

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

Supreme Court verdict on Delhi CM vs Lieutenant Governor

1) Introduction

- Delhi Chief Minister Arvind Kejriwal had accused Lieutenant Governor (LG) Anil Baijal of taking decisions of an elected government and delaying work.
- The Centre, which appoints the L-G, had contended that “for any Centrally administered territory and especially Delhi responsibility is on the Union Government”.
- The matter was heard by a five-judge bench which was headed by CJI Dipak Misra.

2) SC Verdict

- The Supreme Court said the Delhi Lieutenant Governor cannot act independently and must take the aid and advice of the Council of Ministers.
- The Supreme Court has restored the primary role played by the “representative government”.
- All decisions by Delhi’s council of ministers must be communicated to the L-G but that does not mean his concurrence is required.
- The LG has no independent authority to take decisions except in matters under Article 239 or matters outside the purview of the government.
- Except for issues of public order, police and land, the Lieutenant Governor is bound by the aid and advice of the Council of Ministers.
- The court said, L-G cannot act as an obstructionist and can refer issues to the President only in exceptional matters and not as a general rule.
- The government need not obtain LG concurrence in every issue of day-to-day governance.
- The national capital enjoys special status and is not a full state.
- Hence, the role of the L-G is different than that of a Governor.
- In case of differences of opinion, the LG and the NCT government should act with constitutional morality and trust for each other.

3) Significance

- In a democratic republic, collective is the supreme and the elected representatives reflects the will of the collective.
- Parliamentary form of government is based on principle of collective responsibility of the cabinet.
- If a well deliberated legitimate decision of the Council of Ministers is not given effect then the concept of collective responsibility would stand negated.
- The verdict is an appeal to a sense of constitutional morality and constitutional trust among high functionaries.
- The court having stressed that the elected government is the main authority in Delhi’s administration.
- The controversies over the arbitrary withholding of Cabinet decisions may end.
- The basic message is that an elected government cannot be undermined by an unelected administrator.
- The Union and the State Governments must embrace a collaborative federal architecture by displaying harmonious coexistence and interdependence so as to avoid any possible constitutional discord.

4) Why Delhi cannot be a full- fledged state?

- The demand for full statehood has been around for many years now.
- The Supreme Court followed the 1987 Balakrishnan Committee report to conclude that Delhi is not a State.
- The report said “Delhi as the national capital belongs to the nation as a whole.”
- The report had envisaged that Delhi cannot have a situation where the national capital has “two Governments run by different political parties.
- Such conflicts may, at times, prejudice the national interest.”
- If Delhi becomes a full-fledged State, there will be a constitutional division of sovereign, legislative and executive powers between the Union and the State of Delhi.
- The Parliament would have limited legislative access and that too only in special and emergency situations.
- The Union would be unable to discharge its “special responsibilities in relation to the national capital as well as to the nation itself”.
- The report said the control of the Union over Delhi was vital in the national interest.

