Control over Services in Delhi

Why in news?

The Supreme Court has ruled unanimously in favour of Delhi government on the issue of who controls the bureaucracy in the national capital.

What is the Constitutional provision with respect to Delhi?

Article 243AA conferred special status upon Delhi based on the recommendations of S Balakrishnan Committee (1987) that was set up to look into Delhi's demands for statehood.

- Article 239AA that was inserted in the Constitution by the ***69th Amendment Act 1991*** contains special provisions with respect to Delhi.

Articles	Provisions
Article 239AA (1)	• The Union territory of Delhi shall be called the National Capital Territory of Delhi (NCTD) and the administrator appointed shall be designated as Lieutenant Governor (L-G).
Article 239AA (2)	• There shall be a Legislative Assembly for the NCT and the seats shall be filled by members chosen by direct election.
Article 239AA (3)	• It states that the legislative assembly shall have power to make laws for the whole or any part of the NCTD in any matters enumerated in the State list or in the Concurrent list ***except on the subjects of police, public order, and land.***
Article 239AA (4)	• There shall be a Council of Ministers consisting of not more than 10% of the total number of members in the Legislative Assembly, with the Chief Minister (CM) at the head to aid and advise the Lieutenant Governor. • In the case of difference of opinion between the L-G and his Ministers on any matter, the L-G shall refer it to the President for decision and act accordingly.
Article 239AA (5)	• The Chief Minister shall be appointed by the President and other Ministers shall be appointed by the President on the advice of the CM. • The Ministers shall hold office during the pleasure of the President.

What is the case about?

Article 145(3) deals with the setting up of a Constitution Bench comprising at least 5 judges for deciding any case involving a substantial question of law as to the interpretation of the Constitution.

- The question of the regulation of services was a major part of the overall dispute between the elected government in Delhi and the Lieutenant Governor (LG) nominated by the Centre.

- **Centre's arguments** - The Centre argued that since no Union Territory has power over services, Delhi too could not exercise such power.
- Essentially, Delhi could only legislate on issues that other Union Territories are explicitly allowed to legislate upon.
- **Court's consideration** - The current Constitutional bench looked into the issue that only relates to the scope of legislative and executive powers of the Centre and NCTD with respect to the term "services".
- The court had to interpret *clause (3)(a) of Article 239AA* (Special provisions with respect to Delhi) of the Constitution.

What has the Supreme Court ruled?

- The court concluded that Delhi is not similar to any other Union Territory as it enjoys *special constitutional status* under article 239AA.
- The Supreme Court unanimously held that the legislature has control over bureaucrats in administration of services.
- However, the control over services would ***not extend*** *to entries related to public order, police and land.*
- The legislative and executive power over services such as IAS or joint cadre services, which are relevant for the implementation of the policies and the vision of NCTD in terms of *day to day administration* shall lie with the NCTD.
- It clarified that the executive power of the State will be subject to the law existing of the union.

References

1. The Indian Express | SC Judgments
2. The Indian Express | Issues Between Union And Delhi Government
3. The Indian Express | Impacts Of The Judgment

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