Removal of J&K DGP

Why in news?

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Jammu and Kashmir governor recently approached the Supreme Court seeking “modification” of its order regarding the appointment and removal of DGP by the states.

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What happened in J&K?

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- State Assembly of J& K was suspended in June 2018 and subsequently Governor’s rule was imposed.
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- The Governor administration in J&K recently removed Director General of J&K Police (Law & Order) and posted him as Transport Commissioner.
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- The administration says this was done due to certain emergent circumstances.
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- Also, DGP-Prisons of the state was made to hold the charge as acting DGP till regular arrangement is made.
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What does the recent SC ruling imply?

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- The SC recently passed an order on appointment and removal of DGP in accordance with its 2006 judgment in **Prakash Singh vs Union of India** which reads as follows.
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- **Appointment** - All the States should send their proposals to the UPSC in anticipation of the vacancies to the post of DGP.
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- This has to be done at least three months prior to the date of retirement of the incumbent DGP.
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- The UPSC will prepare the panel, wherein merit and seniority should be given due weightage.
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- States should immediately appoint one of the persons from the panel prepared by the UPSC.
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- However, no states should appoint any person on the post of DGP on **acting basis**, as there is no concept as such as per the decision in Prakash Singh's case.
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- **Tenure** - It has to be ensured that the person who was selected and appointed as the DGP continues despite his date of superannuation (retirement).
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- However, some states have adopted a practice to appoint the DGP on the last date of retirement as a consequence of which the person continues for two years after his date of superannuation.
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- Hence, the extended term beyond the date of superannuation should be a reasonable period.
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- Also, UPSC could consider people who have got clear two years of service left in the office.
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- **Removal** - The State government should consult with the State Security Commission and the removal can be done under –
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1. the All India Services (Discipline and Appeal) Rules
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2. conviction in a court of law in a criminal offence
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3. a case of corruption
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4. incapacitation from discharging his duties".
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What are the concerns in J&K?

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- The government did not explain the “pressing urgency” and the “emergent circumstances” that led to its move.
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- It also has not registered any case that could have been cited as a reason for the removal.
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- Yet, it has submitted a panel of five officers to UPSC, since the removal.
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Source: The Indian Express

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Quick Facts

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Governor’s rule in J&K

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- Normally, President's Rule is imposed after collapse of the state government under **Article 356** of the Constitution.
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- But J&K has its own separate Constitution that provides for an intermediary statutory layer in the state.
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- As per Article 92 of the Jammu and Kashmir Constitution, Governor's Rule is imposed in the state for a period of six months.
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- The assembly remains under suspended animation during this period.
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- It means the elected MLAs remain in office and legislative assembly continues to exist without the power of legislation.
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- The governor assumes the power of legislation during this period.
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- Meanwhile, the governor has the power to dissolve the assembly.
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- Only if the assembly hasn’t been revoked even after 6 months, J&K comes under the President's Rule as per Article 356.
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