GS SCORE

An Institute for Civil Services

IAS TOPPER'S TEST COPY

MEDHA ANAND

AIR 13 CSE 2023

POLITY

352

GS SCORE

TEST - 15

88.5

EXECUTIVE, LEGISLATURE AND JUDICIARY

Time Allowed: 3 hrs. *Max. Marks: 250*

Q.	Marks
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Instructions to Candidate

- There are 20 questions.
- All questions are compulsory.
- The number of marks carried by a question is indicated against it.
- Answers to questions no. 1 to 10 should be in 150 words, whereas answers to questions no. 11 to 20 should be in 250 words.
- Keep the word limit indicated in the questions in mind.
- Answers must be written within the space provided.
- Any page or portion of the page left blank in the Question-cum-Answer Booklet must be clearly struck off.

1. Invigilator Signature _____

2. Invigilator Signature _____

Name Medha Anand

Roll No. _____

Mobile No. _____

Date _____

Signature Medha Anand

REMARKS

Roll No._____

GS SCORE
GS MAINS Q&A TEST SERIES 2019

Section - A

Q1. The implications of inaction by Parliament, both in terms of slow response to pressing national problems and a lack-luster commitment to critically scrutinizing legislation, are far reaching. Discuss the impact of poor performance of Parliament on the economic reforms in India. (10 Marks)

Ans. GST Bill was first introduced more than a decade ago, but lack of political will and an attitude of disruption of Parliament led to the delay. Parliament is steadily losing its prestige and inclination to constitutional morality, owing to large number of disruptions taking place.

The Parliament has also decreased the number of days its sits and it has been recommended to fix the number of days for 100 for Lok Sabha in a year. Bills are passed without due discussion and private members bills are not even brought up for discussion.

Could provide some data on general performance - any inaction (refer PRS website)

Impact of Poor Performance of Parliament on Economic reforms in India -

→ Delay in passing of Important legislations like GST Act.

→ Low rank in Ease of Doing Business

→ Uncertainties in change of laws, pertaining to investment by outside firms ⇒ leading to mistrust among foreign firms.

→ Wastage of money owing to disruptions in Parliament.

Remarks

Apart from Economic sector, the degradation of Parliamentary discussions has led to decreased trust deficit of citizens on parliamentary in socio-cultural aspects.

quality

4.5

Thus, its the economy which loses out due to inefficiencies in the Parliament & the lack of effective discussion, which has become the new normal.

Could also mention lack of expertise on behalf of parliamentarians to exercise financial scrutiny leading to delays etc

Remarks

Q2. "Even though India represents a sui-generis case of a compromise between Parliamentary Supremacy and Judicial Supremacy, Parliament still remains the dominant partner." Critically analyze. (10 Marks)

Ans India adopted for a "middle path" between Parliamentary supremacy and Judicial supremacy, the former concept being taken from Britain, while the latter from the US. To establish who dominates whom would be a complex task.

Instances where parliamentary supremacy prevailed-

(1.) Post the Shayara Bano judgement, the Parliament passed an Act to undo the decisions of the Supreme Court.

(2.) Post the Adhar judgement, Parliament has made such changes in the Act (identificat' require Adhar or Passport or what parliament may specify) which overides the judgement of the SC.

(3) Post the Golaknath case, the Parliament amended Art 368 with "The Power of Parliament to amend the constitution", to slide past the court judgement.

(4) Speaker decides whether the Bill is money bill or not.

Instances where judicial supremacy prevailed-

(1.) The SC struck off the NJAC bill, terming it as a violation of separation of Powers.

(2.) In Coelho case, it upheld that Post 24 April 1973, all acts in IX schedule would be subjected to judicial review.

Remarks

(3) In Kihoto Hollohan case, SC held that judicial review in the decision of Anti-Defection by the speaker would be subjected to Judicial review.

(4) In Raja Rampal case, SC held that though Parliamentary sovereignity is guaranteed & Parliamentarians can take decisions in the house, but they can't act in a Malified way.

(5) In Keshavanad Bharati case, SC held that Parliament can't change the 'basic structure of the Constitution'.

Thus, while parliament has full sovereignity over its proceedings, but the system of checks and balances by the judiciary ensures that Parliamentary overreach doesn't take place.

