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ECONOMICS

GST COUNCIL TO IMPOSE 28% TAX ON ONLINE GAMING FIRMS

The 50th meeting of GST Council held on July 11, 2023 decided to impose a 28 % tax on online gaming, casinos, and horse racing. The tax will be levied on the full-face value of bets and wagers made on these activities, regardless of whether they involve skill or chance.

The 50th meeting of GST Council brought the Goods and Services Tax Network (GSTN) under the Prevention of Money-laundering Act (PMLA). The GSTN will now be able to share information with the Enforcement Directorate

(ED) and other investigative agencies. The Finance Minister, Nirmala Sitharaman, said that the inclusion of GSTN under PMLA was necessary to curb tax evasion and money laundering. She said that the GSTN has a lot of data on businesses and transactions, and that this data can be used to track down tax evaders and money launderers.

Keywords: GST Council, GST Network (GSTN)

ECONOMICS AND DEVELOPMENT

SOUTH KOREA'S SK HYNIX LOOKING TO SET UP CHIP MANUFACTURING PLANT IN INDIA

SK Hynix is the world's second-largest memory chipmaker, behind Samsung Electronics is reportedly looking to set up a chip manufacturing plant in India. The plant is reportedly expected to be located in the state of Gujarat, and it would have a capacity of 60,000 wafers per month. The plant would be

used to manufacture DRAM chips, which are used in computers and other electronic devices.

Keywords: DRAM chips, PLI Scheme

1 MN. CBDC TRANSACTIONS PER DAY BY 2023 END

The Reserve Bank of India (RBI) has set a target of 1 million CBDC transactions per day by the end of 2023, a significant increase from the current level of transactions, which is around 100,000 per day. The RBI believes that CBDC has the potential to improve the efficiency of the payments system and to make it more accessible to people who do not have access to traditional banking services.

Challenges:

- Building the necessary infrastructure to support a large volume of CBDC transactions.

- Educating the public about the use of CBDC.
- Addressing the concerns of cybersecurity risks, financial privacy concerns, impact on financial stability, cost of implementation to name a few.

Benefits of CBDC:

- Increased efficiency of the payments system.
- Increased accessibility of financial services.
- Reduced risk of fraud and counterfeiting.
- Improved transparency and traceability of transactions.

OVER 13,000 ENFORCEMENT ACTIONS TAKEN IN ILLEGAL ILLIQUID STOCK OPTIONS TRADE IN TWO YEARS: SEBI

The Securities and Exchange Board of India (SEBI) has taken over 13,000 enforcement actions in the past two years against entities involved in illegal illiquid stock options (ISO) trading. The Securities and Exchange Board of India (SEBI) has taken over 13,000 enforcement actions in the past two years against entities involved in illegal illiquid stock options (ISO) trading. These actions include fines, suspensions, and even imprisonment.

ILLIQUID STOCK OPTIONS (ISO) TRADING: A type of market manipulation where traders create artificial demand for stocks that are not actively traded in

the market. A type of derivative, illiquid stock options allow investors to bet on the future price of a stock. SEBI alleges entities creating fake trades in ISOs to artificially inflate the price of a stock to manipulate the stock market. This would then allow them to sell their shares at a higher price. Investors duped into buying such stocks would find it difficult to sell ISOs if the investor wants to exit their position.

Keywords: Securities and Exchange Board of India (SEBI)

ON TRACK FOR PAN-INDIA ROLL OUT OF E 20 PETROL BY 2025, SAID PURI

Hardeep Singh Puri, Union Petroleum Minister expressed confidence on achieving a pan-India rollout of E20 petrol by 2025. The government has already achieved the target of achieving 10% ethanol blending in petrol by 2022-23, 5 months ahead of schedule. The government is now targeting a 20% ethanol blending in petrol by 2025-26. E20 petrol is a blend of 20% ethanol with petrol.

Steps to promote ethanol blending in petrol:

- Providing financial incentives to oil marketing companies (OMCs) to blend ethanol in petrol.
- Setting up ethanol production plants across the country.

- Providing training to farmers on how to grow sugarcane and other crops that can be used to produce ethanol.

Benefits of E 20 petrol: The number of E20 petrol outlets has increased from 84 in February 2023 to over 600 in July 2023. The government expects the number of E20 petrol outlets to reach 1,350 by the end of 2023. The pan-India rollout of E20 petrol will have a number of benefits, namely

- Reducing India's dependence on imported crude oil.
- Reducing air pollution.
- Creating jobs in the ethanol industry.

