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### **1. Why Punjab govt moved Supreme Court against the expansion of BSF jurisdiction**

#### **Why in news?**

The Supreme Court is set to hear the dispute over the expansion of the Border Security Force (BSF) jurisdiction in Punjab. On October 11, 2021, the Ministry of Home Affairs issued a notification expanding the jurisdiction of the BSF in Punjab, West Bengal and Assam. This was challenged by the Punjab government the following December.

#### **Why was the BSF jurisdiction extended?**

The BSF was created after the enactment of the Border Security Force Act in September 1968. The BSF is meant to secure India's borders with its neighbouring nations and is empowered to arrest, search and seize under a number of laws, such as the Criminal Procedure Code, the Passports Act, the Passport (Entry into India) Act, and the NDPS Act, to name a few.

Section 139(1) of the BSF Act allows the central government, through an order, to designate an area "within the local limits of such area adjoining the borders of India" where members of the BSF can exercise powers to prevent offenses under any Acts that the central government may specify.

#### **Extension of jurisdiction**

Prior to the notification issued in October 2021, the BSF could exercise its powers within 15 kilometres of the border in Punjab, West Bengal and Assam. The Centre expanded this to within 50 kilometres of the border.

The notification states that, within this larger 50-kilometre jurisdiction, the BSF can only exercise powers under the Criminal Procedure Code, the Passport (Entry into India) Act and the Passports Act. For other central legislations, the 15-km limit remains.

On December 7, 2021, the Minister of State for Home Affairs Nityanand Rai clarified in writing that this expansion was in response to the increased use of drones and Unmanned Aerial Vehicles, which have long-range capabilities and enable surveillance and the smuggling of arms and fake currency. He also highlighted the 'menace of cattle smuggling' and pointed out that smugglers often seek refuge outside BSF jurisdiction.

Solicitor General Tushar Mehta also claimed that the notification makes the BSF jurisdiction uniform across states, as the 50-kilometre limit was already in place in Rajasthan. The same notification reduced the jurisdiction in Gujarat from 80 km to 50 km.

#### **Why has Punjab challenged this?**

The state of Punjab filed an 'original suit' against the central government in the Supreme Court in December 2021. The Supreme Court has 'original jurisdiction' in disputes between the

central government and states under Article 131 of the Constitution, which means cases of this kind can only be heard for the first time at the SC "to the exclusion of any other court".

The Punjab government claimed that expanding the jurisdiction of the BSF would compromise the state's exclusive powers to legislate on matters involving the police and public order. These powers are provided in Entries 1 and 2 of the State List under Article 246 of the Constitution. They also claimed that the notification was issued without consulting with any of the states concerned. The Chief Minister of Punjab has called it "a direct attack on federalism".

Arguing before the SC in December 2023, Additional Advocate General for the state of Punjab, Shadan Farasat, claimed that in Punjab, a large number of cities and towns would fall within this 50-kilometre jurisdiction, whereas in Gujarat and Rajasthan, most areas along the international border are sparsely populated, primarily containing marshlands or deserts.

### **Have other states joined the challenge?**

Currently, no other challenge is tagged with the Punjab government's, though the notification was met with pushback from West Bengal when it was released. Shortly after the October 2021 notification, the West Bengal Assembly had passed a resolution demanding its withdrawal.

### **What are the issues that the SC will consider?**

The court will decide if the notification expanding the jurisdiction of the BSF was arbitrary or backed by legitimate reasons. Further, the court will determine if this notification interferes with the powers of the local police and encroaches upon states powers under the Constitution. The SC will also decide what factors have to be considered when deciding which areas are "within the local limits of such area adjoining the borders of India" and whether all states must be treated alike when determining these local limits. Finally, the court will decide if the notification can be challenged through an original suit under Article 131 of the Constitution.

Relevance: GS Prelims & Mains Paper II; Governance

Source: The Indian Express

## **2. Gyanvapi case: Law on places of worship, and the challenge it faces**

### **Why in news?**

The legal test before the civil court in Varanasi and the Supreme Court is whether a title suit can exist on the Kashi Vishwanath-Gyanvapi mosque disputed site since the Places of Worship (Special Provisions) Act, 1991, puts a constitutional bar on it.

Section 3 and Section 4 of the 1991 Act essentially declare that the religious character of a place of worship, barring the one at Ayodhya, shall continue to be the same as it was on August 15, 1947, and that no person shall convert any place of worship of any religious denomination into one of a different denomination or section. This is the constitutional bar under the Places of Worship Act, 1991 which forms the basis of deciding the title of the disputed site.



