Governance of New Delhi

Why in news?

The Supreme Court has ruled that the Lieutenant Governor (LG) of the National Capital Territory (NCT) of Delhi can nominate 10 aldermen to the Municipal Corporation of Delhi (MCD) on his own without the aid and advice of its council of ministers.

How is Delhi governed?

- **Before independence** - ***In 1911***, Delhi was made the capital of India by the colonial British government.
- **Post-independence** – At the time of the commencement of the Constitution in ***1950***, it was a *Part C State of Chief Commissioner's* Province.
- **Establishment of legislature** – The *Government of Part C States Act 1951* established a Legislative Assembly in Delhi.
- **UT Status** - During the *States reorganization in 1956*, it was made a Union Territory by the ***7th Constitutional amendment*** *act, 1956*.
- It also *abolished its Legislative Assembly* & Legislative Council.
- **Metropolitan Council** – It was set up the ***Delhi Administration Act, 1966***, for providing a representative government in Delhi.

*In 1989, the **Balakrishnan Committee** was set up by the Union Government recommended that Delhi should continue to remain a Union Territory. It also suggested to assign a special status along with institution of a legislative assembly for Delhi.*

- **Special Status** - As per the recommendations of the Balakrishnan committee, the ***69th constitutional amendment (1991)*** was enacted to grant special status to Delhi.

