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1. SC rules Delhi L-G can directly nominate Municipal Corporation 'aldermen': What was the case?

Why in News?

Recently, the Supreme Court held that the Centre-appointed Delhi Lieutenant Governor (L-G) has the power to nominate 'aldermen' to the Municipal Corporation of Delhi (MCD) without the aid and advice of the Council of Ministers from the Delhi Government.



The bench of Justices P.S. Narasimha and P.V. Sanjay Kumar held that the Delhi Municipal Corporation Act, 1957 (DMC Act) gives the Delhi L-G the 'explicit' power to nominate aldermen without any requirement to consult the Council of Ministers, and held that the nomination of 10 aldermen in January 2023 was a valid exercise of power.

In January, the Delhi L-G nominated 10 aldermen by invoking his powers under Section 3 of the Delhi Municipal Corporation Act, 1957 (DMC Act). However, with the legality of the nomination in question, key functions of the MCD came to a halt.

Who are aldermen and why was their nomination by the Delhi L-G been challenged?

Why are aldermen integral to the functioning of the MCD?

Under the DMC Act, Delhi is divided into 12 zones. The Act also creates a 'Wards Committee' for each zone comprising elected representatives and the aldermen within that territory. The Delhi L-G under Section 3 the DMC Act is empowered to nominate 10 aldermen who must be above 25 years of age and "have special knowledge or experience in municipal administration". Though the aldermen do not have the right to vote in the MCD meetings, they play a crucial role in the functioning of the house through the Ward Committee.

Each of the 12 Wards Committees must elect a member to be a part of the MCD Standing Committee in their first meeting. Aldermen can vote in these elections and stand as candidates for being elected as a member of the Standing Committee. The remaining six Standing Committee members are chosen directly by the MCD house after the mayoral elections.

Though the Mayor is the nominal head of the MCD, the Standing Committee effectively manages the functions of the corporation, and it cannot be constituted without the alderman participating in the voting process. Without this committee, the MCD cannot perform crucial functions, including entering into contracts involving more than Rs. 5 crore expenditure, appointing MCD officers to key positions, recommending budget revisions, or approving any exercise of power involving expenditure beyond the current year.

Why is the nomination of aldermen in question?

Article 239AA of the Constitution of India contains special provisions for the National Capital Territory of Delhi. Crucially, it provides for the creation of the Delhi Legislative Assembly, the Council of Ministers which comprises members of this assembly, and the offices of the Chief Minister and the Delhi L-G.

The article states that the Council of Ministers and the Chief Minister will "aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion". The assembly has the power to make laws on all subjects in the State List except for laws that govern 'Public order' (entry 1), 'Police' (entry 2) and 'Land' (entry 18).

In December 2022, the Aam Aadmi Party won the Municipal Corporation Elections, winning 134 of the 250 seats in the MCD house. This ended the BJP's 15-year run as the majority party in the MCD. On January 3, 2023, the Delhi L-G issued a notification nominating 10 persons as aldermen under Section 3 of the DMC Act. The next day, the notification was modified and two of the members were replaced.

The Delhi government filed a plea for the quashing of both notifications at the Supreme Court in March 2023. They argued that the notifications were illegal as the Delhi L-G can only make nominations based on the 'aid and advice of the Council of Ministers' because of the special status given to the NCT of Delhi under Article 239AA of the Constitution of India.

It also relied on the apex court's 2018 decision in *State (NCT of Delhi) v. Union of India*, where the court held that the Delhi L-G was bound by the aid and advice of the Council of Ministers

in all matters related to subjects under the State and Concurrent lists (besides the three excluded subjects). The Delhi government also pointed out that one of the subjects in the State List is 'Local Government' (Entry 5).

The Delhi L-G, on the other hand, argued that the DMC Act carved out a specifically defined role for the 'Administrator' (the Delhi L-G) giving him the power to nominate aldermen. He claimed that while exercising this power that was specifically provided under a statute, it is not necessary to seek out the aid and advice of the Council of Ministers.