4

Though instances presented are diverse, but you could also explain how both the institutions operate and balance on each other in the checks place

→ ultimately, case of constitutional supremacy in Indian context.

Remarks

Q3. What are Assurances in parliamentary terms? Discuss the need and working of the Committee on Governmental Assurances. (10 Marks)

Ans Assurances are the spoken or written commitments given by the Ministers from time to time on the floor of the House. The committee on Government assurances, reports on the extent to which these assurances have been carried out. First constituted in 1953, it consists of 15 members in the Lok Sabha and 10 members in the Rajya Sabha.

Need for Committee on Government Assurances

→ It keeps a tab on the activities ministers have promised to the populace

→ When assurances of Ministers come true, trust between the populace and Ministers increase

→ It does the work of record keeping to ensure that investigations in case of delay can be held accountable.

→ It strengthens democracy by ushering confidence among the people that words of the MPs will be fulfilled.

→ It leads to speedy work being done on the ground.

Remarks

Thus, Committee on Govt Assurances acts as a bridges between the Parliamentarians and the ground realities. It helps in establishing the faith of the people on their representatives.

3.5

could provide examples of reports presented by the Committees such as for e.g. on Minimum Wages Act, 1948 etc

Remarks

Q4. Analyse the role of the Election Commission in establishing trust of Indian electorates in the electoral practices. Is there a need to empower it with contempt power under the Contempt of Court Act 1971, due to growing challenges of free and fair elections? Justify your view. (10 Marks)

Ans Election Commission is a three member body (as prescribed by President) whose constitution and independence has been described in Art 324 of the Indian Constitution. It is responsible for conducting free and fair elections at the central and state level.

In the recent times, a lot of issues have arisen on whether elections are conducted in a free & fair manner or not, due to which the EC has demanded contempt powers. The case is a complex one and various factors need to be kept in mind before arriving at a final solution.

Arguments in favour of giving contempt powers-

(1.) False propaganda by losing parties can be curbed by the ECI.

(2.) Public trust can be restored by ECI, in case of a rumour of unfair elections.

(3.) strengthening of the democracy system.

(4.) It would be at par with Supreme Court and this can be justified as free elections are bulwark of a democracy.

Remarks

Arguments against devolving contempt power

(1) The EC is elected by the President (& no qualificat"s are prescribed for the post) may lead to govt controlling the process against the other parties.

(2) Since further employment of ECI isn't prohibited, it may lead to quid pro quo.

(3) The ECI would become equivalent to judiciary, without apt accountability

(4) Freedom of speech may come in danger

(5) It would violate Principles of Natural Justice - (can't be a judge of one's own case)

(6) Amount to breaking separat" of power principle.

5

Covered major points well

Also think of relevance of a colonial tool such as contempt powers in modern democracies

True, even if contempt power is given to ECI a lot of safeguards against the potential misuse of the power need to be raked up. This would ensure that people's trust on the democratic system remain.

Remarks

Q5. "The doctrine of separation of powers has been violated and the independence of judicial bodies compromised by the Sections 182 and 184 of the Finance Act, 2017." Comment. (10 Marks)

Ans: Separation of Powers intend to compartmentalize Executive, Judiciary and Legislature. Section 182 is amended by finance Act 2017 to lift the cap on donations to political parties and remove the requirement for political parties to list the name of the political parties on the company's record.

This section is likely to reduce the surveillance power on the legislatures. This would also reduce the effectiveness of the audit system (executive), beoz now the parties are not bound by the limits which were earlier applied on them.

Also, civil societies wont be able to keep a tab on the financial resources of the political parties, creating accountability issues and in creating a nexus between political parties and corporates.

Section 184 of finance Act, 2017 has enabled the legislature to define the qualifications, tenure etc of members of administrative tribunals. This has led to a scenario where executives are dictating terms on the judiciary.

Remarks

Instead the judiciary should have been allowed to set the working conditions of tribunals to ensure that separation of powers is held intact.