SC ASKS SEBI WHY WAS LAW ALTERED TO JETTISON NORM BARRING OPACITY IN FPI OWNERSHIP

The Supreme Court has asked the Securities and Exchange Board of India (SEBI) to explain why it amended the Foreign Portfolio Investor (FPI) Regulations in 2018 to remove the definition of "opaque structure". The court was hearing a petition filed by a group of investors who have alleged that the amendments were made to facilitate the entry of opaque FPIs into the Indian market.

The petitioners argue that the amendments have made it difficult for SEBI to track the ownership of FPIs, which could pose a risk to the Indian

financial system. They also argue that the amendments have made it easier for FPIs to engage in insider trading and other market abuses. The SEBI has defended the amendments, saying that they were necessary to simplify the FPI Regulations and to make it easier for FPIs to invest in India. The SEBI has also said that the amendments do not make it any more difficult for SEBI to track the ownership of FPIs.

Key words: Securities and Exchange Board of India (SEBI)

SCIENCE AND TECHNOLOGY

INDIA EXPLORES BUILDING LIQUEFACTION UNITS IN IRAQ TO CONVERT FLARED GAS INTO LNG

India as part of efforts to diversify its energy sources and reduce its reliance on imported oil is exploring the possibility of building liquefaction units in Iraq to convert flared gas into liquefied natural gas (LNG).

Flaring: Flaring is the process of burning off unwanted natural gas that is produced as a byproduct of oil extraction. Flaring is a major source of greenhouse gas emissions, and it is also a waste of a valuable resource. Iraq

flares a significant amount of natural gas.

Proposal of India: India plans to build liquefaction units in Iraq to convert the flared gas into LNG, a cleaner-burning fuel than oil, and can be transported more easily. India would get access to a cleaner-burning fuel, and Iraq would be able to reduce its greenhouse gas emissions and monetize its flared gas.

Keywords: Liquefied Natural Gas

MOON'S SOUTH POLE: WHY CHANDRAYAAN 3 WILL GO WHERE NO CRAFT HAS

Chandrayaan-3, India's lunar mission will carry a lander and a rover. The lander will be responsible for soft-landing the mission on the moon, while the rover will be responsible for exploring the lunar surface. The rover will be equipped with a variety of instruments that will be used to study the lunar south pole, including a spectrometer, a camera, and a magnetometer.

Significance of landing on lunar south pole: The lunar south pole with its rugged terrain - mountainous and with many craters is a very challenging region

to land and least explored. It is also far from the equator, which is where most spacecraft have landed.

- Extremely cold temperatures, reaching as low as -2300 Celsius.
- Region is in permanent shadow, making it impossible to observe from Earth.
- Expected to contain large deposits of water ice, a valuable resource that could be used to support future human exploration of the moon.

WHAT IS THE LEGAL ROW BETWEEN FARMERS AND PEPSI CO?

In 2016, PepsiCo India registered a potato variety called FL-2027 under the Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001. PepsiCo India sued nine Gujarati farmers for allegedly infringing its rights by growing this variety without permission. The farmers argued that they were legally entitled to grow the variety, as the PPV&FR Act allows farmers to save, use, exchange, and sell seeds of protected varieties. In May 2019, PepsiCo withdrew its cases against the farmers. The Alliance for Sustainable and Holistic Agriculture (ASHA) has filed a petition with the Protection of Plant Varieties and Farmers' Rights Authority (PPV&FRA) seeking to revoke PepsiCo's registration of FL-2027.

Grounds for revocation of patent: Section 34 of the PPV&FR Act revokes protection granted under the registration to a breeder on the following grounds

- Registration granted based on incorrect information furnished by the applicant / breeder
- Registration granted to an ineligible person
- Failure of the breeder to provide the required documents with the Registrar
- Failure to provide an alternative denomination for variety registration in case the earlier variety provided is not permissible for registration

- Failure of the breeder to provide the required seeds for compulsory licence
- Failure to comply with the acts, rules, regulations and directions issued by the Authority
- Grant of the registration certificate is against public interest

Revocation of certificate by Delhi High Court: PepsiCo had sought the registration of FL 2027 variety as a "new variant" instead of an "extant variant" in its application dated February 16, 2012, despite furnishing the date of its commercialisation in India to be December 17, 2009. The "new variant" needs to satisfy additional requirement of 'novelty' in addition to 'distinctiveness', 'uniformity' and 'stability' must be satisfied one year before the date of filing of the application for registration. The court held that FL 2027 could not fulfil the criteria of novelty and was only eligible for registration under "extant variety". The Delhi HC revoked the registration for furnishing incorrect information during filing the application for registration under Section 34(a) of the PPV&FR Act.

