Companies Act vs. Judiciary

What is the issue?

\n\n

The domain conflict between the provisions of the Companies Act and the higher judiciary has been brought to the fore by the ‘Unitech Case’.

\n\n

What are the provisions of the companies Act, 2013?

\n\n

\n
- The act is to amend and consolidate laws relating to companies.
\n
- It notably includes preventing mismanagement of companies through the ‘National Company Law Tribunal’ (NCLT).
\n
- Any company member or the larger public can apply to the tribunal against the alleged harmful conduct of the company.
\n
- The Union government too can apply to the NCLT and seek orders, if it feels there has been some serious misconduct.
\n

\n\n

What is the Unitech Case?

\n\n

\n
- Unitech is a real-estate Company that allegedly violated multiple provisions of the Companies Act.
\n
- It had taken large amounts as advances from 19000 persons who were keen to get a home but construction wasn’t even commenced.
\n
- It was apparently clear that its affairs were being conducted in a manner prejudicial to everyone apart from the promoters.
\n

- Consequently, the Economic Offences Wing of the Delhi Police arrested the promoter and the case reached the Supreme Court.
  \n
- In order to save home buyers and depositors, the SC ordered Unitech to deposit some levy at regular intervals.
  \n

\n\n

What are the recent developments?

\n\n

  \n
- While the case is pending in the Supreme Court, the Centre approached the NCLT and requested that all the directors of the company be removed.
  \n
- While the Tribunal obliged the government's request and passed an order accordingly, Unitech approached the SC.
  \n
- The SC expressed its displeasure over the NCLT's move as it was already handling the case and stayed the tribunal's initial order.
  \n
- This implies that provisions of the companies act for reigning in mismanagement would be effective only if the higher courts aren't involved.
  \n
- This could happen only when the aggrieved party isn't inclined to approach the courts or doesn't have the resources for the same – both of which are rare.
  \n

\n\n

\n\n

Source: Business Line

\n