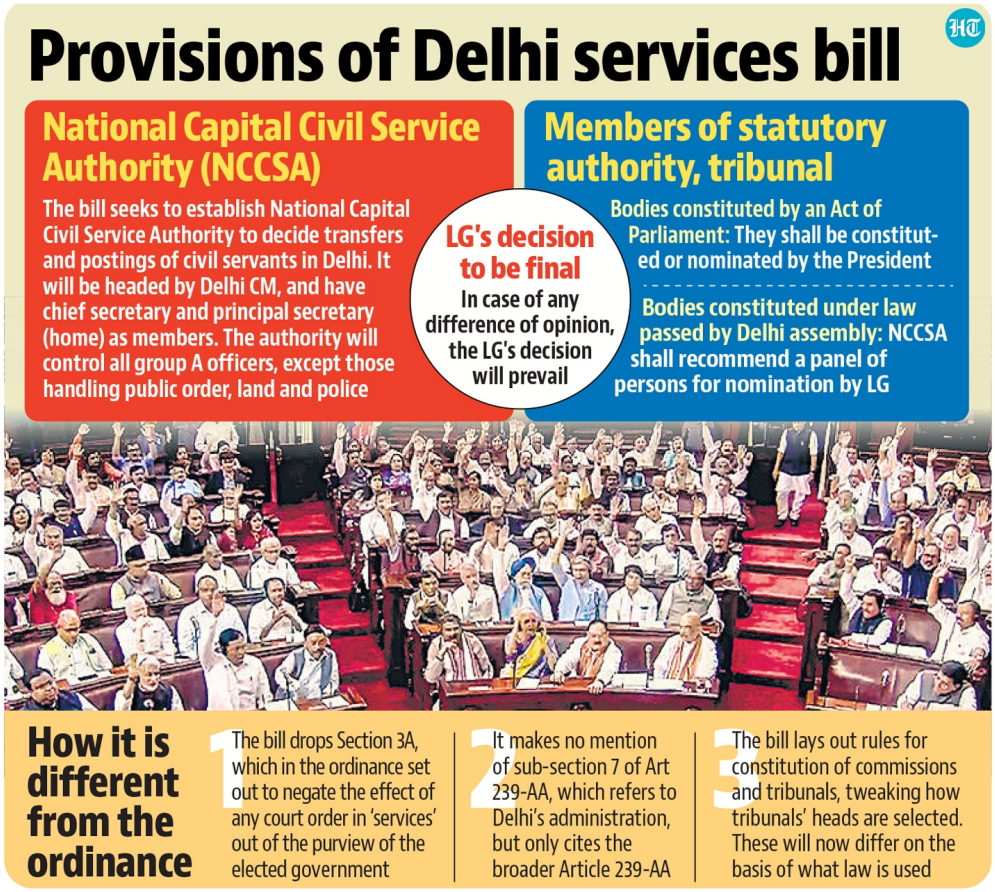
69th Constitutional Amendment , 1991

• **Constitutional changes** - It inserted *Article 239AA and 239 AB*, under Part VIII of the constitution
• **Renaming** –Union territory of Delhi as the National Capital Territory of Delhi.
• **Administrator** – He/she was designated as the Lieutenant Governor.
• **Legislature** – It provided a Legislative Assembly and council of ministers for the NCT of Delhi.
• Their seats are filled by members *elected directly* from territorial constituencies within the NCT.
• **Chief Minister** – He/ She to be *appointed by the President* and other Ministers are appointed by the President on the advice of the Chief Minister.
• Ministers hold office during the pleasure of the President.
• **Supremacy of Union** – Subjects of *public order, police and land were excluded* from the Delhi government and Union government has control over them.
• *Article 239AB* laid out provisions that would come into force in case of the *failure of constitutional machinery in Delhi*.
• It outlines the discretionary powers of the LG, and the Chief Minister's duty to provide information to the LG.

- **Enlargement of discretion powers of LG** - National Capital Territory (Amendment) Act 2023 was enacted to empower the LG to exercise his *sole discretion on several matters* including
    - Those recommended by the National Capital Civil Services Authority and summoning, prorogation & dissolution of the Delhi Legislative Assembly

What are the federal issues in Delhi Administration?

- The National Capital Territory of Delhi enjoys a peculiar federal status with features of both a State and a Union Territory.
- **Constitutional position of LG** – The power and functions of LG in *matters of 'Aid and Advice' and 'Concurrence'* often comes in conflict with Council of Ministers head by Chief Minister of Delhi.
- **Presidential reference** - *Lack of Clarity in Article 239 AA* with respect to referring matters to the President.
- **Power of nomination** - Nomination of 10 aldermen to the Municipal Corporation of Delhi (MCD) by Lieutenant Governor.
- **Control of civil service**– The power to appoint and regulate the service matters of Delhi servants often conflicted by the Delhi Chief Minister and Lieutenant Governor.
- The recent Delhi Services Bill proposes to establish *National Capital Civil Services Authority*, wherein again dilutes the Delhi's autonomy.



- The constant tussle between various layers of government ruptures such a chain of accountability.

Case / Amendment	Brief description	Implication
Govt of NCT of Delhi vs Union of India (UOI) (2016)	The Delhi High Court ruled that the LG of Delhi exercised complete control of all matters relating to the NCT of Delhi	It made the appointed LG the executive head, reducing the powers of the elected government of Delhi
Govt of NCT of Delhi vs UOI (2018)	On appeal against the Delhi HC judgment, the Supreme Court held that the LG was bound by the 'aid and advice' of the council of ministers headed by the Chief Minister of Delhi except on matters relating to public order, police and land	This restored the powers of the elected government of the NCT of Delhi in matters of day-to-day administration
Government of NCT of Delhi (Amendment) Act, 2021	It required the council of ministers to obtain the opinion of the LG before any executive action on matters specified by the LG	This amendment tilted the balance of power again in favour of the LG
Govt of NCT of Delhi vs UOI (2023)	A Constitution Bench of the Supreme Court in May 2023 had held that the Delhi assembly and government shall have legislative and executive powers over 'services' except in relation to public order, police and land	This restored the powers of the elected government of the NCT of Delhi in matters of day-to-day administration including postings and transfers
Government of NCT of Delhi (Amendment) Act, 2023	It created the National Capital Civil Service Authority for deciding on matters relating to 'services'. This authority will consist of the Chief Minister, the Chief Secretary and the Home Secretary of Delhi	This had the effect of again reducing the importance of the elected government and Chief Minister in decisions relating to 'services'

What lies ahead?

- **Ensuring the triple chain of accountability** – It was mentioned in spirit of the judgment of the Supreme Court in 2023

    - The officials are accountable to the ministers
    - The council of ministers are collectively responsible to the legislative assembly
    - The legislative assembly members are accountable to the people
- **Territorial reorganization** - The portion of capital territory of 'New Delhi' that houses most of the central government offices and foreign embassies could be brought under the complete control of the Centre along the lines of U.S. capital district of Washington DC.
- The rest of the areas may be brought under the powers of the Delhi assembly.
- **Promote cooperation** - Promote cooperation among the governments of Union, Union Territory and Local government.
- Ensure that the powers of government elected by people is not eroded.

References

1. The Hindu | History of Delhi Governance
2. SCO | Special Status of Delhi

SHANKAR IAS PARLIAMENT
Information is Empowering