Key words: Frito Lay (FL) – 2027, Protection of Plant Varieties and Farmers Rights Act, 2001

INTERNATIONAL RELATIONS

NO TIMETABLE SET FOR UKRAINE'S MEMBERSHIP, SAYS NATO CHIEF

NATO leaders at a NATO summit in Vilnius, Lithuania, on July 11, 2023 set no timetable for Ukraine to join the alliance "when allies agree and conditions are met". Ukrainian President Volodymyr Zelenskyy had called on NATO to set a timetable for Ukraine's membership.

NATO Secretary-General Jens Stoltenberg said that the alliance's leaders had agreed to "remove the requirement for a Membership Action Plan," which is a key step in the process of joining NATO. This means that Ukraine

could theoretically join the alliance without going through the full Membership Action Plan process. The alliance's leaders stressed on the need to first address security concerns raised by Russia. Russia has been opposed to Ukraine's membership in NATO, and it has warned that it would take "military-technical measures" if Ukraine were to join the alliance.

Key words: North Atlantic Treaty Organisation (NATO)

GEOGRAPHY

EXTREME RAIN EVENTS IN JULY

Context: The monsoon rainfall deficit in the country has turned into a surplus due to extreme rainfall so far in July.

Details of extreme rainfall in July

- The monsoon season this year was not expected to be very wet. The start certainly wasn't that great, and notwithstanding the reassuring predictions of a normal monsoon by India Meteorological Department (IMD), rains were expected to be suppressed by a developing El Nino.
- By the first two weeks of the monsoon, India as a whole had accumulated a rainfall deficit of more than 50%.
- Thanks to rains induced by the Biparjoy cyclone in the northwestern and central parts of the country, this deficit had come down to 8% by the end of June.
- July has been extremely wet so far in most parts of the country. Overall, India has received 26% more rainfall in July than expected, which has helped in wiping out the entire deficit for the season till now.
- But it is in the northern states — Himachal Pradesh, Delhi, Punjab, Rajasthan, Uttar Pradesh and Uttarakhand — that the rains have come down most heavily.

- For instance, Himachal Pradesh has received rainfall four times than normal for July till now, while in Punjab it is three times higher.
- IMD has attributed this spell to an interaction between the monsoon winds and western disturbances that converged over northern India during the first two weeks of July.

Extremely heavy but not unusual

- Such events of extremely heavy rainfall are not unexpected during the monsoon season. IMD defines an extremely heavy rainfall event as one in which more than 205 mm of rainfall happens at any place within a 24-hour period.
- Hundreds of such events, at different locations in the country, are recorded during the monsoon season every year.
- Such rainfall-triggered disaster-like situations have become a regular feature during the monsoon. After the 2013 Uttarakhand tragedy, there has not been a single year without at least one major disaster-like situation produced by an extreme rainfall event.
- Such events are routinely attributed to climate change, but without a proper attribution assessment, scientists are reluctant to describe them as such.

ECOLOGY AND ENVIRONMENT

SC STAYS NGT ORDER ASKING L-G TO HEAD PANEL FOR YAMUNA

Context: The Supreme Court Tuesday stayed the National Green Tribunal's January 9 direction appointing Delhi Lieutenant Governor as the chairman of a high-level committee on Yamuna rejuvenation.

About the panel

- The NGT had constituted the high-level committee of authorities concerned in Delhi, where pollution in Yamuna is higher (about 75%) compared to other river basin states.
- NGT has suggested earlier steps to clean Yamuna such as using treated water for agriculture, horticulture or industrial purposes, preventing discharge/dumping of any waste, protecting flood plain zones, etc.

About Yamuna river

- The Yamuna River is the longest tributary (a river that flows into another larger river) in India. Yamuna is the sub-basin of the Ganga basin.
- It is a large basin that is spread across seven states namely Uttarakhand, Uttar Pradesh, Himachal Pradesh, Haryana, Rajasthan, Madhya Pradesh, and Delhi-NCR.