(4) Although even for the Supreme Court, qualifications etc are prescribed by the parliament (as there aint no intl of judiciary above SC), but for tribunals the SC could have directly made the regulations.

could additionally mention how Finance Act attempts to rationalise functioning of multiple tribunals by cutting down their numbers through mergers of tribunals

Remarks

Q6. "India lacks an independent nuclear regulatory mechanism with the mandate to ensure high standards of safety and security at civilian nuclear facilities." In the light of the above statement examine the prevalent nuclear regulatory mechanism in India. How far can an independent body like Nuclear Safety Regulatory Authority addresses this issue? (10 Marks)

Remarks

Remarks

Q7. "Healthy bicameralism is predicated on the constructive relationship between Upper and Lower Houses of Parliament." Analyse the contemporary relevance of the statement. (10 Marks)

Ans Healthy Bicameralism involves a mutual respect based constructive relationship between the upper and lower Houses of Parliament. In the recent past, the relevance of the statement has increased immensely.

Reasons for contemporary relevance of the statement -

(1) Increased number of Bills being passed by the Lok Sabha as Money Bill to sideline scrutiny by Rajya sabha.

(2) Increased number of ordinances being promulgated to bypass Rajya sabha.

(3) Lack of consensus among RS & LS members

(4) RS sometimes unnecessarily passing on bills to standing committees for political benefit.

(5) Different parties having majority seats in RS and LS.

Solution to end this unhealthy relation-

(1) Joint sittings should be encouraged to ensure healthy relationships.

(2) Committees consisting of members from both the houses should engage in constructive

Remarks

discussions to ensure a healthy relation.

(3) International examples should be quoted to members of both Houses to make them aware.

3.5

Thus, it can be said that a constructive & healthy approach of both Houses of Parliament towards members of each other will ensure that democracy is strengthened & Rule of law maintained.

Ans, need to clearly explain the role of both the houses within the parliament set up

↳ explain the role of upper house in detail

Remarks

Q8. CAG is instrumental in securing accountability of the executive to the Parliament in the sphere of financial administration. Elaborate. Enumerate the provisions made in the Constitution to ensure the independence of the CAG. (10 Marks)

Ans Art 148 - 151 of the Indian constitution deals with the comptroller and Auditor general of India who is responsible for proprietary audit etc and acts as a guide & friend of Public Accounts Committee.

Ensuring the independence of his office is prima facie required to ensure free and fair auditing of the finances, that he is mandated ~~ought~~ to carry out. The functions of CAG include -

① Acknowledging that the money is spent as per provisions of the constitution
② Ascertaining that money is spent for what it has been registered.

Need to explain in greater detail different types of audits done by CAG

Provisions ensuring independence of CAG include -

(1) His/her removal takes place as per the grounds for removal of SC judge
(2) The salary & service cond^n can be varied to CAG's disadvantage
(3) He isn't eligible for further employment.
(4) All expenses, salaries etc are charged on the consolidated fund of India.

Remarks

Thus, the constitution explicitly provides for various measures to ensure the effectiveness of the CAG audits by providing the post with such provisions as are required for its independence.

3.5

Could talk about some of the big scams unearthed by CAG in recent times

Remarks

Q9. There are three justifications for regulatory interventions: prevention of market failure, checking anticompetitive practices and promoting public interest. In context of the above statement, critically examine the functioning of regulatory bodies in India. (10 Marks)

Ans. Regulatory Bodies like RBI, SEBI, CAG, CCI are appointed to ensure free and fair play among the market forces. They ensure that monopoly of a firm or individual is not established and an inclusive environment is created for all.

Functioning of Regulatory Bodies in India-

(1.) In financial regulator (capital) realm, they seek to prevent insider trading, help in regulation (SEBI) and keeps a check on unethical practices.

(2.) Corporations are regulated by Competition Commission of India which ensures that companies dont resort to unethical practices and sweep away markets.

(3) Financial regulator like RBI needs to ensure that banks remain stable and thus the economy of the nation is stabilised.

(4) Judiciary can also be seen as a regulator of Parliamentary excesses.

Mention some examples of regulatory overlap e.g. NSEL case

Remarks

Thus, various departments are regulated by various other bodies who club in to take care of the overall functioning of the economy.

(3)

need to talk about perennial issues facing regulator's functioning → executive interference in appointments functional dependence on line ministries etc

Remarks

Q10. The Supreme Court's collegium published a resolution promising to hereafter make public, on the court's website, its various decisions related to nomination, choice of candidates for elevation and transfers. In this context discuss the evolution of collegium system in India and criticism related to it. (10 Marks)

Ans The SC's collegium's resolution to make public its various decisions has helped in bringing transparency into a system that has been notorious for its opacity.

