Payment for Destruction of Property

Why in News?

The Uttar Pradesh government has directed district administrations to serve notices on persons allegedly involved in arson and damage of public property, and direct them to pay a penalty.

What is the story behind?

- **Govt notice** - The Government announced this as a crackdown on protesters against the Citizenship Amendment Act.
- The quantum of the penalty is being determined according to the total cost of the damaged property, according to the FIR lodged by the police.
- **High Court order** - While issuing these notices, the administration has said it derives such powers on the basis of an Allahabad High Court (HC) order of Mohammad Shujauddin vs State of Uttar Pradesh case 2010.
- It has said the police are empowered to take penal action under The Prevention of Damage to Public Property Act, 1984.
- The HC order, due to lacunae in the 1984 Act, has also empowered the civil administration to take action against the accused.

What was the HC case about?

- The order relates to a scuffle between two persons from different political parties that had resulted in injuries and loss of public property.
- The judge who passed the order asked the state government to file an affidavit on the number of cases filed by the police under the 1984 Act.
- The police replied that in 26 years, only 585 cases had been filed, and only 11 cases had been disposed of.
- The HC then referred to a Supreme Court (SC) judgment of 2009 relating to the destruction of public and private properties.
- The SC had issued guidelines on the basis of recommendations made by two committees, headed by former SC Justice K T Thomas and senior advocate Fali Nariman.
- In particular, the Nariman Committee's recommendations had dealt with extracting damages for destruction.
- Accepting the recommendations, the SC had said that the rioters would be made strictly liable for the damage, and compensation would be collected to

make good the damage.

What directions did the HC issue based on the SC observations?

- If an agitation has been taken place at the invitation of a **political party** or a sitting or former **people's representative** and there is damage to the public property, a report shall be registered by the police against the political party/person by name.
- A concerned department, local body, public corporation would assess the damage and shall file a claim for realization of such amount before a competent authority.
- The competent authority will be nominated by the government, and claims have to be filed within 7 days after the nomination.
- Any person belonging to the area where the public property is damaged can also approach the competent authority.
- However, when the money is awarded, it has to be furnished only to the concerned department to whom the property belongs.
- There will be an opportunity of hearing against whom the claims is filed; and the competent authority is mandated to pass the appropriate order with a month after the hearing is complete.
- If the **person found guilty** is unable to pay the entire amount in a single instalment, the district magistrate has to issue a certificate.
- By this certificate, a person is made to pay in arrears under the relevant provisions of the Revenue Recovery Act.
- This competent authority who can say that a person is guilty should be of an official of the rank of Additional District Magistrate and he will be responsible for collecting the amount.

Source: Indian Express

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