Mapping pollution in river Yamuna

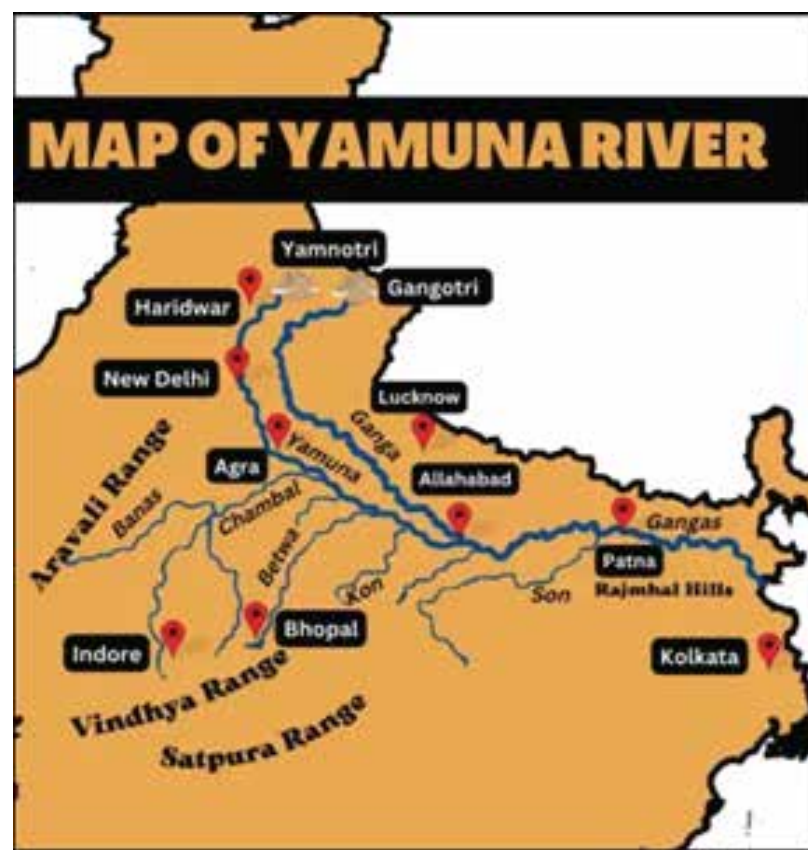
- The Yamuna River's stretch in the national capital region has become the most polluted part of the river over the last three years. It is followed downstream of the Yamuna River in Uttar Pradesh. In its upper stream, Haryana's stretch of the river is the most polluted.
- Delhi has the highest level of Biological Oxygen Demand (BOD) among all its stretches of the river.
- BOD measures the amount of oxygen required to remove waste organic matter from water. It means the highest BOD, the lowest quality of water. The fair amount of BOD level should be lesser or equal to 3 mg/litre to take bath in the open.
- In Delhi, the highest level of BOD was 114 mg/litre in 2020 followed by 83 mg/litre in two subsequent years.
- Only Uttarakhand and Himachal Pradesh's river stretches had satisfactory BOD levels in the corresponding period.
- The extreme pollution level in Yamuna led to a sharp decline in the population of aquatic life such as Indian major carp like Mirgala, Catla, Rohu, etc.

Sources of Pollution

- Domestic wastewater, industrial effluents, idol immersion, pesticide residue, untreated sewage are some of the sources of pollution of river Yamuna.
- Most of the pollution occurs in the NCR stretch than in other places where the river flows. Only 2% of the river length flows through Delhi yet the city is responsible for about 76% of the total pollution load in the river.

Cleaning Yamuna

- The Yamuna Action Plan (YAP) is a river restoration project introduced in 1993. It is a bilateral project between the government of India and Japan where Japan offered loan assistance for the implementation of YAP.
- Subsequently, two phases YAP II and YAP III were initiated in 2004 and 2008 respectively. Unfortunately, the mission to clean Ganga and Yamuna which includes YAP has failed according to the Parliamentary Committee on Environment and Forests.



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GREEN WASHING: ON AMENDMENTS AND THE FOREST (CONSERVATION) AMENDMENT BILL, 2023

Context: The Forest (Conservation) Amendment Bill, 2023 that is being deliberated upon by a Joint Committee of Parliament is a contentious piece of legislation that signals the complex challenges involved in balancing industrial development and the conservation of forests.

What is the issue?

- The Central government introduced the Forest (Conservation) Amendment Bill, 2023 in the Lok Sabha on March 29th this year.
- Generally speaking, the Bill exempts certain types of forest land from the protection afforded by the Act.
- It also expands the list of activities that can be carried out on forest land.