The evolution of collegium has occurred with the ~~Four~~ Three Judges case. What started as a dispute on the meaning of "recommendation" consultation defined the history of the collegium system in India.

S.P. Gupta Case (First Judges case) - It held that the opinion of the CJI doesnt enjoy primacy over those of the other two in the matter of appointment of judges.

Second Judges case - It upheld that the CJI in consultation with two senior most judges [thus forming a collegium] would recommend the voice of the judiciary as a whole.

Third Judges case - CJI + 4 members (as in the present form)

Fourth Judges case - The SC struck down the NJAC act terming it against separat^n of power & reestablished its faith on

Remarks

collegium system.

Criticism related to Collegium system -

1) Lacks transparency & accountability
2) NCRWC recommended setting up of NJC headed by CJI for appointment issues
3) 2nd ARC recommended NJC formation citing it as an international best practice.

3.5

Internal Brotherhood

Seniority as the only parameter to choose CJI etc

Thus, evolution of collegium system has been a tumultous journey and its evolution is what gives strength to the democratic mandate.

→ Could also talk about recent tussle over NJAC still in this context.

Remarks

Section - B

Q11. Since the institution of the first Finance Commission, stark changes in the macroeconomic situation of the Indian economy have led to major changes in the Finance Commission's 'Term of Reference' over the years. In this context, discuss the major changes brought-in by the finance commission to incorporate these considerations. Highlight the major defects in working of Indian fiscal federalism. (15 Marks)

Ans: Finance Commission, constituted as per Art 280 of the Indian constitution, has five members and is constituted every five years. The changing national as well as global scenarios, have brought about myriad changes in 'Term of Reference' of Finance Commission over the years.

The following are the mandate of the Finance Commission -

(a) To ~~distribute~~ increase revenue among various ~~states~~ municipalities

(b) To distribute grants in aid among states

(c) To decide the share of centre and state among the revenue generated

(d) Any other function as the President may give

As can be well acknowledged, the share of revenue among centre and states has demanded continuous change, because of:-

(a) The number of states has increased.

(b) States have become more assertive of their rights to finances

(c) New parameters like special category states etc have come into being, which demand more devolution of finances owing to their socio-economic status.

Remarks

Major changes brought in by finance commissions to tackle the changing scenario include- (15th FC)

(a) The Population figures of 2011 would be taken up to determine the share of various states

(b) To examine whether revenue deficit grants should be provided at all.

(c) To look at the conditions that may be imposed by the Central govt while providing consent to states when they borrow under Art 293(3)

(d) To propose measurable performance-based incentives to states to encourage their economic parameters.

(e) It seeks to reduce the role of Article 275, which is a legitimate channel for grants, and asks commission to leave it more fiscal space to expand grants under Art 282.

(f) Performance in implementation of Central govt schemes is also being judged as another parameter to grant funds.

Though the veracity of such terms are highly contentious, but they do reflect the changing political & socio-economic scenario.

Remarks

Major defects in working of Indian fiscal federalism –

(1) The grants to states which they are required to devolve to PRI's remain unutilized & thus lapse.

(2) Performance based incentives are few and not upto the mark.

(3) Expenditure i.e the amount of money spent is taken as a measure of good performance rather than the ground work done.

(4) CAG audits when the expenditure has already been done i.e it locks the stable when the horse has already bolted

(5) Accountability mechanisms are weak.

(6) The centre & state relations have trust deficit.

Way forward –

Fiscal federalism should be planned in a bottom up approach, rather than in a top down manner to ensure that local level grievances are solved and multilevel planning is achieved.

→ other major issues with fiscal federalism in India deals with horizontal / vertical imbalance in devolution of resources, politicisation of discretionary grants etc

5.5

Also, PRIs are still dependent on state govts for financial resources and fiscal autonomy etc

Remarks

Q12. The ordinance making power of government has been misused to circumvent the legislative process and avoid facing the opposition. Elaborate. Why rate of ordinances is increasing in India? Also discuss the Supreme Court's verdict over it. (15 Marks)

Ans: Art 123 and Art 213 of the Indian constitution give the President of India and governor of states to employ the ordinance route for administration respectively. The constitution also specifies that this is to be used when either house of Parliament / state legislature is not in session and an urgent policy needs to be forged out.

