SC/ST Prevention of Atrocities Act - The Controversy

What is the issue?

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- Recently, the Supreme Court had sought to alter some provisions of the SC/ST Prevention of Atrocities Act which has triggered a controversy.
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- While court opined that alterations were required to prevent misuse, it was widely perceived as a move to dilute the legislative safeguards for SC/ST.
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What were the political reactions?

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- The judgement had immediately triggered a backlash from reformist and pro-dalit groups and incidents turned violent at certain places.
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- Additionally, even some BJP MPs and allied parties of the government had voiced against the judgement, all of which generated a political storm.
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- Hence, the union government moved the apex court to seek a review of the judgement, stressing parliamentary supremacy in law making.
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- Some BJP ruled state governments that had initially implemented the apex court order had withdrawn the circulars now.
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- Kerala and some other state governments too have approached the SC for a review of the same, and PM Modi has promised that the law won’t be diluted.
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- Sources have also indicated that the union government would bring in an ordinance if there is an adverse verdict from the SC on the review petition.
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- But incidentally, despite the union government’s rhetoric, it is a fact that the BJP-ruled states are where atrocities against Dalits are the most prominent.
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How did the case fare with regard to the judiciary?

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- While the SC has admitted the review petition, the bench had reiterated its concern on the SC/ST Act being misused by some.
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- Further, the bench stated that the previous judgment was merely to ensure due protection to the liberties of the people (rather than diluting it).
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- While public sentiment can’t be a ground for the SC to reverse its earlier order, the court needs to recognize that its previous order was a legislative overreach.
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- The judiciary is not supposed to enter into parliament’s domain in cases where there is an existing law (irrespective of its quality).
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- While checking the validity of the law, the judiciary should only be looking into its legality and consistency with the basic structure of the constitution.
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What is the way ahead?

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- The government can bring in the ordinance even now, and the parliament can enact the same subsequently to circumvent the judgement.
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- While the ordinance fascination seems to have ceased now, the SC/ST Act case presents a genuine case that qualifies for ordinance and can be considered.
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- It is important for the bill or ordinance to provide in clear terms the reasons for reversing the SC order by pondering on the logic applied by the court.
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- In this case, the SC order was based on the argument that the SC/ST Act was being misused, which needs to be decried for lack of substantiated evidence.
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- Significantly, the 1st Constitutional Amendment Act (1951) that protected reservations was in fact an over-turning of a court judgement.
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Source: Indian Express

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