Background

- The Forest (Conservation) Act, 1980 has empowered the state to regulate the industrial exploitation of forests and environment.
- This Act also gave legal support to Constitutional provisions related to environment conservation.
- As per Article 48A, the state shall make laws to protect and improve the environment to safeguard the forests of our country.
- According to Article 51A(g), it is the duty of every citizen of India to protect and improve the natural environment including the forests of our country.
- Despite this Act, India's forest cover has seen only marginal increases, as biennial reports of the Forest Survey of India illustrate.

- Growth in forest cover inside officially recorded forests is stagnant, or at best incremental. It is tree cover in orchards, plantations and village homesteads that has been on the rise and supplementing India's claim that 24% of its area is under forest and tree cover.
- India has committed to increasing its forest cover to 33% and adding a carbon sink of 2.5 billion to 3 billion tons of carbon dioxide this way, by 2030, as part of its international climate commitments.
- As per the Environment Ministry, the existing Forest (Conservation) Act, 1980 was insufficient for these ends, as it did not incentivize private agro-forestry and tree plantation activities.
- From 2019 to 2021, India added 1,540 square kilometers of forest cover of which 1,509 sq. km was outside recorded forest area. The new amendments to the Forest Act gave such incentives.

Issues with the Proposed Amendment

- The amendments effectively mean States can no longer classify unclassified forest land, or patches of trees with forest-like characteristics as 'forest land'.
- The amendments also allow forest land, up to 100 km near India's borders, to be appropriated, without central approval, for "strategic and security" purposes.
- The primary criticism is that these amendments do not really contribute to regenerating natural forest, but rather incentivise afforestation for commercial ends.

POLITY AND GOVERNANCE

SC SEEKS CENTRE, EC RESPONSE ON DELIMITATION IN ARUNACHAL PRADESH

- The Supreme Court (SC) on Tuesday prima facie disagreed with the legal stand of the Election Commission (EC) of India that it can only begin the delimitation process in Manipur, Assam, Nagaland and Arunachal Pradesh after only getting an authorisation from the Centre.
- "It does not appear the Election Commission requires the authorisation of the Government of India," Chief Justice of India D.Y. Chandrachud addressed Solicitor-General Tushar Mehta, for the Centre.

Different from other States

- Unlike other States, the EC, and not the Delimitation Commission, has to conduct the delimitation exercise in these four States.
- The CJI's prima facie comment was based on a reading of Section 8A of the Representation of the People Act, 1950. The provision deals with the delimitation of Lok Sabha and Assembly constituencies in the States of Arunachal Pradesh, Assam, Manipur or Nagaland.
- Section 8A(1) says that subject to being satisfied that the conditions were conducive, the President can rescind the deferment of the delimitation exercise in the four States and provide for the conduct of delimitation exercise by the Election Commission.

Delimitation

Delimitation literally means the act or process of fixing limits or boundaries of territorial constituencies in a country or a province having a legislative body. The job of delimitation is assigned to a high power body. Such a body is known as Delimitation Commission or a Boundary Commission. In India, such Delimitation Commissions have been constituted 4 times – in 1952 under the Delimitation Commission Act, 1952, in 1963 under Delimitation Commission Act, 1962, in 1973 under Delimitation Act, 1972 and in 2002 under Delimitation Act, 2002. The Delimitation Commission in India is a high power body whose orders have the force of law and cannot be called in question before any court. These orders come into force on a date to be specified by the President of India in this behalf. The copies of its orders are laid before the House of the People and the State Legislative Assembly concerned, but no modifications are permissible therein by them.

- Section 8A(2) provides that the Election Commission has to start the delimitation process to determine Parliamentary and Assembly constituencies in the four States as soon as the President rescinds the order.

- Senior advocate Gopal Sankaranarayanan, for the petitioners seeking delimitation, said the President had rescinded the deferment order way back in February 2020.
- "The moment the deferment order is rescinded under 8A(1), then you [Election Commission] have to take steps under 8A(2)," the CJI told advocate Amit Sharma, appearing for the EC.
- Mr. Sankaranarayanan said the petitioners, as of now, were only focussing on the conduct of the delimitation exercise in the State of Arunachal Pradesh.
- He said the delimitation in Assam was well on its way to completion and there was some connected litigation pending in Nagaland.
- "It is not fair to ask for delimitation now in Manipur considering the conflagration there... So, we are now only concentrating on Arunachal Pradesh," Mr. Sankaranarayanan submitted. Mr. Sankaranarayanan said the EC should, however, clarify its stand on conducting delimitation in Arunachal Pradesh.
- Mr. Mehta however advised caution, considering the tense atmosphere in Manipur. He said the court should avert the risk of a "spillover".
- "Anything being done here, should not spill over. Kindly defer the matter for some time," he requested the court. The Bench adjourned the case to next week.

