SC Verdict on 97th Constitutional Amendment

Why in news?

The Supreme Court in a majority verdict quashedPart IX B of the Constitution on cooperatives inserted by 97th constitutional amendment.

What is the 97th constitutional amendment?

- The 97th Constitutional Amendment Act dealt with issues related to effective management of co-operative societies in the country.
- It was passed by the Parliament in 2011 and had come into effect from 2012.
- The change in the Constitution has amended Article 19(1)(c).
- The Act gave protection to the cooperatives and inserted Article 43 B and Part IX B, relating to them.

What is the recent case?

- Part IXB delineated the jurisdictions of what State legislation on cooperative societies ought to contain.
- This applied to provisions on -
    i. the maximum number of directors in each society
    ii. reservation of seats for SCs, or STs, and women
    iii. the duration of the terms of elected members, among others
- The question before the Court was whether the 97th Amendment impacted the legislative domain of the State Legislatures.
- If so, then it would require ratification by half of the states' legislatures, in addition to the required two-thirds majority in Parliament.
- The Gujarat High Court had found the amendment invalid for want of such ratification.
- It struck down certain provisions of the amendment.
- It held that the Parliament could not enact laws with regard to cooperative societies as it was a State subject.
- The Centre challenged this 2013 decision of the Gujarat High Court in the Supreme Court.
- It believed that the subject of 'cooperative societies' in the State List was not altered in any way by the 97th Amendment.
- It only outlined the guidelines on any law on cooperatives that the State Assemblies may enact.

- The provision does not denude the States of its power to enact laws with regard to cooperatives.
- So, it felt the ratification by states was not necessary.

What is the SC verdict?

- The Supreme Court, by a 2:1 majority, upheld the Gujarat HC judgment holding the amendment invalid.
- But this is only in relation to cooperatives under the States.
- The elaborate amendment would hold good for multi-State cooperative societies, on which Parliament was competent to enact laws.
- So, the Supreme Courtupheld the validity of the 97th constitutional amendment.
- It has howeverstruck down part IX B of the Constitution.

What does this imply?

- Significantly, the 97th Constitutional Amendmentinfused autonomy, democratic functioning and professional management into the cooperatives.
- But the recent verdictimplies that even well-intentioned efforts towards reforms cannot be at the cost of the quasi-federal principles.
- In other words, reforms in cooperative sector should not be at the cost of federal principles.
- The ratification requirement will apply if there is any attempt to constrain the State legislatures in any way.
- In the absence of States' ratification, the amendment that sought to prescribe the outlines of State laws on a State subject becomes invalid.
- The judgment may also mean that the concern expressed, that the formation of a new Ministry of Cooperation would affect federal principles, could be true.
- Having said all these, undeniably, the cooperative movement needs reform and revitalisation, (within constitutional parameters).

Source: The Hindu

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