Also explain how ordinance circumvent legislative process

But, the past experiences have shown that legislators tend to use it as a parallel body of administration thus undermining the constitutional morality related to it.

The reasons behind this trend of issuing ordinances instead of taking the route of passing bills through legislation are -

(1) With coalition govt, it is hard to arrive at consensus & pass a law. It is easier instead to pass an ordinance and get the work done.

(2) The disruptions that happen in Parliament don't allow effective debate on policy issues. oppositions don't allow discussions & make

Remarks

it impossible to have meaningful debates.
(3) The political parties sometimes dont have apt strength in Rajya Sabha to get bills passed, thus resort to ordinance making route of governance.
(4) To fulfil their promises during election campaigning, govt tries to surpass the legislation making route & opt for ordinance making route.
(5) Govts dont even try to pass ordinance in the parliament & keep on re-issuing ordinances.
Thus, it has become a potential tool of misuse and govts try to circumvent the legislation making route through opting the ordinance making route.

Various Supreme court verdict relating to ordinances in India are -

(1) DC Wadhwa case - The Supreme Court judged that repromulgation of ordinance without even trying to introduce them in the parliament would amount to Malpractice.

(2) Krishna Kumar Singh Case 2017 - It held that Judicial review on ordinance making power is possible. Also, it differentiated among legislations and temporary nature of ordinances.

The case pertained to the services which Bihar govt took under its audit by repromulgating ordinances. When repromulgation wasn't done, all such employees lost their jobs and emoluments. The Court ruled that ordinances being temporary don't provide for stability and instead all acts done under ordinance must retrace unless

(1) They are irreversible

(2) Pose a threat to national security.

Thus, Judicial Review & checks & balances of Supreme Court over the govt has ensured that the legislative overreach doesn't become the new normal.

7

Could also connect with increasing populist tendencies and declining parliamentary decision culture

Major points

Remarks

Covered well otherwise!

Q13. The judiciary due to its high pendency and delayed process is losing faith of people to whom it is obliged to provide justice. In this context analyze the reasons for high pendency of cases and its consequences. Also discuss the steps taken by government and recommendation of law commission to improve the situation. (15 Marks)

Ans. CJI Deepak Mishra in an emotional outburst resounded that 3.3 crore backlog cases are present in courts owing to shortage of judges, lack of infrastructure, less avenues for alternate dispute redressal and long leaves by the present staff. This should raise serious concerns, for most of these cases are more than 10 years old.

This has resulted in people losing faith in judicial processes, as by the time the verdict arrive the victims have faced huge losses economically & materially or in the worst case, either of victim or culprit is dead by the time justice arrives.

As is said, Justice delayed is justice denied, in most cases where litigat^n is against the govt, by the time SC advises on the matter, the damage has already taken place. Ex – Aadhar Act – By the time IR came on it, the provisions of the act were already making lives worse for poor – on account of not getting their PDS entitlements [Death of g'ol in Jharkhand]

Remarks

Reasons for high pendency of cases -

(1) Lack of judges - There are only around 10 judges per million population in India

(2) 37% cases are because of special leave petitions in SC

(3) The system of PIL has ensured more litigation.

(4) Awareness among people have made them more assertive of their rights.

(5) The concept of review petition has led to people opting for it & again getting into a queue for Justice

(6) Curative petition (resounded in Roopa Hurra case) has gave avenue to litigants to again file a case after their failure in review petition

(7) Epistolary justice delivery (through letters) has given rise to increase in the number of litigation.

(8) Rise in population & proportionately less development in infrastruc for delivering judicial justice.

Consequences

→ Lack of public trust on judicial justice delivery system
→ Large number of pending cases ⇒ judges hear around 80 cases a day → Justice hurried is justice burried
→ Cases stretched for 15-20 years
→ Compliance of international norms poor [bad image abroad]
→ Ease of doing Business ranking due to poor record in arbitration.
→ People depend on institutions like Khap Panchayats to get faster justice.

Steps taken by the Govt

→ National Litigation Policy - To reduce govt litigation (inter departmental) and reduce avg case pendency from 15yrs to 3yrs
→ NALSA Act - To ensure justice delivery to all sections
→ Grameen Nyayalya Act - To ensure speedy justice delivery system in rural areas.
→ Various Alternate Dispute Redressal Mechanisms like Mobile courts, Justice on wheels.
→ Provision for Administrative Tribunals to ensure technical aid is given

Law Commission Recommendation -

→ To increase the number of judges from 10/mn population to 50/mn population
→ Govt litigation to reduce by forming Grievance Redressal Institutions at dept level.