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CENTRE TOLD TO CLARIFY STAND ON PLACES OF WORSHIP ACT BY OCT. 31

The Supreme Court has directed the Centre to clarify its stand on the Places of Worship Act, 1991 by October 31 on a petition filed by a group of Hindu lawyers, who have challenged the constitutional validity of the Act. The lawyers argue that the Act violates the fundamental right to freedom of religion guaranteed by the Constitution. The Centre has argued that the Act is a valid law and that it does not violate any fundamental rights. The Centre has also said that it is committed to secularism and that it will not allow any changes to the religious status quo of any place of worship in India.

Places of Worship (Special Provisions) Act, 1991

- ENACTED: 1991
- TERMS OF REFERENCE: Seeks to maintain the "religious character" of places of worship as it was in 1947 except in the case of the Ram Janmabhoomi-Babri Masjid dispute, a then-sub-judice matter.
- SECTION 3*: Prohibits conversion of places of worship.
- SECTION 4(1): Protect the religious character of a place of worship as on August 15, 1947.
- SECTION 4(2): Prohibits filing any fresh suit or legal proceedings, except any suit or legal proceeding concerning the conversion of the religious character of any place of worship existing on August 15, 1947.
- SECTION 5: Excludes the scope of the Act to the Ramjanmabhoomi-Babri Masjid case, and to any suit, appeal, or proceeding relating to it.
- SECTION 6: Prescribes a punishment of a maximum of three years imprisonment along with a fine for contravening the provisions of the Act.

* No person shall convert any place of worship of any religious denomination or any section of a religious place into a place of worship of a different section of the same religious denomination or a different religious denomination.

Besides the AYODHYA DISPUTE, the Act also exempts any:

- Place of worship that is an ancient and historical monument or an archaeological site or covered by the Ancient Monuments and Archaeological Sites and Remains Act, 1958;
- Suit that has been finally settled or disposed of.
- Any dispute that has been settled by the parties or conversion of any place that took place by acquiescence before the commencement of the Act.

ROLE OF THE STATE

- Positive obligation upon the State to maintain the religious character of every place of worship as it existed at the time of Independence
- Legislative obligation on the part of the State to preserve and protect all faiths equally

GROUND FOR CHALLENGING THE LAW

- Bars judicial review, which is a basic feature of the Constitution;
- Imposes an "arbitrary irrational retrospective cut-off date" and;
- Abridges the right to religion of Hindus, Jains, Buddhists and Sikhs.

CONSTITUTIONAL SCOPE OF LEGISLATURE TO MAKE A LAW:

- Selectively curtailing of the rights of Hindus, Jains, Buddhists, Sikhs to approach the court to reclaim the religious place. The Act "has barred the remedies against illegal encroachment on the places of worship and pilgrimages and now Hindus, Jains, Buddhists, Sikhs cannot file suit or approach High Court under Article 226.
- Bar the right and remedy against encroachment made on religious property of Hindus exercising might of power by followers of another faith" under Section 4 of the Places of Worship (Special Provisions) Act, 1991.

SC ASKS ED CHIEF TO QUIT, BUT UPHOLDS AMENDMENTS

Gist : Back-to-back service extensions given to Mishra in 2021 and 2022 were invalid and illegal; it, however, gave him time till July 31 to leave office to ensure a 'smooth transition'

Origin of ED

- The Directorate of Enforcement or the ED is a multi-disciplinary organization mandated with investigation of economic crimes and violations of foreign exchange laws.
- The origin of this Directorate goes back to 1st May, 1956, when an 'Enforcement Unit' was formed in the Department of Economic Affairs for handling Exchange Control Laws violations under Foreign Exchange Regulation Act, 1947 (FERA '47).



Extensions can be granted by the government only if the committees, which are constituted for recommending their appointment, recommend their extension in public interest and also record the reasons in writing

JUSTICE B.R. GAVAI



- This Unit with Delhi as Headquarters was headed by a Legal Service Officer, as Director of Enforcement, assisted by an Officer drawn on deputation from Reserve Bank of India (RBI) and 03 Inspectors of Special Police Establishment. There were 02 branches – at Bombay and Calcutta.
- In the year 1957, this Unit was renamed as 'Enforcement Directorate', and another branch was opened at Madras.
- In 1960, the administrative control of the Directorate was transferred from the Department of Economic Affairs to the Department of Revenue. With the passage of time, FERA' 47 was repealed and replaced by FERA, 1973. For a

short period of 04 years (1973 – 1977), the Directorate remained under the administrative jurisdiction of the Department of Personnel & Administrative Reforms. Presently, the Directorate is under the administrative control of Department of Revenue, Ministry of Finance, Government of India.

