Bulldozer Justice

Why in News?

Recently, the Supreme Court of India has invited suggestions from the parties concerned to frame appropriate pan-India guidelines on extra-legal demolitions.

What is bulldozer justice?

- It refers to extra-legal demolition of properties of individuals accused of crimes, often targeting their families too and executed via bulldozers.
- **Causes** – Large-scale demolition drives are executed as a means of *collective punishment for rioters*.
- **Extra-legal demolishment** - The bulldozer action that had started in *Delhi's Jahangirpuri in 2022* has now spilled over to different parts of the country.
- The violence that ensued in *Nuh, Haryana in 2023*, due to a clash between two religious groups, ended with the local administration demolishing a number of homes in the neighbourhood.
- *Communal riots in Madhya Pradesh's Khargone* also resulted in the demolition of houses and businesses owned by Muslims who were deemed to be 'alleged rioters'.
- **Issues** – In each of these cases, the demolition is *justified under municipal laws* either on account of
    - Action against encroachment or
    - Under the pretext of unauthorised construction

> *The due process envisaged under judgments of the Supreme Court and High Courts like Sudama Singh & Ors. vs Government of Delhi and Ajay Maken & Ors vs Union of India are completely bypassed in bulldozer justice.*

Legal Conditions for Demolition of Constructions
• It is on the basis of municipal laws of the state governments like - Delhi Municipal Corporation Act - Mumbai Municipal Corporation Act • **Unauthorised constructions**- Structures that have been built without proper permits or in violation of municipal regulations. • **Encroachments on public land**- Properties that encroach upon public roads or other public spaces. • **Violation of building codes**- Structures that do not comply with prescribed building codes or safety regulations can be demolished. • **Violation of municipal regulations**- Non-compliance with local building codes or regulations.

How it violates rule of law?

- **Punitive measure** – This 'tough on crime' or 'eye for an eye' approach are punitive measures, *carried out without due process or proper legal justification.*
- **Violates fundamental rights** – Demolishing homes without following legal procedures *violates fundamental rights and due process*, raising serious constitutional concerns.
- **Loss of Assets**- Individuals may l*ose valuable assets and investments* due to demolitions, which can have *long-term financial implications* for affected families.
- **Violates family members rights** - It *can displace families*, leading to significant socio-economic hardships.
- **Ethical issues**- It raises ethical concerns about fairness and justice.

The United Nations ***Basic Principles and Guidelines on Development-based Evictions and Displacement****, 2019, prescribe directives to address displacement issue from a humanitarian perspective.*

What are the recent SC guidelines?

- Alleged *involvement in crime is no ground* for demolition of a property.
- The alleged crime has to be *proved through due legal process* in a court of law.
- No individual's property should be destroyed solely due to their or a family member's alleged involvement in criminal activities.
- Even in cases of illegal constructions, demolitions must *adhere to proper legal protocols.*
- It proposed the respective authorities to lay down certain *guidelines on a pan-India basis* so that the concerns with regard to the issues raised are taken care of.

How due process in demolitions can be ensured?

- The cardinal rule is that demolitions must be carried out only in exceptional circumstances, and according to the due process established under law.
- **Classifying the properties** – Classify the types of buildings or constructions that can be brought down by state actions.
- **Assessing surrounding circumstances** – It must strike a *balance between state action and the right to adequate housing and resettlement*.
- **Data analysis on recent demolitions** – It is t*o identify clear patterns and better understand the existing gaps* in the process.
- **Structured procedural guidelines** – It should in a phased manner, to add multiple checkboxes at each stage which need to be ticked before any irreversible step is taken.

Pre-Demolition Phase

• *Burden of proof* to show cause should be shifted from the affected person to the authority. • *Publish information* about land records and resettlement plans in notice for demolition. • *Ample time be given* for those concerned to analyse the situation, seek legal advice and respond to the show-cause notice. • An *independent committee of the State* government, with judicial and civil society representatives, should review the proposed demolition. • Affected persons must be engaged in *discussions about alternative housing options* and compensation. • During this phase, the needs of vulnerable groups such as children, the elderly, and disabled persons should be addressed. • A *minimum period of a month* should be provided between the intimation of notice to demolish and its execution, allowing affected individuals time to retrieve their belongings.
Demolition Phase
• Minimise the use of physical force in the eviction process. • Avoid the use of heavy machinery such as bulldozers. • A requirement for the presence of government officials who are not a part of the authority demolishing the construction. • Pre-decide the time for the demolition. • Surprise demolitions should be cause for punitive action against the authority.
Rehabilitation Phase
• Provide adequate and proper temporary or permanent rehabilitation. • Establish a speedy grievance redress mechanism to afford the affected persons a chance to challenge the decisions that may have been taken at any stage. • Remedies such as compensation, restitutions and return to the original home must be carved out within the law.

What lies ahead?

- The current task of the Supreme Court i.e., formulating pan-India guidelines must look at the issue through a multidimensional lens.
- In the course of devising guidelines, the Supreme Court must impose a complete moratorium on the punitive demolition of establishments.
- In legitimate instances of demolition, the guidelines should prescribe a strict tripartite procedure to ensure that those at the receiving end are not rendered helpless without any recourse.

References

1. Indian Express | SC guidelines on bulldozer justice
2. Hindustan Times | SC's warning to states
3. The Hindu| Due Process in Extra-legal Demolitions

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