Thus, a lot of steps are recommended as well as taken to ensure that pendency of cases in the judicial system is bridged. International examples can also be taken in to ensure timely justice.

7

Content and structure both are good

Remarks

→ Refer to 254th Law Commission report on Arrears & Backlog for more specifics.

Q14. What, according to you, are the reasons and expectations behind the proposal to grant a constitutional status to the NCBC? What could be the issues in achieving the goals? (15 Marks)

Ans NCBC is presently a statutory body and it is believed that giving it a constitutional mandate would make it more robust and effective. The demands are on line with NCSC and NCST being constitutional bodies

Reasons for demand of NCBC as a Constitutional body-

(1) It would make the govt more responsive towards the needs of the Backward classes

(2) It would put in more weight in the voice of the Backward classes.

(3) It would make rights constitutional, furthering the FR's.

(4) Grievance redressal of the Backward citizens would be more aptly done.

(5) The commission would put forth the demands of BC's in front of the Central and state govt

(6) This will lead to one central BC list for each state.

Mention increasing cases of social uprising from backward communities in recent times

Remarks

Issues in this scheme -

- The ambiguity in defining the criteria for backwardness will have to be sorted out.
- whether it would be a advisory body or will its recommendations be binding on the govt
- State & centre lists will have to converge
- The prospective Bill might lead to law and order issues.

6

Brings out crucial points concisely

While the constitutional mandate to NCBC would usher in more responsibility to do it, a lot of other concerns will have to be looked after to take benefit of this situation.

→ Could also talk about political usage of Inclusion / exclusion criteria in the backward caste list at the state level.

Remarks

Remarks

Q15. In a paradigm shift from the command and control approach of the past, NITI Aayog accommodates diverse points of view in a collaborative, rather than confrontationist setting. Comment. **(15 Marks)**

Ans. The Planning Commission was established to be the "commanding heights" of the federal system. Its replacement by NITI Aayog has resulted in the shift of focus to cooperative federalism.

NITI Aayog is mandated to award performance based incentive and act as a mentor and a guide for states to accomplish their developmental goals.

It focuses less on distribution of grants but emphasises more on how to enhance the finances of the state through their own revenue generating capabilities.

It also takes suggestions from states to incorporate "best practices" from one state to another, in a bid to enforce confidence among states and incentivise them to perform better than before.

Rather than being confrontationist in its approach, the NITI Aayog has focussed on being more collaborative.

Could also explain issues with functioning of planning commission earlier such as one size fits all approach etc

Remarks

Cooperative Federalism-

Rather than being a dictator for states to perform in a particular way, the NITI Aayog has laid emphasis on the concept of Cooperative Federalism, wherein states and the centre would cooperate on policy matters to achieve the developmental agenda of the states as well as the nation as a whole.

Also, the states have been given ample freedom to increase their financial resources through funds, bonds etc., leading to increased confidence among states to achieve bigger and better.

The method of aiding states through technology, R&D personnel and required help in understanding best practices abroad has contributed largely in helping states achieve the heights they want to achieve.

The change of heart of union towards their approach to the states can well be ascribed to the changing political & social conditions. Raised awareness among

states and capacity to revolt in case of any injustice being done on them has made the Centre cautious. Also, various movements of sub-nationalism have shown the dark side of excess head handling of the centre in the states

Thus, a paradigm shift from command & control approach to that of cooperative federalism is in sync with changing global & local scenarios.

5

→ refer to the mandate of NITI Aayog for more specific points

e.g. → could convene regional councils etc

Remarks

Q16. Discuss the necessity of the recent trends of passing important legislations as money bill. Do such practices raise serious questions on government's accountability? Justify your argument. (15 Marks)

Ans Money Bills as defined in Art 110 of the constitution should deal with the six specific matters mentioned in the aforesaid article. The present govt, owing to its inability to get legislations pass through Rajya Sabha, as it doesnt command majority in it, has time and again resorted to passing the bill as a money bill.

