Spoils System - Why it is bad?

Why in news?

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In 2016 the three crucial appointments made by the Chief Minister of Tamilnadu were set aside by the courts since it appeared that all three selections are a form of spoils-sharing.

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What is a 'Spoils-system'?

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Spoils-system is a common feature in the 17th and 18th century U.S., where the leaders of the political party that came to power considered it their exclusive right in giving public office to its supporters.

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How it was eliminated in U.S.?

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- However, as the U.S. government grew, the need for qualified employees developed and it made possible 'The Civil Service Reform Act of 1883', which re-established the US Civil Service Commission.
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- The Act rendered it unlawful to fill various federal offices through the spoils-system.
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What are the SC's observations?

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- **Article 320 of the Indian Constitution** lays down the functions of Public Service Commissions (PSCs) and has resulted in the establishment

of the Union Public Service Commission and various State Public Service Commissions.
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- However, over the course of time, recruitment to these commissions have become dependent on political loyalties.
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- Supreme Court (SC) in a case concerning the Bihar govt and said that the PSCs have become the victims of spoils-system.
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- This was not taken seriously by the political parties and it resulted in the **11 appointments made by the State Governor to the TNPSC.** The appointments were then set aside by the Madras High Court and the SC has refused to stay the HC's order.
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What are the three controversial appointments?

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- A retired district judge was amongst the eleven, whose request for extension of service was already denied by the High Court because his records were not clean.
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- The state also kept the post of State Consumer Forum president vacant for more than one-and-a-half years and insisted on a particular retired judge getting appointed. Again the Madras High Court stepped in and appointed another person.
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- The selection of chairperson of TN Commission for Protection of Child Rights. Since the state selected person lacked the essential qualification, TN govt couldn't be able to convince the court about her credentials and decided to withdraw the nomination.
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What about the case of appointment of state public prosecutor?

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- The tenure of state public prosecutor co-exists with the tenure of the government with the justification that the govt should be given the

freedom to appoint its own lawyers just as a private person gets his own choice.
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- However the Supreme Court is now scrutinising the system.
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- It has observed that the **state should appoint only competent lawyers** possessing integrity to represent it.
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- Failing which there is a strong possibility of “miscarriage of justice”. So, even in this case, the opinion of the High Court is a must.
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- The issue here is not concerning the political background of a lawyer, since, it would be against the Fundamental Rights guaranteed by Articles 14 and 16 to deny employment to an individual because of his past political affinities.
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- Unless such affinities would likely to affect the integrity and efficiency of the individuals service, a person with political background can be appointed to a service.
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Source: The Hindu

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