*General Studies-2; Topic: Separation of powers between various organs dispute redressal mechanisms and institutions*

# Tackling Government Litigation

1) **Introduction**
   - The government is the biggest litigant in India, which has been acknowledged by the Prime Minister and the Chief Justice of India in the recent past.

2) **'Government' litigation**
   - According to the Ministry of Law and Justice, government departments are a party to around "46 percent" of court cases.
   - A misconception regarding government litigation is that the government itself is a source of all cases involving the government.
   - Entities such as nationalised banks and universities, identified as "government', are "State" under Article 12 of the Constitution.
   - Government litigation includes service matters and conflict with private entities as well as disputes between government departments and between PSUs.
   - Most of the petitions filed against the State governments are in relation to service, land revenue, land acquisition and education.
   - In land acquisition matters, the petitions are filed to challenge orders passed by quasi-judicial authorities on grounds of a violation of principles of natural justice.
   - The number and nature of writ petitions filed before a High Court are indicative of the extent of friction between citizens and the government.

3) **Consequences**
   - Excessive litigation is a constraint on the public exchequer.
   - Government litigation has contributed to judicial backlog, thus affecting justice delivery in India.
   - Government litigation crowds out the private citizen from the court system.
   - People will lose trust in government apparatus when government itself is the highest litigant.
   - Large number of cases against the government is not a positive sign of good governance.

4) **Concerns / Challenges**
   - Government departments work in silos and "two departments of the same government confront each other in court to settle disputes".
   - The law commission said the bureaucracy over the years has failed to contain the volume of litigation originating from government ministries and departments.
   - Seven years after creation of the first draft national litigation policy, it still remains a work in progress.
   - Various government departments prefer to settle their disputes in courts and that shows lack of coordination between them.
   - Lack of inbuilt grievance redressal mechanisms and an effective social audit.

5) **Way Forward**
   - A one-size-fits-all approach to deal with the issue is impossible.

- A multi-pronged approach needs to be adopted to tackle the issue of "government litigation", depending on the kind of litigation.
- Need an implementable action plan to ensure that citizens are not forced to file cases against the government and its agencies.
- A relook at the functioning of litigation-prone departments and formulating solutions unique to each department.
- Robust internal dispute resolution mechanisms within each department as a means of addressing their grievances against the management.
- The state must ensure that quasi-judicial authorities are judicially trained or create a separate class of judicial officers to discharge quasi-judicial functions.
- Ministries and departments should conduct focused monitoring on pending cases particularly those pending for more than 10 years.
- Follow the provisions of the Civil Procedure Code (CPC) on adjournments so that the government advocates do not ask for more than the prescribed adjournments.
- Robust grievance redressal system which provides for online solution, mediation and time-bound solution.
- To further bring down pendency of cases in courts, both the Centre and states should withdraw "frivolous and ineffective cases".
- To discourage future litigations, the government should compulsorily introduce arbitration and mediation clauses in work contracts of its staff and public sector employees.
- Inspiration has to be taken from other countries like France who are following a model approach toward government ligation.
- Need for a revised litigation policy with clear objectives.