Freedom of speech

Why in news?

The Andhra Pradesh High Court has struck down the government order of Andhra government that seeks to regulate public assemblies, processions which violates the freedom of speech.

What is freedom of speech?

- Freedom of speech implies that every citizen has the right to express his views, opinions, belief and convictions freely by word of mouth, writing, printing, picturing or in any other manner.
- ***Article 19*** provides for the right
  - to freedom of speech and expression
  - to assemble peaceably and without arms
  - to form associations or unions
  - to move freely throughout the territory of India
  - to reside and settle in any part of the territory of India
  - to practise any profession, or to carry on any occupation, trade or business
- These rights are *not absolute* and are subject to *reasonable restrictions* on certain grounds. It includes
  - Sovereignty and integrity of India
  - Security of the state
  - Friendly relations with foreign states
  - Public order
  - Decency or morality
  - Contempt of court, defamation and
  - Incitement to an offence

The Supreme Court includes the following rights under freedom of speech and expression	
Right to propagate one's views as well as views of others	Right to know about government activities
Freedom of the press	Freedom of silence
Freedom of commercial advertisement	Right against imposition of pre-censorship on a newspaper
Right against tapping of telephonic conversation	Right to demonstration or picketing but not right to strike
Right to telecast	Right against bundh called by a political party or organization

What is the issue?

- **Government Order -** The Government of Andhra Pradesh had issued the G.O. in the wake of two stampedes witnessed during the rallies organised by the Opposition Party.
- It was issued under relevant provisions of the ***Police Act, 1861***
- The government had said that the G.O. was aimed at regulating the rallies and meetings on public roads and highways.
- The government had contended that the G.O. did not prohibit, or ban any public gathering, but would only regulate such meetings by making prior permission mandatory.
- **High Court Observations -** The High Court observed that the G.O. was in violation of Section 30 of the Police Act, 1861.
- It also held that the power conferred by the G.O. is "*arbitrary, excessive, and also fails on the test of proportionality".*
- It clarifies that Section 30 of the Police Act only gives authorities the power to "regulate" the conduct of assemblies, processions, etc., on public roads.
- Hence, the state cannot restrict the right to assemble or protest peacefully in streets, public places or thoroughfares.
- The court noted that freedom of speech is the ***bulwark of democracy*** and is regarded as the first in the hierarchy of liberties.
- The court relied on the '*Mazdoor Kisan Shakti Sangathan v Union of India and Another, 2018',* which laid down guidelines for peaceful assembly.

What were the guidelines laid down in the 2018 SC ruling?

- The court laid down guidelines for regulating protests and demonstrations while adding that the right to peaceful assembly under ***Article 19(1)(b)*** can be reasonably restricted.
- The guidelines included
    - regulating the intended number of participants in such demonstrations.
    - prescribed the minimum distance from the Parliament House, North and South Blocks, SC, and the residences of dignitaries within which no demonstrations were allowed
    - imposed restrictions on certain routes where the PM, Central Ministers, and Judges pass through
    - said that demonstrations would not be allowed when foreign dignitaries were visiting a place or route
    - disallowed demonstrators from carrying firearms, lathis, spears, swords, etc.

Under Section 144 of Criminal Procedure Code (1973), a magistrate can restrain an assembly, meeting or procession if there is a risk of obstruction, annoyance or danger to human life, health or safety or a disturbance of the public tranquillity or a riot.

References

1. The Indian Express | Freedom Of Speech
2. The Hindu | Andhra HC Order on GO