### **Supreme Court view**

While hearing a plea challenging the maintainability of the Gyanvapi suit, the Supreme Court had in May 2002 observed that "finding the nature of the religious place" is not barred under the 1991 law. "...the ascertainment of a religious character of a place, as a processual instrument, may not necessarily fall foul of the provisions of Sections 3 and 4 (of the Act)...," it had said. Essentially, this ascertainment is limited to 1947 and not prior to the construction of the mosque itself.

The Supreme Court is, however, yet to hear final arguments to decide whether the 1991 Act bars even the filing of such a plea. So far, only oral observations have formed the basis of this argument but the Court is yet to conclusively rule on the issue.

Separately, a constitutional challenge to the 1991 Act is also pending in the Supreme Court. It had in 2019 indicated the case could be referred to a larger constitution bench. However, the Centre is yet to file a response in the case.

Though the voluminous Archaeological Survey of India report submitted to the Varanasi court, and to both the parties to the dispute now, suggests "there existed a Hindu temple prior" to the Gyanvapi mosque, it would be considered expert evidence that could be contested in Court.

Essentially, Courts will have to determine first whether the ASI report can be relied upon conclusively and then what does the existence of a Hindu temple mean to the religious character of the mosque on August 15, 1947.

A similar ASI report in 2003 was cited in the Babri Masjid-Ramjanmabhoomi suit. While pronouncing its order in November 2019, the Supreme Court had rejected the ASI report as inconclusive.

Relevance: GS Prelims & Mains Paper II; Governance  
Source: The Indian Express

### 3. Health insurance companies to offer 100% 'cashless' treatment in hospitals

#### Why in news?

Taking the health insurance segment to a new level, general and health insurance companies have decided to offer 100 per cent cashless treatment across the country from January 25. The step, initiated by the Insurance Regulatory and Development Authority of India (IRDAI), is expected to boost insurance penetration in the country and ease the claim process of policyholders and hospitals, thus avoiding delays and disputes normally seen in the reimbursement mode.

#### How will 100% cashless treatment work in hospitals?

Under the 'Cashless Everywhere' system, the policyholder can get treated in any hospital they choose without paying any amount, and a cashless facility will be available even if this hospital is not in the insurance company's network. This means the policyholder can get admitted to any hospital without paying any advance money, and insurance companies will pay the bill on the discharge day.

#### What's the situation now?

During the fiscal 2022-23, 56 per cent of the health claims were settled through the cashless route, according to the IRDAI Annual Report.

The cashless facility is currently available only at hospitals where the respective insurance company has an agreement or tie-ups. If the policyholder chooses a hospital without such an agreement, the cashless facility is not offered now, and the customer has to go for a reimbursement claim, further delaying the claim process and leading to disputes. Policyholders in rural and semi-rural areas often find it difficult to access network hospitals for the cashless facility.

#### Will the move boost insurance penetration?

Insurance officials say the ease of claims settlement without burdening the policyholders financially will be a win-win situation for all three parties involved – hospitals, the general public and insurers. The biggest beneficiary will be the policyholders, who won't have to shell out money during the treatment period depending on the policy terms.

#### What are the issues in reimbursement mode?

Patients struggle to identify hospitals in the insurer's network and, if not discovered, end up paying from their pockets and claiming reimbursements later. This leads to several difficulties, frustrations and delays that can last for weeks.

Often, despite having insurance, customers do not have enough money to pay for hospital expenses and end up borrowing at exorbitant interest rates as urgent cash for hospitalisation. If the hospital bill is high, patients find it tough to arrange funds if they are in the reimbursement mode, as witnessed during the peak of the Covid pandemic. Patients are also asked to pay a hefty amount as an advance in the reimbursement system.

The general complaint among customers was that insurers normally slash the claim amount drastically and even reject claims on various pretexts in the reimbursement mode.

**What's to be kept in mind?**

In the cashless system, insurers will pay only up to the amount taken as a sum assured in the policy. If the sum assured is Rs 5 lakh, insurers will pay the hospital up to Rs 5 lakh during the year. Moreover, in the case of some illnesses, there's a waiting period of two or three years before the insurance coverage is applicable.

Customers must read the policy documents carefully to see the waiting periods and pick the plan with the least waiting period and those which cover the maximum number of illnesses.

**How many claims were settled?**

During 2022-23, general and health insurers settled 2.36 crore health insurance claims and paid Rs 70,930 crore towards settlement of health claims as against Rs 69,498 crore in the previous year. The average amount paid per claim was Rs 30,087 in 2022-23 as against Rs 31,804 a year ago, according to the IRDAI Annual Report.

Relevance: GS Prelims & Mains Paper III; Economics

Source: The Indian Express