Police Reforms - Prakash Singh Judgement

What is the issue?

- Political interference in police postings continues despite the landmark Prakash Singh judgment nearly a decade-and-a-half ago.
- The latest episode of allegations of lobbying by several IPS officers in Maharashtra has brought the issue to the fore.

What is the Prakash Singh v. Union of India case?

- Prakash Singh served as DGP of UP Police and Assam Police, besides other postings.
- He filed a PIL in the Supreme Court post retirement, in 1996, seeking police reforms.
- In a landmark judgment, the Supreme Court in September 2006 had directed all states and UTs to bring in police reforms.
- The ruling issued a series of measures that were to be undertaken by the governments.
- These were in line with ensuring that the police could do their work without worrying about any political interference.

What were the measures suggested in the Prakash Singh judgment?

- The main directive in the verdict was fixing the tenure and selection of the DGP (Director General of Police).
- This is to avoid situations where officers about to retire in a few months are given the post.
- In order to ensure no political interference, a minimum tenure was sought for the Inspector General of Police.
- This is to ensure that they are not transferred mid-term by politicians.
- The SC further directed postings of officers being done by Police Establishment Boards (PEB).
- The idea is to insulate powers of postings and transfers from political leaders.
    - The PEBs comprise police officers and senior bureaucrats.
- Further, there was a recommendation of setting up State Police Complaints Authority (SPCA).
- This should work as a platform where common people aggrieved by police

action could approach.
- Apart from this, the SC directed separation of investigation and law and order functions to better improve policing.
- It also suggested setting up of State Security Commissions (SSC) that would have members from civil society and forming a National Security Commission.

How is the implementation?

- Up till 2020, not even one state was fully compliant with the apex court directives.
- While 18 states passed or amended their Police Acts in this time, not one fully matches legislative models.
- Five contempt petitions were issued in the past decades to states found to be non-compliant.
- Bigger states like Maharashtra, Tamil Nadu and UP have been the worst when it comes to bringing about systemic changes in line with the judgement.
- It is only the North-Eastern states that have followed the suggested changes in spirit.

What is the case with Maharashtra?

- The Maharashtra government under former CM Devendra Fadnavis passed the Maharashtra Police (Amendment and Continuance) Act, 2014.
- This was meant to incorporate the changes suggested in the Prakash Singh judgment.
- However, recently too, there were allegations of rampant political interference in transfers.
- The state Acts were deliberately formulated in such a way that "it just gave legal garb to the status quo that existed before".
- In the updated Maharashtra Police Act of 2014 too, a section 22(N)(2) had been added.
- This gave the CM special powers to transfer officers at any point in case of 'administrative exigencies'.
- The SC directive was that an officer should not be transferred before the given tenure.
- But CMs have used this section for mid-term transfer thereby maintaining control on transfers.

How is the government interfering despite PEBs?

- The officers in the Police Establishment Boards (PEB) are 'unofficially'

informed by the government about which officer would be preferred for which post.
- Either that or in meetings to decide postings of senior IPS officers, when even the Additional Chief Secretary (home) is present, the officers go with what the ACS Home says.
- Among the five officers in the PEB, even if one or two do not agree, the majority usually sides with the opinions of the government of the day.
- Thus, in spite of PEBs in place, the system has continued as before.

What about the State Police Complaints Authority (SPCA)?

- In January 2017, the SPCA was set up by the Maharashtra government.
- The complaints body did receive several complaints at their office in Mumbai.
- But, the SPCA was struggling to set up offices in rural areas.
- Several activists had alleged that the SPCA was toothless.
- While the SPCA could recommend action against any officer found guilty, the decision on taking actions eventually rested with the government.
- Over the past years, the SPCA has also struggled due to lack of staff members.

What is the way forward?

- Key systemic changes are essential to protect the democratic structure of the country itself.
- The unholy nexus between the politicians, bureaucrats, police and criminals should be put an end to.
- Police administration should be restructured, giving it functional autonomy, and a robust criminal justice system must be built.
- The need of the hour is an all-India Act that all states have to follow.
- Small changes can be made in exceptional cases relating to the situation in a particular state.

Source: The Indian Express

SHANKAR IAS PARLIAMENT
Information is Empowering