NCERT Textbook Controversy and Contempt of Court

Mains: *GS II – Judiciary*

Why in News?

The recent controversy surrounding the Class 8 social science textbook published by the National Council of Educational Research and Training (NCERT) has brought into sharp focus the delicate balance between judicial authority, academic freedom, and freedom of speech.

What is contempt of court?

- **The power of contempt** – It is an essential tool in the judiciary's arsenal to ensure the proper administration of justice.
- **Categories** – It is broadly classified into two categories:
  - Civil contempt and
  - Criminal contempt.
- **Civil contempt** – It refers to the willful disobedience of court orders, and its application is relatively straightforward.
- **Criminal contempt** – It includes acts that obstruct the administration of justice, prejudice judicial proceedings, or scandalise the court by lowering its authority in the eyes of the public.
- **The concept of "scandalising the court**"- It is particularly contentious.
- It seeks to prevent the spread of false or malicious narratives that could erode public confidence in the judiciary.
- However, its application must be carefully calibrated to ensure that it does not suppress legitimate criticism.

What is the rationale behind contempt powers?

- **Authority of judiciary** – Unlike the executive or legislature, the judiciary does not wield the power of the purse or the sword.
- Its authority rests primarily on public confidence and institutional legitimacy.
- **The role of people's trust** – The effectiveness of judicial decisions depends largely on the trust reposed by citizens.
- This trust has been built over decades through the judiciary's role in upholding constitutional values, protecting fundamental rights, and acting as a check on legislative and executive excesses.
- Therefore, any sustained or motivated attempt to undermine this trust through misinformation or reckless allegations can weaken the institution's ability to function

effectively.
- However, it is equally important to recognise that this power must not be used to shield the judiciary from scrutiny or accountability.

What are the judicial perspectives on criticism?

- **Historical viewpoints** – Many eminent judges have emphasised restraint in invoking contempt powers.
- They have acknowledged that the judiciary is not immune to criticism and that such criticism can, in fact, strengthen the institution.
- **Chief Justice P.B. Gajendragadkar** – He underscored that contempt powers must be exercised cautiously and sparingly.
- Frequent or impulsive use, especially in response to perceived personal affronts, could undermine rather than enhance the dignity of the courts.
- **Chief Justice S.P. Bharucha** – He demonstrated a "broad-shouldered" approach by choosing not to pursue contempt proceedings against critical remarks made by public figures, noting that the judiciary is strong enough to withstand such criticism.
- **International perspectives** – Many jurists like Lord Denning have strongly defended the importance of free speech, asserting that courts should not use contempt powers to uphold their own dignity or suppress dissent.
- Instead, judicial conduct itself should be the basis of public respect.

How to distinguish fair criticism vs contempt?

- **Key challenge** – It lies in distinguishing between fair criticism and contemptuous conduct.
- **Importance of criticism** – In a democratic society, criticism of public institutions is not only permissible but necessary for accountability.
- However, certain boundaries must be maintained:
    - Criticism must be based on facts and presented accurately.
    - It should not be reckless or driven by malice.
    - It must not aim to deliberately undermine public confidence in the judiciary.
- When these conditions are violated, the invocation of criminal contempt may be justified.
- Otherwise, excessive use of such powers risks creating a chilling effect on free speech and academic inquiry.

What is the NCERT textbook controversy?

- **NCERT chapter** – NCERT published a class 8 book with chapter discussing "*corruption in the judiciary*".
- **Decision of SC** – The Supreme Court's decision to ban the NCERT Class 8 textbook and direct the reconstitution of the textbook committee represents a significant exercise of judicial authority.
- The textbook's discussion on "corruption in the judiciary" appears to have triggered concerns about its potential impact on public perception.
- **Response from NCERT** – In response, NCERT reconstituted the National Syllabus and Teaching Learning Material Committee (NSTC), removing certain members

associated with the drafting of the controversial chapter and inducting new experts.
- The move reflects an attempt to align educational content with institutional sensitivities.
- However, this development also raises concerns about academic autonomy and due process.
- The authors of the textbook have argued that the chapter was part of a collaborative effort and that singling out individuals presents an incomplete picture.

What is the need for due process and dialogue?

- The manner in which the issue has been handled invites scrutiny.
- **Dignified approach** – A more measured approach—such as seeking clarification from the authors, allowing revisions, or issuing advisory guidelines—could have addressed concerns without resorting to a complete ban.
- **Judiciary VS Academics** – Judicial intervention in academic matters must be exercised with caution.
- Courts are traditionally the protectors of free speech and should be wary of actions that may inadvertently suppress intellectual debate.
- **Constructive engagement** – The positive interaction between the judiciary and academic institutions could help resolve such disputes more effectively.
- Dialogue, rather than punitive action, often leads to better outcomes in a democratic framework.

Why there is a need for reform and accountability in judiciary?

- **The Deeper issue** – The controversy also highlights a broader issue: the challenge of addressing corruption within the judiciary.
- While instances of judicial misconduct are relatively rare, even isolated cases can damage public trust.
- **Limitations of existing process** – Existing mechanisms for accountability, such as impeachment and in-house procedures, have limitations.
- Impeachment is a lengthy and politically influenced process, while internal inquiries may lack transparency or enforcement strength.
- **Addressing judicial misconduct** – There is a pressing need to develop more effective and credible mechanisms to address judicial misconduct.
- Strengthening accountability will not only enhance public confidence but also protect the reputation of the vast majority of honest judges.

What is the role of education in shaping constitutional values?

- **Role of textbooks** – They play a crucial role in shaping young minds and fostering an understanding of constitutional institutions.
- It is essential that students are provided with a balanced perspective on the judiciary.
- This includes not only its role in dispute resolution but also its function as the guardian of fundamental rights and the Constitution.
- **Measures to be taken** – At the same time, students should be made aware of the challenges faced by the judiciary, including issues of delay, infrastructure, and accountability.

- A nuanced and fact-based approach to such topics can promote critical thinking without undermining institutional respect.

What lies ahead?

- The NCERT textbook controversy serves as a reminder of the need to strike a careful balance between protecting the authority of the judiciary and preserving the fundamental right to free speech.
- Contempt powers, while necessary, must be exercised with restraint and wisdom.
- A mature democratic society thrives on informed criticism and open dialogue.
- When the judiciary embraces fair criticism, it reinforces the rule of law and strengthens its own legitimacy.
- Conversely, overreach may risk eroding the very trust it seeks to protect.
- Ultimately, the way forward lies in fostering mutual respect between institutions, ensuring accountability, and upholding the constitutional values that form the foundation of India's democracy.

Reference

[The Hindu|NCERT Issue and Judicial Overreach]

[The Hindu| NCERT Constitutes Textbook Committee]

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