative Assembly**.
 - The Legislative Assembly “shall have power to make laws for the whole or any part of the NCT w.r.t. any of the matters in the State List or Concurrent List in so far as any such matter is applicable to Union territories”.
 - However, the legislative assembly of Delhi cannot legislate on the following three subjects – **Police, Public Order**, and **Land**.
- However, in the past few years, governance in the NCT has often been a subject of conflict between the Delhi government and the L-G.

Control Over Administrative Services of Delhi

- In 2019, a two-judge bench of the SC delivered a split verdict on the aspect of who controls administrative services in Delhi.
- The two-judge bench had recommended that a three-judge bench be set up to decide the issue of control of administrative services.
- Further, in May 2022, a three-judge Bench had referred this case to a larger Bench on the Central government’s plea.
- The three-judge Bench had decided that the question of control over administrative services required “further examination”.

Central & State Government's Arguments

- The Central Government has consistently maintained that because Delhi is the national capital and the face of the country, it must have control over administrative services, which include appointments and transfers.
- On the other hand, the Delhi government has argued that in the interest of federalism, the elected representatives must have power over transfers and postings.
 - The Delhi government had also contended that the recent amendments to the Government of National Capital Territory of Delhi (Amendment) Act, 2021, **violate the doctrine of basic structure of the Constitution.**

What were the Legal Issues before the SC?

- There were two legal issues before the court –
 - The first arises from a reference made by a two-judge Bench in February 2019.
 - While deciding on the distribution of powers between the Delhi government and Centre, left the question of who will have control over the administrative services for consideration by a larger Bench.
 - Second issue is the **Government of National Capital Territory of Delhi (Amendment) Act 2021**, passed by the Parliament.
 - The Act provided that the term “government” referred to in any law made by the Legislative Assembly of Delhi will imply the Lieutenant Governor (L-G).
 - However, the Delhi government has challenged the constitutional validity of the Act.

News Summary

- A five-judge bench of the **Supreme Court has ruled unanimously in favour of the Delhi government on the issue of who controls the bureaucracy in the national capital.**
 - Earlier, it was the Lieutenant-Governor, Chief Secretary and the Secretary of the Services Department who took a call on these issues.
- The Court held that the legislature has control over bureaucrats in administration of services, except in areas outside the legislative powers of the National Capital Territory (NCT).
- According to the Supreme Court, the Delhi government, much like other States, represents the representative form of government and **any further expansion of the Union's power will be contrary to the Constitutional scheme.**
- The Court pointed out that if officers stop reporting to ministers or do not follow their instructions, the principle of collective responsibility will be affected.
- **Limitations -**
 - However, the Court added that **control over services would not extend to entries related to public order, police and land.**

- Also, the decision on which IAS officer gets posted to the national capital — and for how long — will continue to be the Centre's prerogative.
- Also, the **Central government will continue to, appoint the Chief Secretary of Delhi**, with consultations with the Chief Minister which, as per tradition, is more or less a formality.

What is a Constitutional Bench?

- **Article 145(3)** deals with the setting up of a Constitution Bench of the Supreme Court comprising at least five judges “for the purpose of deciding any case involving a substantial question of law as to the interpretation” of the Constitution.
- This is the second time that a constitutional bench has been set up to decide on issues between the Delhi government and Delhi's Lieutenant Governor — the Centre's representative in the capital — in the past four years.

Q1) How many regions are there in NCR?

According to the National Capital Region Planning Board Act 1985, total 19 districts in the adjoining states of Uttar Pradesh, Haryana and Rajasthan as well as the National Capital Territory of Delhi comprise of the National Capital Region (NCR) of India.

Q2) When was Delhi made the capital of India?

On 12th December, 1911, at the historic Delhi Durbar, the George V, the Emperor of the British Empire proclaimed the shifting of the capital of India from Calcutta to Delhi.

Source: [Delhi Govt vs Centre: The Supreme Court's verdict in 10 key points](#) | [Indian Express](#)

Source: <https://vajiramandravi.com/current-affairs/supreme-court-rules-in-favour-of-delhi-govt-in-tussle-with-centre/>

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