OHCHR's Intervention in CAA Case

Why in News?

The Office of the High Commissioner for Human Rights (OHCHR) has made an intervention application for a Supreme Court case regarding the Citizenship Amendment Act (CAA), 2019.

What is the OHCHR?

- The OHCHR is the leading UN entity on human rights that speak out objectively in the face of human rights violations worldwide.
- The UN General Assembly (UNGA) adopted the UNGA resolution 48/141 in 1994 and this created the OHCHR.
- The General Assembly of the body has entrusted the High Commissioner with a mandate to **promote and protect all human rights** for all.

On what grounds is this UN body seeking to intervene in CAA case?

- The High Commissioner seeks to intervene in the CAA case as **amicus curiae** (third party) and established a pursuant to the UNGA resolution 48/141.
- In the intervention application, the High Commissioner has underlined that she is the principal human rights official of the UN.
- She also adds that it is her role to support the domestic courts with their constitutional function in ensuring the implementation of international legal obligations regarding human rights.

What exactly does the intervention application say?

- **Admirable** - The OHCHR has admired the CAA's stated purpose,
    1. Protection of some people from persecution on religious grounds,
    2. Simplifying procedures and facilitating the granting of citizenship to such persons from some neighbouring countries.
- It welcomes that India has exhibited to persons seeking to find a safer, more dignified life within its borders.
- **Questionable** - It says that the examination of the case by the Supreme Court of the CAA is of substantial interest to the High Commissioner.
- It says that CAA raises human rights issues, including its compatibility in relation to the right to equality before law and non-discrimination on

nationality grounds under human rights obligations.
- It questions the reasonableness and objectivity of the criterion of extending the benefits of the CAA to Buddhists, Sikhs, Hindus, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan alone.

Is there a specific basis on which the CAA has been faulted?

- The High Commissioner flags some central principles of international human rights law:
    1. The impact of the CAA on some migrants;
    2. The enjoyment of human rights by all migrants and the rights of all migrants (non-citizens) to equality before the law;
    3. The principle of non-refoulement which prohibits the forcible return of refugees and asylum seekers to a country where they are likely to be persecuted.
- The application mentions that all migrants regardless of their race, ethnicity, religion, nationality and/or immigration status enjoy human rights and are entitled to protection.
- It says that the international human rights law doesn't distinguish between citizens and non-citizens or different groups of non-citizens for providing protection to them from discrimination.
- This international law requires the granting of citizenship under law to conform to the right of all persons to equality before the law and to be free from prohibited discrimination", the application says.

How has India reacted to this UN body's move?

- The Ministry of External Affairs (MEA) said that the CAA is an internal matter of India and it concerns the sovereign right of the Indian Parliament to make laws.
- The MEA says that it strongly believes that no foreign party has any locus standi on issues pertaining to India's sovereignty.
- It said that India was clear that the CAA is constitutionally valid and complies with all requirements of India's constitutional values.
- It also said that the CAA is reflective of the long-standing national commitment in respect of human rights issues arising from the tragedy of the Partition of India.

Source: The Indian Express



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