Supreme Court’s Power to Overrule itself

What is the issue?

\n\n

\n
- A 5-judge Supreme Court Bench led by the Chief Justice is now slated to hear the conflicting judgments of two previous three member SC benches.
\n
- This new episode was triggered by cases reagarding land acquisition, and has brought to highlight, a pressing constitutional issues.
\n

\n\n

How did the current issue come up?

\n\n

\n
- Three separate cases involving compensations to be paid for land acquired for various activities came up to the Supreme Court at various times.
\n
- Firstly, in January 2014, a three-judge Bench unanimously held that “paid” would mean compensation offered or rendered, and deposited in court.
\n
- In February 2018, another 3 judge bench held that once compensation had been unconditionally offered and refused, it would be considered “paid”.
\n
- In another subsequent case recently heard by a 3 judge bench - the bench was surprised to know that one 3 judge bench had overruled another previously.
\n
- As this is against judicial convention, the case has now been referred to the Chief justice of India to constitute a larger bench to resolve this issue.
\n
- The matter is now slated to be heard by a 5 judge constitutional bench that would include the CJI.
\n

\n\n

Can the Supreme Court rule against its own decisions?

\n\n

\n
- The Supreme Court has the power to overrule its own decisions, but it has affirmed that this power will be used sparingly and only in compelling cases.
\n
- But it has been fairly established that a Bench of the Supreme Court can't overrule a previous judgment delivered by a bench of equal or larger size.
\n
- In such a situation, in case of an inability to agree, the only option available is to refer the matter to the CJI, requesting that a larger Bench to hear the same.
\n
- Notably, this has to be a mere reference to the CJI and criticism or doubts about the correctness of the previous judgment (of a larger bench) can't be aired.
\n
- Notably, this is merely a convention followed for ensuring certainty in law and there is no explicit constitutional provision for the same.
\n
- It is to be noted that, since the Supreme Court has 11 to 13 Benches hearing cases concurrently in different contexts, conflicting opinions are only natural.
\n

\n\n

Why does the Supreme Court have benches of different sizes?

\n\n

\n
- It was proposed in the constituent assembly that India's Supreme Court should exercise its jurisdiction as a full court, and not as separate Benches.
\n
- But this was not accepted as it might not help in the optimal use of judicial time, may lead to a slower judicial process and backlogs.
\n
- Initially, the Supreme Court was envisaged as having a Chief Justice and seven other judges, with Parliament having the power to increase this number.
\n
- **Evolution -** In the early years, all judges sat together, but as the work of the court increased, Parliament increased the number of judges.
\n

- From 8 in 1950 to 11 in 1956, 14 in 1960, 18 in 1978, 26 in 1986 and 31 in 2008 (the current strength), the number of judges have gone up with time.
\n
- To deal with more cases, judges started sitting in smaller Benches of two or three, and larger Benches of five or more were constituted only for some cases.
\n
- Notably, a matter can be referred to a larger Bench only by a judicial order.
\n

\n\n

\n
- **Special benches –** Any case involving a substantial question of law (like interpreting the Constitution) must be heard by a Bench of at least 5 judges.
\n
- While it is a norm to constitute such a bench, there have however been constitutional cases that were decided by smaller benches.
\n

\n\n

\n
- Chief Justice of India is the head of the judiciary, and is vested with the administrative responsibility to constitute the benches.
\n
- While all judges including the CJI are equal in their judicial powers, it is a norm to use the experienced senior judges for Constitutional Benches.
\n
- **Other Countries –** In the US, UK, Australia, Canada and South Africa, in most cases, all judges of the Supreme Court sit together in large Benches.
\n
- Notably, Supreme Courts of the above mentioned countries usually have seven to nine judges only and their juristrictions are also very selective.
\n
- Considering the small number of judges, a judgment of a bench over 5 members would mostly imply the majority opinion of the entire court.
\n

\n\n

\n\n

Source: The Indian Express

\n



SHANKAR
IAS PARLIAMENT
Information is Empowering