Special Provisions of States

Why in news?

After Supreme Court upheld the validity of abrogation of Article, certain features of asymmetric federalism like Article 371 and Article 239A in Indian Constitution have come to limelight.

What is the nature of relationship between the centre and states in India?

- **Quasi-federal** – While *states do have autonomy*, the Constitution *tilts towards the Centre on certain areas*.
- **7th Schedule of the Constitution** – It contains the ***Union, State and Concurrent lists*** that prescribe subjects that the Centre and states are empowered to legislate upon.
    - Both the Centre and state can legislate upon those in the concurrent list, the Union law would prevail in case of a conflict between the law made by Parliament and the state legislature.
- **Asymmetric federalism** – ***All Indian states are not given equal status*** considering various factors, ranging from the fiscal, political and the administrative features.
- Several states enjoy ***varying degrees of autonomy and relationship*** with the Centre.
    - **Article 371** – It deals with *12 states* for better governance and political administrations.
    - **Article 239A –** It deals with the creation of *local legislature for Union territory of Puducherry*.
    - **Article 239AA** – It deals with *national capital territory of New Delhi (NCT)* which has the powers to *legislate upon subjects in the state and concurrent lists* in the 7th Schedule.

What are the special provisions under Article 371?

- **History** – It did ***not exist in the original constitution*** but have been incorporated subsequently by various amendments.
- **Incorporation** – Like Article 370, ***Article 371*** is also became a part of the Constitution *since January 26, 1950*.
- Articles 371(A-J) were incorporated through amendments under Article 368, which lays down the power of the Parliament to amend the Constitution and procedure therefor.
- **Constitution** – ***Article 371 to 371-J in Part XXI*** of the constitution titled *'Temporary, Transitional and Special Provisions'*.
- **Objective**

    - To *meet the aspirations of the people of backward regions* of the states.
    - To *protect the cultural and economic interests* of the tribal people of the states
    - To *deal with the disturbed law and order* condition in some parts of the states
- **Validity** - All these exceptions would be operable till the crisis, either secessionist sentiments or war ceases.
- Despite the 'temporary' tag, there ***isn't any explicit expiry date***.

What are the states that have special provisions under Article 371(A-J)?

- **Article 371 – *Maharashtra and Gujarat***
- Governor has special responsibility to establish separate development boards for Vidarbha, Marathwada, and the rest of Maharashtra, and Saurashtra and Kutch in Gujarat.
- **Article 371A (13th Amendment Act, 1962) – *Nagaland***
- ***No act of Parliament would apply*** in matter relating to religious and social practices, ownership and transfer of resources unless the state government pass a resolution of the same and the governor has *special responsibilities with respect to law and order*.
- **Article 371B (22nd Amendment Act, 1969) – *Assam***
- The President may provide for the constitution and functions of a committee of the Assembly consisting of *members elected from the state's tribal areas*.
- **Article 371C (27th Amendment Act, 1971) – *Manipur***
- The President may provide for the constitution of a committee of *elected members from the Hill areas* in the Assembly, and entrust "special responsibility" to the Governor to ensure its proper functioning.
- **Article 371D (32nd Amendment Act, 1973) – *Andhra Pradesh and Telangana***
- It is substituted by The *Andhra Pradesh Reorganisation Act, 2014.*
- President must ensure *equitable opportunities and facilities* in public employment and education to people from different parts of the state.
- **Article 371E** - Allows for the establishment of a *university in Andhra Pradesh* by a law of Parliament but this is not a "special provision" in the sense of the others in this part.
- **Article 371F (36th Amendment Act, 1975) – *Sikkim***
- The members of the Legislative Assembly of Sikkim shall elect the representative of Sikkim in the House of the People and parliament may provide for seats in the Assembly, which may be filled *only by candidates from certain sections* of people.
- **Article 371G (53rd Amendment Act, 1986) – *Mizoram***
- Parliament *cannot make laws on religious or social practices*, customary law, and administration of justice, ownership and transfer of land unless the state Assembly so decides.
- **Article 371H (55th Amendment Act, 1986) – *Arunachal Pradesh***
- The Governor has a special *responsibility with regard to law and order*, and "he shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken".
- **Article 371J (98th Amendment Act, 2012) – Karnataka**
- A provision for a *separate development board for the Hyderabad-Karnataka regio*n and there shall be equitable allocation of funds and *equitable opportunities and facilities* for people in government jobs and education.

References

1. The Indian Express| Special Provision of States
2. The Indian Express| Article 371 of Indian Constitution