What did the court rule?

The bench of Justices P.S. Narasimha and P.V. Sanjay Kumar referred to the five-judge bench decision in *Government of NCT of Delhi v. Union of India* (2023) to arrive at its decision. In 2023, the apex court held that Parliament would have the power to legislate over subjects in the State List as well, when it comes to the NCT of Delhi. In this case that would include passing laws over 'local government', which is subject under the State List and would cover the DMC Act.

As the DMC Act gives the Delhi L-G the 'explicit' power to nominate aldermen without any requirement to consult the Council of Ministers, the court held that the nomination of 10 aldermen in January 2023 was a valid exercise of power.

Relevance: GS Prelims

Source: Indian Express

2. Bill to amend Disaster Management Act

Why in News?

Last week, the government introduced a Bill in Parliament seeking to amend the Disaster Management Act, 2005. It proposes to make important changes in the Act, aimed mainly at improving the operational efficiencies in responding to a natural disaster.



The Bill seeks to significantly expand the role and responsibilities of the National Disaster Management Authority (NDMA), especially in guiding state governments and organs of the Centre in dealing with disasters.

However, it misses the opportunity to upgrade and strengthen the institutional status of NDMA. This would have empowered the body to coordinate better with state agencies, and provided it with more financial and human resources.

Significance of the DM Act

The DM Act was enacted in the aftermath of the devastating 2004 tsunami — the idea for such legislation was in the works at least since the 1998 Odisha super cyclone.

The Act led to the creation of the NDMA, SDMA at the state level, a National Disaster Response Force (NDRF), and a National Institute of Disaster Management (NIDM) — an institute meant for disaster-related research, training, awareness, and capacity building. The Act was followed by a National Disaster Management Policy in 2009 and a National Disaster Management Plan in 2016.

This institutional framework has served India well in dealing with natural disasters. Over the years, it has saved thousands of lives, and provided relief, rescue and rehabilitation services. Growing incidents of natural disasters, exacerbated by climate change, have made agencies such as NDMA more important than ever, requiring the assignment of greater responsibilities and resources.

The proposed amendments

The amendment Bill acknowledges this fact and proposes to make a few important changes to make the Act more effective.

Urban Disaster Management Authorities: The institutional structure for disaster management extends to the district level, and district disaster management authorities are already functional. However, the Bill recognises the special requirements of large metropolitan cities that often comprise multiple districts. In such cities — all state capitals and cities with a municipal corporation — would now also have an Urban Disaster Management Authority, headed by the municipal commissioner. This can help in having a unified and coordinated approach towards city-level disasters such as urban flooding.

SDRF: Although most states have raised their disaster relief forces on the lines of NDRF over the years, an SDRF is not mandated in the 2005 Act. The size and capacity of the SDRFs in the states vary significantly. The Bill proposes to make it mandatory for every state to raise and maintain an SDRF.

National Crisis Management Committee: NCMC, headed by the Cabinet Secretary, is already functional for handling all kinds of national emergencies, including disasters. The Bill gives legal status to the NCMC, making it the nodal body to deal with disasters with “serious or national ramifications”.

Enhanced role of NDMA: The role and responsibilities of the NDMA are proposed to be significantly expanded. It has been asked to periodically take stock of the entire range of disaster risks to the country, including risks from emerging disasters.

Disaster Databases: The NDMA is also being asked to create and maintain a national disaster database with information on the assessment of the disaster, fund allocation, expenditure, and preparedness and mitigation plans. The SDMA will also need to create state-level disaster databases.

Compensations: The Bill proposes that the NDMA should recommend guidelines for minimum standards of relief to be provided to people affected by disasters. This includes a recommendation on compensation amounts in case of loss of lives, damage to homes and property, and loss of livelihoods.

