Border Security Force Extension in Punjab

Why in news?

The Supreme Court is set to hear the dispute over the expansion of the Border Security Force (BSF) jurisdiction in Punjab.

What is Border Security Force?

- **Origin-** Formed based on the recommendations of the ***Committee of Secretaries*** in the wake of the 1965 Indo Pakistan War.
- Came into existence on 1st December 1965.
- **Mandate**- To guard the *Indo-Pakistan* and *Indo-Bangladesh* border.

Shri K F Rustamji was the first chief and the founding father of BSF.

- **Features** - It is the ***world's largest border guarding force*** securing the 6,386.36 km long International Border with Pakistan and Bangladesh.
- It is the only force of the nation with a distinctly defined *war-time as well as peace-time role.*
- BSF has been termed as the ***First Line of Defence of Indian Territories.***
- It is one of the Central Armed Police Forces of the Union of India.

- **Administrative control**- Ministry of Home Affairs.
- **Legal framework**- It is governed under ***Border Security Force Act, 1968***
- **Powers -** BSF is empowered to ***arrest, search and seize*** under Criminal Procedure Code, the Passports Act, the Passport (Entry into India) Act etc.
- 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.

Role	Location
Anti-Infiltration role	Kashmir Valley
Counter Insurgency Operations	North East India
Anti Naxal Operations	Odisha and Chhattisgarh
Integrated Check Posts	Along India and Bangladesh International Borders

What is the issue?

- **The issue -** In 2021, Ministry of Home Affairs issued a notification expanding the

jurisdiction of the BSF in ***Punjab, West Bengal and Assam***.
    - **Prior to 2021 notification** – BSF could exercise its powers ***within 15 kilometres*** of the border in Punjab, West Bengal and Assam.
    - **After 2021 notification** - Within ***50-kilometre*** jurisdiction, the BSF can 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.
- **Need for the expansion of BSF's jurisdiction**
    - To check the increased use of drones and Unmanned Aerial Vehicles
    - To enable surveillance and the smuggling of arms and fake currency
    - To conduct more search and seizures of cattle smuggling activity and to prevent the smugglers from taking refuge in the interior areas of the country
    - To make the BSF's jurisdiction uniform across states, as the 50-kilometre limit was already in place in Rajasthan.

Why has Punjab challenged this?

- Punjab filed an 'original suit' against the central government in the Supreme Court in 2021.
- The Supreme Court (SC) has '***original jurisdiction***' in disputes between the Central government and States under ***Article 131*** of the Constitution.

Key aspect	Punjab stand	Centre's stand
Impact on Federal Structure	• The Centre's move would compromise the State's exclusive powers to legislate on matters involving the ***police and public order*** provided in the State List under ***Article 246.*** • The notification was issued without consulting with any of the states concerned.	• It argues that this is an issue of the defence of India, armed forces, and the deployment of armed forces. • They all are a part of the Union List.
Distance of application	• A large number of cities and towns would fall within this 50-kilometre jurisdiction. • Given its small size, the 50 km radius will be a clear encroachment of state powers extending even to the capital.	• In Gujarat, the government had reduced the area under the BSF to ***50km from 80 km.*** • The Centre argues that to prevent trans-border crimes, it is necessary that the BSF get such powers in interior areas.

The 7th Schedule of the Constitution *divides the legislative power between the Centre and the States.*

What are the issues that the Supreme Court will consider?

- Supreme Court will decide on the issue
    - Whether the notification extending the BSF area of control to 50 km is an 'arbitrary' and 'unconstitutional' exercise of power of the central government?

- Whether it is ‘beyond the local limits’ of the border area, as provided under the BSF Act?
- What are the factors that are required to be considered for such extension of boundaries?
- Whether all states should be treated alike to decide on extensions?
- Whether the notification can be challenged under Article 131?

References

1. Indian Express- Expansion of BSF jurisdiction
2. The Hindu- Limits and borders of BSF
3. The Print- Punjab plea and Centre’s counter

