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1. ICJ says Israel must prevent genocide in Gaza but fails to order ceasefire

Why in news?

The International Court of Justice (ICJ) recently ruled that Israel must “take all measures within its power” to prevent genocidal acts in Gaza, but stopped short of ordering a ceasefire.

At this stage, the World Court did not rule on the core of the case brought by South Africa, that is, whether Israel is committing genocide in Gaza. But an overwhelming majority of the 17 judges presiding over the case voted for emergency measures to be implemented.



World Court's interim ruling

Delivering its interim ruling, the ICJ ordered following provisional measures:

- A 15:2 majority of the court said that Israel must take all steps in its power to prevent the commission of all acts under Article 2 of the United Nation's 1948 Genocide Convention. Article

2 defines "genocide" as "acts committed with intent to destroy, wholly or partly, a national, ethnic, racial, or religious group". This not only includes killing and causing bodily and mental harm, but also preventing births within a group and inflicting conditions of life calculated to bring about a group's physical destruction.

- The World Court also said that Israel must prevent its military from committing any genocidal acts "with immediate effect".
- The court also directed Israel to provide humanitarian assistance and other basic services to the Palestinians in Gaza, referring to Palestinians as a protected group under the Genocide Convention.
- Lastly, by a 15:2 majority, the court also asked Israel to submit its report to the ICJ on measures taken to implement the ruling within one month.

Decision on jurisdiction

At the outset, the World Court clarified that it does have jurisdiction to consider the present case.

"The Court finds that the aforementioned elements are sufficient, at this stage, to establish the prima facie existence of a dispute between the parties relating to the application of the Genocide Convention", the court said referring to provisions of Article 9.

Article 9 of the Genocide Convention says that disputes between parties relating to the interpretation, application, or fulfilment of the Convention, including disputes relating to the responsibility of a State for genocide, shall be submitted to the ICJ at the request of any of the parties to the dispute.

The court observed that South Africa had publicly made multiple comments suggesting Israel may have acted contrary to its obligations under the Convention, while Israel had dismissed all notions of genocide in Gaza as "morally repugnant". The court thus concluded that the parties held opposite views concerning Israel's obligations under the convention, and that this indicated a "dispute" between the two parties.

No call for ceasefire

Notably, the ICJ stopped short of ordering a ceasefire. South Africa's plea before the court had asked it to order Israel to immediately suspend all military operations in Gaza, as an interim measure.

While many sympathetic to the plight of Gazans have been left disappointed by the court falling short of ordering a cessation of hostilities, experts say that this was very much expected. While the court's rulings are legally binding, it has no way to enforce them. Nonetheless, its opinions carry weight with the UN and other international institutions. The ICJ will eventually decide whether Israel is committing genocide or not, but that process may take years.

Relevance: GS Prelims & Mains Paper II; International Organisations

Source: Indian Express

2. Judge vs judge: How a spat between two Calcutta HC judges reached the Supreme Court

SINGLE JUDGE vs DIVISION BENCH

Supreme Court's 5-Judge Bench stays Calcutta HC's Single Bench order defying Division Bench stay on CBI Probe in Fake Caste Certificates Case



Dr. Justice DY Chandrachud • Justice Sanjiv Khanna,
Justice B.R. Gavai • Justice Surya Kant • Justice Aniruddha Bose

Why in news?

The Supreme Court (SC) recently stayed all proceedings in the Calcutta High Court relating to a case of alleged irregularities in the admission of MBBS candidates in state-run medical colleges and hospitals in West Bengal.

A five-judge Bench of the Supreme Court led by Chief Justice of India (CJI) D Y Chandrachud held a special sitting to deal with an extraordinary situation in which two separate benches of the High Court have passed contradictory orders, and one judge, Justice Abhijit Gangopadhyay, has made allegations of serious misconduct against another judge, Justice Soumen Sen, accusing him of acting at the behest of a political party.

Such hearings are a rare occurrence at the SC, and this case is especially unusual as it concerns a Single Judge Bench refusing to acknowledge the validity of orders passed by a larger Bench of the same court, violating a number of past SC judgments.

Single judge bench order

On January 24, a Single Judge Bench comprising Justice Gangopadhyay passed two orders in the case regarding alleged irregularities in MBBS admissions in West Bengal. In the first half of the day, he ordered the CBI to conduct an inquiry on account of the 'large picture of corruption' in the case. He highlighted the state policies' failure to arrest Shiekh Shahjahan after Enforcement Directorate (ED) officials were assaulted on January 5 during a raid at his residence in Sandeshkhali, necessitating CBI involvement.