The following Bills were passed as money bills recently-

(a) Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and services) Bill

(b) Insolvency and Bankruptcy Bill

The issue with passing such bills as money bills is that it deceits constitutional morality by dodging Parliamentarian scrutiny. Since Rajya Sabha has limited powers with regard to Money Bill, more often than not, they are unable to make changes to crucial bills like Aadhaar Bill.

The restrictions on Rajya Sabha wrt Money Bills include-

① RS cannot introduce Money Bill

② RS needs to revert it back to LS within 14

Remarks

days, and it is upon the LS to accept or reject any suggestions forwarded by RS

(3) In case of money Bill, there is no provision of joint sitting

Thus, the powers of RS to suggest amendments to Money Bill are quite curtailed and the govt's method of introducing it in the a money Bill supersides parliamentary wisdom & puts in danger the democratic ideals of the nation and breaches the ideals which the Constitution makers upheld.

Also, since the Money Bill can't be sent to Parliamentary committees for scrutiny, it averts any genuine amendment which the committee might uphold, thereby being a loss to the people and overturning their mandate.

Such development takes a heavy toll on accountability of the govt in power-

(1) It amounts to parliamentary deceit

(2) It creates trust deficit among the people.

Remarks

(3) It creates negative image of the govt abroad, for playing such tricks to avoid RS oversight

(4) It distorts the Federal character of the nation.

(5) It goes against the NITI Aayog's recent trait of cooperative Federalism.

(6) It reflects the autocratic character of the govt.

7.5

covers major points well with good structuring

The govt being a democratic and responsible one should try to avoid such tricks for short term gains, as that deeply hurts its image and create trust & faith deficit in the population.

Remarks

Q17. "Accountability of the executive to the legislature, in Westminster forms of Government is arithmetically driven". Examine in the Indian context. (15 Marks)

Ans: The accountability of executive to the legislature can be established through various devices like no confidence motion, censure motion, question hour etc. The major issue with this is that these accountability instruments are quantitative and not qualitative in nature.

If the government has the required numbers in the house it can survive in the house, despite gross inadequacies being done by it. As arithmetics determine whether a govt will survive or not, frequent horse trading becomes a trend, which in itself an unethical practice.

Accountability measures are poor as the ministers are not required to undersign their acts. This leads to them becoming careless in their approach, as it is only morality that guides them and not punitive measures.

Take for example, a govt accused of being involved in a multi crore scam, which requires investigation. But since the investigation is against the govt itself, it may very well hide facts and figures. Such an investigation requires that the govt should step down to allow a

Remarks

bipartisan investigation. But owing to the majority (of seats) the government possesses in the House of the people, they can't be ousted.

Usually acts against moral turpitude are conducted by a particular minister, but even the dismissal of that minister isn't possible bcoz of number (of seats) which the government possess. Further, if they ask its minister to resign for a partisan investigation, that would taint their image (for not-having faith on their own minister). This would lead to loss of the parties involved in the next elections.

Qualitative accountability measures like questioning in zero Hour are not that effective. Also, there is a lack of awareness among oppositions related to the strength they possess - by which they can question the party in power. Further, even such measures are tainted due to episodes like Cash for Querry scam which increases the trust deficit of the population on the legislature

Thus, it is because of ineffective utilisation of qualitative accountability measures that it arithmetics has become the forebearer of parliamentary accountability.

Way forward

Parliamentarians can be made more aware of the power that resides in them to bring effective changes in the country owing to the debate and discussion that can be done by them.

→ Need to talk about parliamentary tools such as No-confidence motion, joint sittings, ordinances and how they boil down to securing certain numbers in the Houses.

(9) could stress upon the need for consensus building rather than seeking majority

Remarks

Q18. Both the Constitution and the Representation of the People Act, 1951 lay down grounds for the disqualification of candidates and sitting legislators. What are these grounds? Have these grounds been diluted during last decade in favour of legislators? Critically examine.

(15 Marks)

Ans. Article 327 and 328 of the Indian constitution gives the power to make rules/regulations for election to Parliament / State Leg to Parliament and state legislature Respectively. Consequently, the parliament has passed Representation of the people's Act, 1951 to provide grounds of disqualification of candidates & legislators.

