Quran Case and the Powers of Judicial Review

What is the issue?

- A public interest litigation has been filed in the Supreme Court by Wasim Rizvi seeking declaration of 26 verses of the Quran as unconstitutional, non-effective and non- functional.
- In this context, here is a look at the limitations of judicial review in this regard.

What is the petition?

- The petitioner has made the demand on the ground that those 26 verses of the Quran promote extremism and terrorism.
- It is also said to pose a serious threat to the sovereignty, unity and integrity of the country.
- **Response** - The petition has led to protests among Muslims, and several clerics have issued fatwas against the petitioner.
    - In Vishwa Lochan Madan (2014), the Supreme Court has already observed that such fatwas have no validity.
- Shia clerics have excommunicated Rizvi from the fold of Shias.

What are the legal incongruities in the petition?

- Rizvi had named three secretaries of the Centre and also 56 private persons as respondents.
- In purely legal terms, the writ jurisdiction lies against the “state.”
- But the persons named as respondents are certainly not ‘state’ within the meaning of Article 12 of the Constitution.
- Ideally he should have made Muslim God, Allah, as respondent number one as Muslims believe him to be the sole author of the Quran.
    - Under Indian law, idols are juristic persons and recently Ram Lalla won the historic Babri Masjid case.
- The petition also claims the Quran promotes terrorism and therefore these 26 verses must be removed.
- There are a number of laws such as the IPC, UAPA, TADA, POTA, etc that already prohibit and severely punish terror activities.
- No terrorist can certainly defend himself by relying on his religious texts as the law of the land.

Does the court have jurisdiction in this regard?

- Under Indian law, only a "law" can be challenged as unconstitutional.
- Article 13(3) defines law, which includes any ordinance, order, by-law, rule, regulations, notification, custom or usage having in the territory the force of law.
- "Laws in force" on the commencement of the Constitution include laws enacted by a legislature or other competent authority.
- This definition certainly does not cover any religious scripture including the Quran.
- Similarly, neither the Vedas nor the Gita, nor the Bible, nor the Guru Granth Sahib can be said to be "law" under Article 13.
- To term the Quran or other religious scriptures as custom or usage, as this petition claims, is also absurd.
- Customs and usage are repeated practices of human beings.
- Words of divine characters cannot be considered as customs.
- The divine books can be sources of law but not law in themselves.
- Thus Quran in itself is not "law" for the purposes of Article 13.
- As a matter of fact, the Quran itself abrogated several shameful customs of Arabs such as female infanticide, and therefore the Quran can never be called custom as well.
- If Quran is not law, it is not subject to judicial review. No court can sit in judgment on any sacred book.

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