Destruction of Public Property

Why in News?

The Supreme Court (SC) Bench headed by Chief Justice of India expressed displeasure over rioting and destruction of public property by the protesters.

What is the story behind?

- The SC said this statement while hearing petitions on alleged police excesses on students in Jamia Millia Islamia and AMU.
- The CJI said the protesters were free to take to the streets, but if they did, they would not be heard by the court.
- Despite a law against the destruction of property, incidents of rioting, vandalism, and arson have been common during protests across the country.

What the law says?

- **The Act and IPC** - The Prevention of Damage to Public Property Act, 1984 punishes anyone who commits mischief by doing any act in respect of any public property with a jail term of up to 5 years and a fine or both.
- Provisions of this law can be coupled with those under the Indian Penal Code (IPC).
- **Definition** - Public property under this Act includes,
    1. Any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy, or
    2. Any oil installation, or any sewage works, or any mine or factory, or
    3. Any means of public transportation or of telecommunications, or
    4. Any building, installation or other property used in connection therewith.
- **Inadequate law** - The SC has on several earlier occasions found the law inadequate, and has attempted to fill the gaps through guidelines.

What the SC said?

- **Suo moto** - In 2007, the SC took suo motu cognizance of various instances where there was large scale destruction of public and private properties in the name of agitations, bandhs, hartals and the like.
- It set up two Committees headed by former SC judge Justice K T Thomas and senior advocate Fali Nariman to suggest changes to the law.

- In 2009, the SC issued guidelines by accepting the recommendations of the two expert Committees.
- **Thomas Committee** - It recommended reversing the burden of proof against protesters.
- The SC said that the prosecution should be required to prove that public property had been damaged in direct action called by an organisation and that the accused also participated in such direct action.
- It also said that, from this stage the burden can be shifted to the accused to prove his innocence.
- It said that the law must be amended to give the court the power to draw a presumption that the accused is guilty of destroying public property.
- It would then be open to the accused to rebut such presumption.
- Generally, the law presumes that the accused is innocent until the prosecution proves its case.
- **Nariman Committee** - This committee's recommendations dealt with extracting damages for destruction.
- The court said the rioters would be made strictly liable for the damage, and compensation would be collected to "make good" the damage.
- The SC said that the persons who are part of a protest which turns violent, results in damage to private or public property will be deemed to be strictly liable for the damage so caused.
- This may be assessed by the ordinary courts or by any special procedure created to enforce the right.
- The SC issued guidelines including directing High Courts to order suo motu action.
- It ordered the SC to set up a machinery to investigate the damage caused and award compensation wherever mass destruction to property takes place due to protests.

What are the impacts of guidelines?

- Like the law, the guidelines too, have had a limited impact.
- This is because the **identification of protesters remains difficult**, especially in cases where there is no leader who gave the call to protest.
- Following the Patidar agitation in 2015, Hardik Patel was charged with sedition for inciting violence that led to loss of life and property.
- Patel's lawyers argued in SC that since there was no evidence that he had called for violence, he could not be held liable for loss of property.
- In 2017, a petitioner who claimed he was forced to spend more than 12 hours on the road on account of an ongoing agitation, moved the SC seeking implementation of the 2009 guidelines.
- In its verdict in Koshy Jacob vs Union Of India, it reiterated that the law

needed to be updated but it didn’t grant the petitioner any compensation since the organisers of the protest were not before the court.

Source: Indian Express

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