L-G Role in Puducherry Administration - Madras HC Ruling

Why in news?

The Madras High Court ruled that the Lieutenant Governor of Puducherry should not interfere in the day-to-day administration of the Union Territory.

What is the recent tussle?

- The ruling comes as a serious setback to the incumbent Lieutenant Governor (L-G) of Puducherry, Kiran Bedi.
- She has been locked in a prolonged dispute, over the extent of her powers, with Chief Minister V. Narayanasamy.
- The CM has been reporting that the LG was disregarding the elected regime and seeking to run the Union Territory on her own.

What is the High Court's ruling?

- The constant interference from the L-G would amount to running a “parallel government,” when an elected government was in place.
- The Administrator is bound by the ‘aid and advice’ clause in matters over which the Assembly is competent to enact laws.
- The government secretaries are bound to take instructions from and report to the Council of Ministers, headed by the Chief Minister.
- The secretaries are not empowered to issue orders on their own or upon the instructions of the Administrator (L-G).
- The Court also disapproved of the alleged practice of government officials being part of social media groups.
- Through these, the L-G was issuing instructions to them for redress of public grievances.
- The court reminded that they were bound to use only authorised medium of communication for purposes of administration.
- The L-G’s power to refer any matter to the President to resolve differences should not mean “every matter”.
- The High Court has reminded the Centre and the Administrator that they should be true to the concept of democratic principles.
- This is essential to uphold the constitutional scheme based on democracy and republicanism.
- The HC's ruling is inspired by the Supreme Court’s earlier appeal to

constitutional morality and trust among high dignitaries.

What was SC's earlier ruling in this regard?

- An earlier SC judgement came in relation to the conflict between the elected regime in the National Capital Territory (NCT) of Delhi and its Lt.Governor. Click here to know more.
- It ruled that the L-G has to act on the 'aid and advice' of the Council of Ministers.
- It has to refer to the President for a decision on any matter where there is a difference with the Ministry.
- But, clearly, the Lt.Governor has no independent decision-making powers.

What is the HC's rationale now?

- The apex court has clearly held that there is a distinction between the National Capital Territory of Delhi and Puducherry.
- The Puducherry legislature was created through a parliamentary law, based on an enabling provision in Article 239A of the Constitution.
- On the other hand, the NCT legislature has been created by the Constitution itself under Article 239AA.
- At the same time, the NCT Assembly is limited in the extent of its legislative powers.
- It is barred from dealing with the subjects of public order, police and land.
- There are no such restrictions imposed explicitly in the case of Puducherry under Article 239A.
- The Article symbolises the supremacy of the Legislature above the Administrator in case of the Union Territory of Puducherry.
- Given the Business Rules and other statutory provisions, Puducherry deserves a greater credence to the concept of a representative government.
- With this explanation, the Court has set aside two clarifications issued by the Centre in 2017.
- They had stated that the L-G enjoyed more power than the Governor of a State and could act without aid and advice.

Source: The Hindu

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