

## **Restoring 4G Internet in J&K - SC Direction**

### **Why in news?**

The Supreme Court directed that a special committee led by the Ministry of Home Affairs secretary should be constituted to look into restoration of 4G internet services in the UT of Jammu and Kashmir.

### **What is the case about?**

- The central government had imposed a complete internet shutdown in the erstwhile state of Jammu and Kashmir in August 2019.
- This was after scrapping Article 370 which gave J&K its special status.
- Later in March 2020, it restored internet services partially, to allow 2G speed for mobile users.
- After this, several orders were passed from time to time, retaining speed restrictions.

### **What is the Court's direction?**

- The committee suggested by the Centre will also include the -
  - i. Department of Communications Secretary of the Union Ministry of Communications
  - ii. the Chief Secretary of the Union Territory of Jammu and Kashmir
- This committee has been asked to look into the petitioners' contention.
- It will examine the alternatives suggested by them, on allowing faster internet on a trial basis in areas wherever possible.
- The Court emphasized on ensuring the balance between national security and human rights.
- The bench referred to the judgment in the Anuradha Bhasin case (January 2020).

### **What were the observations of the Anuradha Bhasin case?**

- It was popularly known as the Kashmir internet shutdown case.
- The Supreme Court emphasized back then that Article 19 of the constitution guarantees the freedom of speech.
- The freedom to practice any profession or carry on any trade, business or

occupation over the medium of Internet also enjoys constitutional protection.

- The Anuradha Bhasin case had also advocated for adequate procedural safeguards while implementing internet shutdowns.
- The Court refrained from taking any view on the legality of the government's imposition of a blanket communication lockdown in J&K.
- However, it held that repeated resort to Section 144 of the CrPC to impose wide restrictions without territorial or temporal limits was unacceptable.
- It directed the authorities to review each one of them from time to time.

### **What is the contention now?**

- It is now desirable to have better internet when there is a worldwide pandemic and a national lockdown.
- But there is also the concern of outside forces trying to infiltrate the borders and destabilize the integrity of the nation.
- The government's rationale is that the limitation on internet speed was to "restrict the flow of information".
- This is to prevent misuse of data by terrorists and their supporters to disturb the peace and tranquillity of the UT of Jammu and Kashmir.
- Notably, there has been a spike in incidents of terrorism in the area; roughly 108 incidents between August 2019 and April 2020.

### **What are the concerns with the Court's decision?**

- The Court failed to ask how those incidents could be linked to Internet speed when all of them took place while severe restrictions were in place.
- The Court has directed a review of the matter by the very authorities who imposed the restriction in the first place.
- This suggests abdication of responsibility by the Court, of discharging a judicial duty it was called upon to perform.
- The mandate that the Court enjoys under Article 32 of the Constitution (enforcing fundamental rights) cannot be transferred to the executive.
- The judgment is in consonance with a judicial trend that seeks 'balance' between rights and 'national security'.
- But in the J&K context, this approach would work in favour of the claims made by the executive on national security concerns.
- The Court has not even pursued the attempt it made in Anuradha Bhasin case.
- It has not laid down any set of rules by which authorities seeking to impose restrictions must adhere to the doctrine of proportionality.
- So, without any judicial standard to scrutinise the claims made, it would be unfair to dislodge fundamental rights.

**Source: The Hindu, The Print**

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