Art 102 also provides grounds for disqualificat^n like
- mentally unsound
- undischarged insolvent
- holding an office of profit

Provide specific provisions for disqualification under para

Anti Defection law or the Tenth Schedule which was brought in by 52nd Constitutional Amendment, declared that party members post their election if give up membership, would be liable to disqualification. Also, if s/he goes against the party whip, s/he can be disqualified.

Further RPA issued that post conviction, if an elected member filed a review petition within 3 months, s/he would not be subject to disqualificat^n.

Remarks

The Supreme court in Lily Thomas Case, judged that disqualification of members would occur on the day of their conviction (though going against the doctrine of innocent until proven guilty) by keeping in line with constitutional morality.

The govt reacted by passing an amendment to RPA, 1951 by giving a cooling off period of 90 days in which the MP/MLA concerned can get a stay order and prevent disqualification.

Also, the law provided that the speaker would be the final authority in deciding cases related to Defection, but the Parliament in Kihoto Hollohan Case, judged that the speaker's decision is subject to Judicial Review to avoid any malpractice.

It can be said that despite myriad attempts of the Parliament to dilute disqualification procedures, the supreme court has placed various checks and balances to ensure that the constitutional morality is not tampered with.

Remarks

Various SC judgements include -

- In UOI vs ADR case - Courts made it mandatory for candidates to provide certain information at the time of filing of nomination.
- In Ramesh Dalal case - SC judged that those facing criminal charge at the time of filing nomination would be disqualified.

5.5

Could also talk about dilution in office of profit through exemptions by state govts.

Thus, the checks & balances system which the constitutional makers had given us has time & again proved its worth and always given precedence to constitutional morality as against individual interests.

steps taken by EC in context

Remarks

Q19. In the light of recent debate on relevance of the post of Governor of a state, critically analyse the recommendations of Sarkaria Commission, Punchi Commission and the Supreme Court judgments in the matter of appointment, removal and powers of Governor of a state. Also state your opinion, whether the post of Governor should be abolished or not. (15 Marks)

Ans. In recent times, the post of Governor has come into negative light owing to the various ambiguous decisions taken by him/her S/He is often accused of being an agent of the centre diminishing its constitutional status.

Various aspects like appointment, powers and removal procedure of the governor have often been into public debate.

Appointment of Governor - As per the constitn, the governor is to be appointed by the centre and holds office during the pleasure of the president. This has made him/her highly vulnerable to the political games. It is like with change of govts at the centre, Governors chosen by other parties are invariably removed. The SC in Hargobind Kaur V/s Raghukul, announced that the governor is not an agent of the centre, but a separate constitutional office.

Recommend" of Sarkaria & Punchi

- appointment of Governor should be done after consultation with the CM.

Remarks

- They should not be from the opposite party
- They should be allowed to complete their 5 year term
- People from outside the state should be appointed

Powers of the Governor - The most detailed ones are those related to calling a party to prove its majority in case of a hung assembly and that of applying President's rule

In SR Bommai Case, SC laid down the sequence which ought to be used by the governor - ① pre poll alliance having largest seats ② single largest party ③ post poll alliance and so forth.

In case of applying President's rule - SR Bommai case ruling was reiterated by Punchi commi" - applying President's rule should be the last resort to handle a crisis

- Governor should ask the govt to prove its majority on the floor of the house before applying President's rule.
- Judicial review on Governor's decision is possible

Remarks

Removal of Governor - It had become a political game with parties toppling the governor appointed by the last govt. In BP Singhal case, SC laid that the governor can't be removed solely on the basis of ideology or if s/he belongs to a different political party.

On the matter of abolishing the post of Governor - It would not be wise to remove the post altogether, as s/he fills the interregnum and also has roles like pardoning power etc.

Sarkaria commission, conveyed that since the governor is the 'lynchpin of federation', s/he needs to play that integral role. The glitches and controversies can be sorted out and the grace of the office can be restored back.

Also, significance of the office of Governor in Internal Security situations, 5th schedule States etc

6.5

could provide the context of recent misuse of Governor's office in Arunach, Uttarakh and etc

Q20. The MPLAD scheme has been criticized a lot, for lack of spending and ineffective spending, however, in recent years it has been linked with certain measurable outcomes like, contribution to Swachh Bharat mission and Village Adoption Policy under Sansad Adarsh gram Yojana. Analyze impact of such measures. And, what should be done to make such spending more effective? Discuss. (15 Marks)

Remarks

Remarks

Remarks