Italian Marines Case - Closure, Compensation

Why in news?

The Supreme Court ordered the closure of proceedings in India against two Italian marines, accused of killing two fishermen off the Kerala coast in February 2012.

What is the case on?

- On February 15, 2012, two Indian fishermen were returning from a fishing expedition near Lakshadweep islands onboard fishing vessel St Antony.
- They were gunned down by two Italian marines on board oil tanker Enrica Lexie.
- The incident occurred around 20 nautical miles off the coast of Kerala.
- Shortly after the incident, the Indian Coast Guard intercepted Enrica Lexie.
- They detained the two Italian marines, Salvatore Girone and Massimiliano Latorre.
- The challenges in dealing with the case had to do with -

i. the legal tangles over jurisdiction
ii. the lawfulness of their arrest and the location of their trial
iii. the provisions of law under which they should be tried
iv. legal accountability through a criminal trial

What was the Permanent Court of Arbitration ruling?

- [Permanent Court of Arbitration - a tribunal under the UN Convention on the Law of the Sea]
- The Permanent Court of Arbitration had clarified that India and Italy had concurrent jurisdiction to try the case.
- However, it said that the Italian marines enjoyed immunity from Indian jurisdiction.
- This is because they were acting on behalf of a state.
- The UN tribunal had also ruled that the Indian fishing boat, St. Antony, and the victims were entitled to compensation.
- This is on the ground that Enrica Lexie had violated the boat's right of navigation under the Law of the Sea.

What next?

- The Supreme Court has issued the order of closure after Italy deposited compensation of Rs. 10 crore.
- The two marines are now likely to face trial in Italy.
- But as far as India is concerned, the monetary compensation may have to be treated as the only available form of closure for the moment.
- The legal heirs of the two victims are likely to get Rs. 4 crore each, and the owner of the fishing vessel, Rs. 2 crore.

Why is the delay?

- India did not initially agree to Italy's offer of compensation and a trial in its own jurisdiction, which was what the UN tribunal's ruling also said.
- Back then, many in India believed it was an act of wanton killing.
- And those in Italy believed the fears of piracy were genuine.
- Meanwhile, India's efforts to assert criminal jurisdiction succeeded in national courts.
- In 2013, the SC ruled that prosecuting the marines was solely in the Union government's jurisdiction.
- The NIA invoked the Suppression of Unlawful Acts against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002.
- This stringent anti-piracy law gave way to Italy's concerns.
- European nations objected to the trial taking place under this law that provided for the death penalty.
- The provisions of the Act were dropped, but this led to significant delay in prosecuting the matter.
- A lesson from the Italian marines case is that in such incidents, legal steps must go hand-in-hand with diplomatic efforts to find early resolution.

Source: The Hindu, The Indian Express

SHANKAR IAS PARLIAMENT
Information is Empowering