22nd Law Commission's recommendation on Sedition

Why in news?

The 279th report of the Law Commission of India recommending the *retention of the sedition law*, has brought the 153-year-old colonial law to the centre stage yet again.

What is Section 124A of IPC?

- Section 124A of the Indian Penal Code (IPC) incorporated in 1870, describes the Law of Sedition.
- The colonial law was derived from the British Sedition Act of 1661.
- It seeks to punish speech or writing that brings or tries to bring into hatred or contempt, or excites or tries to excite disaffection towards, the government established by law.

Landmark Cases on Sedition
• **Queen Empress Vs Bal Gangadhar Tilak (1897),** Bombay Court - Defines sedition as disaffection which was interpreted as 'political hatred of government'. • **Niharendu Dutt Majumdar and Ors. Vs Emperor (1942),** Federal Court - The offence of sedition is committed only when there is incitement to violence or disorder. • The Privy Council upheld Tilak's case and thus, sedition meant exciting or attempting to excite bad feelings towards the government. • **Kedarnath vs State of Bihar (1962),** Constitution Bench of the Supreme Court - Decided the constitutionality of sedition. • The Court held that it is constitutionally valid for two reasons. - Sedition though an offence against the government, is against the state because the government is a visible symbol of state. - Article 19(2) imposes restrictions in the interest of the security of the state which has wider amplitude and includes the law on sedition. • **S.G. Vombatkere vs Union of India (2022)** - The case challenged the constitutionality of the law of sedition. • The Supreme Court had ordered a stay on all existing proceedings and also on the registration of fresh cases under sedition upon the Union Government. • It assured the Court of a review of the sedition law. • The Court's stay order was in consideration of the fact that this law was widely misused by the law enforcement authorities.

What are the recommendations of the 22nd Law Commission?

- The law commission report has recommended the retention of the highly debated Sedition law, which is under Section 124A of the Indian Penal Code.
- It broadly recommended three things:

    - Widening the scope of sedition.
    - Adding a higher quantum of punishment.
    - Incorporating ‘procedural safeguards’ to prevent misuse.
- While Section 124A provides for a minimum imprisonment of 3 years, the commission recommends a minimum of 7 years in the name of national security.
- The Law Commission has suggested that the tendency to incite disorder should be incorporated in Section 124A.
- It clarified that in democratic India sedition laws would only be used against the ‘tendency to incite violence or cause public disorder’.
- The commission defines tendency as a slight inclination and is decided by a policeman.
- Any alleged misuse of Section 124A of IPC should not be a reason to repeal the law and it should be reined in by laying down adequate procedural safeguards

Why there is an uproar against the recommendation?

- The Commission recommends for the enhancement of punishment when there is a universal demand for the scrapping of this law.
- It attempts to bring sedition within the framework of reasonable restriction under Article 19(2).
- The law of sedition in Section 124A of the IPC is considered a colonial vestige and unconstitutional in a democratic country.
- The disaffection towards a government should not be an offence in a democratic republic where the people have the freedom to change a bad government.

References

1. The Hindu | Sedition: Illogical equation of government with state
2. The Hindu | Law Commission’s recommendation on sedition
3. Supreme Court Observer | 279th Law Commission Report

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