Man-made disasters: The Bill seeks to include an important clarification about the definition of disasters. The original Act defined disasters as any "catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes...". The Bill says the phrase "man-made causes" does not include any law-and-order-related situation. Loss of lives, suffering, or property damage in a riot, for example, would not invoke provisions of this law.

Absence of vice-chairperson: The NDMA is headed by the Prime Minister as chairperson. A vice-chairperson, in the rank of a Cabinet Minister, is supposed to be responsible for day-to-day functioning. The post of vice-chairperson, however, has been vacant for about a decade. The amendment Bill legitimises this position by allowing for the day-to-day functioning to be carried out by any Member designated by the chairperson or the vice-chairperson.

Unaddressed issues in Bill

Considering its growing role and importance, it has been argued that NDMA be given more powers and elevated to the status of a government department, if not a full-fledged ministry in itself. The NDMA now remains active throughout the year, and has to regularly coordinate with state governments and their agencies. Currently, this is done through the Home Ministry, which is the nodal ministry for the NDMA.

Without a vice-chairperson, the NDMA has been deprived of not just leadership but also the political heft necessary to deal with states and other central government agencies.

The NDMA does not have any administrative financial powers. Routing every small decision through the Home Ministry is an inefficient and time-consuming process. The body is also severely short-staffed at the top, with just three members functioning. It used to once have six to seven members, each in charge of a specific type of disaster.

The amendment Bill ignores these deficiencies for the time being. Some of the other provisions are also likely to face opposition, particularly the ones that deal with changes at the state level.

Relevance: GS Prelims & Mains Paper III; Disaster Management

Source: The Indian Express

3. The debate over GST on health insurance

Why in News?

Insurance companies have jacked up premiums on health and life insurance policies this year which, together with the 18% Goods and Services Tax (GST), has made insurance less affordable for many sections of the country's population.

What is the GST on health and life insurance premiums?

GST replaced all indirect taxes like service tax and cess from July 1, 2017. Currently, GST on health and life insurance policies is fixed at 18%. Since GST encapsulates service tax, which



applies to the insurance industry, its introduction has resulted in an increase in premium amounts. Prior to GST, life insurance premiums were subject to 15% service taxes, comprising Basic Service Tax, Swachh Bharat cess, and Krishi Kalyan cess. The increase from 15% to 18% impacted the end consumer — that is, policyholders — by raising their premiums amounts.

This, along with the runaway cost of treatment — medical inflation was estimated to be 14% towards the end of last year — has made buying medical insurance difficult for many people. Ditto is the case with term insurance policies.

The government acknowledged in Parliament on Monday that representations had been received asking for an exemption or reduction in the rate of GST on life and health insurance.

What is the rational justification for imposing the tax?

GST rates and exemptions on all services, including GST on health insurance premium, are prescribed on the recommendations of the GST Council, which is a constitutional body comprising the Union Finance Minister and ministers nominated by governments of states/ Union Territories.

GST is applicable to all insurance policies since insurance is a service, and policyholders pay tax on their insurance premium. It's a revenue earning segment for the government, which fetched Rs 21,256 crore in GST during the last three financial years, and another Rs 3,274 crore from the reissuance of health policies.

And what is the argument for withdrawing the GST on the premium?

The main issue is the large increases in premium on health insurance policies this year — a leading public sector insurer has hiked the premium by 50%. While health insurance is very significant for the benefit of the people, "sadly, the renewal rate of policies is alarmingly declining due to frequent premium hikes and medical inflation", the Confederation of General Insurance Agents' Associations of India, an umbrella body of non-life insurance agents, has said.

The confederation has pointed out that the GST on insurance in India is the highest in the world — and that the situation needs to be addressed in order to attain insurance regulator IRDAI's goal of "Insurance for All by 2047".

This report had recommended rationalisation of the GST rate on insurance products, especially health and term insurance. The high rate of GST results in a high premium burden, which acts as a deterrent to getting insurance policies.

Relevance: GS Prelims & Mains Paper III; Economics

Source: Indian Express