SC reviews ED’s authority to file Writs

Prelims: *Current events of national and international importance*

Why in News?

Recently, the Supreme Court has agreed to examine whether the Enforcement Directorate (ED) is a "juristic person" entitled to file writ petitions against State governments under Article 226.

- ED ***filed for mandamus and certiorari to challenge the Commission of Inquiry (CoI)*** set up by Kerala in the gold smuggling case (2022).
- **Writ Petition –** Filed before the Supreme Court (Article 32) or High Court (Article 226) *when a Fundamental Right or other legal right is violated.*
- **Purpose –** The ED is a *Union statutory agency*.
- It seeks to review State actions affecting its statutory enforcement powers under the Prevention of Money Laundering Act, 2002.
- **Issue –** Whether the ED is a juristic person entitled to maintain a writ petition.
- States (Kerala and Tamil Nadu) argue that it is merely a department of the Union government and not a juristic person or body corporate capable of suing or being sued.
- It is argued that the agency’s only remedy lay under Article 131 of the Constitution.
    - **Concern -** Allowing ED to file writs could undermine federal balance and enable overreach.
- **Key aspects – Kerala High Court -** ED is a statutory body, not just a Union department.
- High Court rejected the State's argument that ED cannot sue.
- The Supreme Court admitted appeals by Kerala and Tamil Nadu to clarify the law.
- **Implications –** Determines whether central investigative agencies can file writs against States.
- Impacts the federal balance between the Centre and States.

- Affects ED's autonomy and operational reach.
- **Need –** Clarify whether ED is a juristic person.
- Avoid conflict of jurisdiction between High Courts and Supreme Court.
- Ensure legal consistency for Union agencies filing writs.

Enforcement Directorate (ED)
• **About-** It is a premier financial investigation agency and economic law enforcement agency of the Government of India. • **Headquarters** - New Delhi. • **Ministry** - Department of Revenue, Ministry of Finance. • **History** - In 1956, an 'Enforcement Unit' was formed in the Department of Economic Affairs. • In 1960, the administrative control was shifted to the Department of Revenue. • **Statutory Powers -** The ED currently draws its statutory powers from 3 different acts - Foreign Exchange Management Act, 1999 (FEMA) - Prevention of Money Laundering Act, 2002 (PMLA) - Fugitive Economic Offenders Act, 2018 (FEOA) • **Director** - The Director is the head of the Enforcement Directorate, assisted by special directors. • **Appointment**- The director is appointed as per the *Central Vigilance Commission Act 2003*. • **Appointment Committee –** A high-level committee headed by the Central Vigilance Commissioner. • **Tenure-** The director has a fixed tenure of 2 years and a maximum of 3 annual extensions.

References

1. TH | ED & writ petitions
2. History of ED | Directorate of Enforcement

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