- With the onset of the process of economic liberalization, FERA, 1973, which was a regulatory law, was repealed and in its place, a new law viz. the Foreign Exchange Management Act, 1999 (FEMA) came into operation w.e.f. 1st June 2000.
- Further, in tune with the International Anti Money Laundering regime, the Prevention of Money Laundering Act, 2002 (PMLA) was enacted and ED was entrusted with its enforcement w.e.f. 1st July 2005. Recently, with the increase in number of cases relating to economic offenders taking shelter in foreign countries, the Government has passed the Fugitive Economic Offenders Act, 2018 (FEOA) and ED is entrusted with its enforcement with effect from 21st April, 2018.

Background:

The tenure for directors of ED is two years. However, in November 2021, the President promulgated two ordinances allowing the Centre to extend the tenures from two years to up to five years. So, now they can be given three annual extensions. The Supreme Court had previously upheld this and allowed the extension of ED's chief Sanjay Kumar Mishra, but said that such extension should be done in rare and exceptional cases and for a short period.

Now, the government has again extended the tenure of Mr Mishra citing a pending review by the Financial Action Task Force and that Mishra would not remain in service after his term comes to an end in November. This has been challenged in SC again.

SC asks ED chief to quit, but upholds amendments

- The Supreme Court on Tuesday asked Enforcement Directorate (ED) Director Sanjay Kumar Mishra to quit four months before his third extension ends in November even as it upheld statutory amendments that facilitate the tenures of Directors of the Central Bureau of Investigation and the ED to be stretched "piecemeal".
- The tweaks in the law came shortly after the Supreme Court, in a September 2021 judgment, directed the government to stop giving extensions to Mr. Mishra. The amendments allowed the government to overcome the court's direction and grant Mr. Mishra another two extensions.
- The amicus curiae had urged the court to strike down the amendments. Mr.

Viswanathan had argued that the Centre could use the prospect of service extensions as a "carrot and stick" policy to ensure that the CBI and ED Directors work according to its wishes.

Amicus Curiae literally translated from Latin is "friend of the court."

Generally, it is referencing a person or group who is not a party to an action, but has a strong interest in the matter. This person or group will petition the court for permission to submit a brief in the action intending to influence the court's decision. Such briefs are called "amicus briefs."

CITIZEN ACTION FOR CLEAN POLITICIANS, CLEANER POLITICS

- All candidates now follow stipulations following a Supreme Court of India judgment, filing self-sworn affidavits which record the details of criminal cases they have, if any. Of the 4,001 sitting MLAs, 1,777 of them, or 44%, have a criminal case.
- The current Lok Sabha also has 43% Members of Parliament (MP) with criminal cases.
- In 2004, the percentage was around 22%, and has now doubled. Many people feel that the cases are either trivial ones or politically motivated. The point that these are not frivolous first information reports needs to be emphasised. These are cases registered after a due process of investigation, filing of charge sheets, a preliminary hearing of the case and being formally charged in a court of law.
- Even if we say that the cases are foisted by rival political parties, it shows that political parties are selectively using the law and the system needs to change. The law and order system was put in place by political parties and they need to change it.
- However, facts show that most cases were filed when the party to which the MLA or MPs belonged to was in power. So, the cases are not all politically motivated.

The data is an eye-opener

- If we dig deeper and look at serious criminal cases — which on conviction would lead to a jail sentence of five years or more — there are 1,136 or 28% of such MLAs today. There are 47 MLAs with murder cases, 181 with attempt to murder cases, another 114 with cases related to crimes against women, and 14 with rape cases. States/Union Territories with the highest number of serious criminal cases are Delhi 53%, Bihar 59%, Maharashtra, Jharkhand and Telangana 39% each, and Uttar Pradesh 38%.

No political party is free of this malaise.