In the order, he acknowledged that the petitioner did not seek a CBI inquiry in their plea, but stated that a thorough investigation is required. He directed all of the documents submitted by the Advocate General of the Calcutta High Court to be handed over to the CBI and directed the Registrar General to communicate with the CBI so an officer could appear later that day to receive the documents.

Division bench order

The Advocate General (AG) immediately approached a Division Bench comprising Justices Soumen Sen and Uday Kumar, asking them to stay the CBI inquiry. The bench agreed, stating that "the right of the State to conduct fair and impartial investigation by its agencies cannot be lightly interfered with" and held that, without pleading for a CBI inquiry, the court could not order the same. The bench held that "there is no requirement to handover the documents to the CBI Officer, who was supposed to appear at 2:30 pm."

Conflict

Despite the order from the Division Bench, a CBI officer appeared before Justice Gangopadhyay that afternoon. At 3:30 pm, Justice Gangopadhyay passed a second order and went ahead with the document handover, saying no one from the state had informed him of an appeal against the order for a CBI inquiry.

Justice Gangopadhyay defies the order of a larger bench

Despite the well-established law of precedent which binds a Single Bench Judge to comply with the orders of a larger bench, Justice Gangopadhyay stated that he did not recognise the validity of the stay order passed by the Division Bench and directed the CBI to complete the investigation and submit a report within two months.

Relevance: GS Prelims & Mains Paper II; Governance

Source: The Indian Express

3. Why Centre plans to replace the Indian Stamp Act, 1899 with a new law

Why in news?

The Centre has proposed repealing the Indian Stamp Act, 1899 and bringing in a new law for the stamp duty regime in the country. Recently, the Ministry of Finance invited suggestions on the draft 'Indian Stamp Bill, 2023' from the public.

What is stamp duty?

A stamp duty is essentially a government tax, which is levied to register documents, like an agreement or transaction paper between two or more parties, with the registrar. Usually, the amount specified is fixed based on the document's nature or is charged at a certain percentage of the agreement value stated in the document.

Stamp duties can be levied on bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

Accepted as valid evidence in a court of law, stamp duties are levied by the Centre but appropriated by the concerned states within their territories under Article 268 of the Constitution.

Why is the Indian Stamp Bill, 2023 being proposed?

According to the statement released by the Ministry of Finance, several provisions of the Indian Stamp Act, 1899 have now become "redundant" or "inoperative". For instance, there is a lack of provisions for digital e-stamping and a lack of uniform legislation for all Indian states regarding stamp duties — the 1899 Act extended to 30 states and Union Territories combined while six states followed their own stamp acts and rules.

Therefore, the ministry has proposed repealing the existing Act and substituting it with new legislation to "reflect the present realities and objectives."

What are the notable provisions of the draft Bill?

The draft Bill has introduced provisions for digital e-stamping. "Electronic stamp" or "e-stamp" means an electronically generated impression denoting the payment of stamp duty by electronic means or otherwise, according to Section 2 (18) of the Bill.

There are also provisions for digital signatures. Section 2 (17) of the Bill states that the words "executed" and "execution", used for instruments, will mean "signed" and "signature" and include attribution of electronic records and electronic signatures, as defined under the Information Technology (IT) Act, 2000.

The IT Act defines "electronic records" as "data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated microfiche." Meanwhile, digital or electronic signature refers to the authentication of any electronic record by a subscriber through an electronic method or procedure.

The draft Bill also proposes to raise penalties. It seeks to increase the maximum penalty amount from Rs 5,000 to Rs 25,000 for contravening any provisions of the law and impose Rs 1,000 per day for repeated offences.

What is the Indian Stamp Act, 1899?

The Indian Stamp Act, 1899 is a fiscal or money-related statute that lays down the law relating to tax levied in the form of stamps on instruments recording transactions.

Under Section 2 of the Act, an instrument includes every document by which any right or liability is or purports to be, created, transferred, limited, extended, extinguished or recorded.

Meanwhile, a "stamp" has been defined as "any mark, seal or endorsement by any agency or person duly authorised by the State Government, and includes an adhesive or impressed stamp, for the purposes of duty chargeable under this Act".

Section 3 of the 1899 Act prescribes that certain instruments or documents shall be chargeable with the amount indicated in Schedule 1 of the Act. These include bills of exchange or promissory notes.

Relevance: GS Prelims & Mains Paper II; Governance

Source: The Indian Express

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