- If one focuses only on those parties with at least 40 such MLAs, the Bharatiya Janata Party (BJP) leads with 479 MLAs with criminal cases, and 337 with serious criminal cases. The next largest party, the Indian National Congress (INC), has 334 MLAs with criminal cases, and 194 with serious criminal cases.
- The other parties including the Dravida Munnetra Kazhagam (DMK), Trinamool Congress, Aam Aadmi Party, YSR Congress, Samajwadi Party, Bharat Rashtra Samithi (formerly the Telangana Rashtra Samithi), Rashtriya Janata Dal, Communist Party of India (Marxist) and Biju Janata Dal have a lower

- He had contended that a Director "would always succumb to the pressure of the government so as to ensure that he gets further extension". The petitioners too had submitted that the amendments went against the very principle of insulating the Central investigative agencies from government pressure.

number of such MLAs but with a higher percentage of offences — between 42% to 76% for criminal cases, and 32% to 43% for serious criminal cases. The other parties such as the Nationalist Congress Party, Shiv Sena, Janata Dal (United) or JD(U), Jharkhand Mukti Morcha and All India Anna Dravida Munnetra Kazhagam have far fewer seats, and so the number of their MLAs with criminal cases is also much lower.

- In the 2019 Lok Sabha, the BJP had 116 MPs with a criminal record, the INC 29, DMK 10, Trinamool Congress 9, and JD(U) 13. When it came to serious criminal cases, the BJP has 87 MPs, INC 19, DMK 6, Trinamool Congress 4, and JD(U) 8. Even Union Ministers are tainted. In the case of their first swearing in during 2019, there were 22 Ministers out of 56 with criminal cases and a total of 61 cases against these 22 Ministers, all from the ruling party. The chances of those with a criminal record winning was over 15%. In comparison, it was 4.7% for those with a clean record. This shows that people with a criminal record are more likely to get elected. No other country has so many people with known criminal records in its Parliament or State Assemblies.

Net worth and election spend

- Gender representation is low with only 9% of elected women MLAs. Most MLAs are college graduates or more (66%). The average assets of MLAs was ₹13.63 crore, and of those with a criminal case, at ₹16.36 crore. Winning depends on the wealth of a candidate, with 30% of those with assets of ₹5 crore or more being elected, while only 8% of those with assets of ₹2 crore or less were elected.
- In contrast, 75% of Indian citizens reported wealth of ₹8 lakh or less, and a total of 98% reported wealth of ₹80 lakh or less.
- The spend on elections now is at an all-time high. Clothes, mobiles, cooking equipment, liquor and cash are distributed to entice voters, thus violating the law. Estimates show that the expenditure in the Lok Sabha elections is more than that in the United States presidential elections. It is well known that candidates spend crores of rupees and violate the spending limit of ₹40 lakh for MLAs and ₹70 lakh for MPs (enhanced to ₹90 lakh in 2022), which is the limit the Election Commission of India (ECI) has set in consultation with political parties. Public money is spent to promise freebies such as free water, electricity, travel, and food to name a few.
- The number of MLAs and MPs with criminal records has risen only because their party leaders continue to distribute more tickets to such candidates. In the so-called advanced countries, there is no such system of distributing tickets. Candidates are selected either by a first-round primary, as in the U.S., or by a more open and democratic process, as in many European countries.
- In summary, India has a system where there are a very significant number of elected representatives with a serious criminal record. Such people are more likely to win than others. Electoral laws are flouted while spending money. So far, the ECI has taken very little action on this. Political leaders continue to distribute tickets to such people. Winning is the means by which to recover the money spent and accumulate it for the next election. Media management, especially through social media, passes off as good governance.

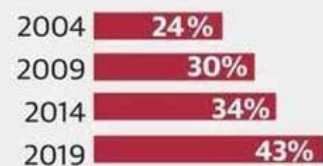
The catalyst

- We will see more of this in the next Lok Sabha election in 2024. Every party fears that it will lose if it undertakes reforms. Media management can impact public perception for some time. Eventually, more and more Indians will get to know the truth. Perhaps that is the moment when change will happen. That is when the potential of the country will be realised. Citizen action can speed up this process.
- The potential of India can be realised when its citizens firmly reject growing criminality in the political system.

Cause for concern

The Supreme Court on Thursday flagged the alarming increase in incidence of criminals in politics

MPs with pending criminal cases:



■ The 2018 Constitution Bench judgment that formed the basis for Thursday's verdict said: Rapid criminalisation of politics cannot be arrested by merely disqualifying tainted legislators but should begin by "cleansing" political parties

No political party offers an explanation as to why candidates with pending criminal cases are selected as candidates

JUSTICE NARIMAN, on February 13, 2020





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