Suspension of the operation of Sedition Provision

Why in news?

The Supreme Court has suspended the operation of the sedition provision, Section 124A of the Indian Penal Code while allowing the government to reconsider the British-era law.

What is the sedition law?

- Thomas Macaulay, who drafted the Indian Penal Code, had included the law on sedition, but it was not added in the code enacted in 1860.
- In 1890, sedition was included as an offence under section 124A IPC through the Special Act XVII.
- Under it, whoever brings or attempts to bring hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India shall be punished.
- The provision was extensively used to curb political dissent during the Independence movement.
- Several pre-independence cases involving Section 124A of the IPC includes Bal Gangadhar Tilak, Annie Besant, Shaukat and Mohammad Ali, Maulana Azad and Mahatma Gandhi.

What are the legal challenges to IPC Section 124A?

- The Supreme Court in ***Romesh Thapar v State of Madras*** held that criticism of the government is not a justifying ground for restricting the freedom of expression and of the press, unless it undermines the security of or tend to overthrow the state.
- The Punjab and Haryana High Court in ***Tara Singh Gopi Chand v. The State (1951)***, and the Allahabad High Court in ***Ram Nandan v. State of Uttar Pradesh (1959)*** declared the provision unconstitutional.
- However, the Supreme Court in ***Kedarnath Singh v State of Bihar(1962)*** upheld the constitutional validity of IPC Section 124A.
- It also attempted to restrict its scope for misuse.
- So, unless accompanied by an incitement or call for violence, criticism of the government cannot be labelled 'sedition'.
- Seven principles in the Kedar Nath Singh ruling specify situations in which the charge of sedition cannot be applied.
- The ruling in ***Balwant Singh v. State of Punjab (1995)***, reiterated that the real intent of the speech must be taken into account before labelling it seditious.
- In ***Dr. Vinayak Binayak Sen v. State of Chhattisgarh (2011)***, the court held that a person can be convicted for sedition if she is not the author of the seditious speech but has merely circulated it.
- In 2016, in ***Arun Jaitley v State of Uttar Pradesh***, the Allahabad High Court held that criticism of the judiciary or a court ruling would not amount to sedition.
- In ***Vinod Dua v Union of India***, the SC quashed FIRs with charges of sedition against the journalist for criticising Prime Minister's handling of the Covid-19 crisis and cautioned against unlawful application of the provision.

- The reports of the Law Commission of India and even the Supreme Court have underlined the rampant misuse of the sedition law.

Countries such as the United Kingdom, Australia and Singapore have repealed their sedition law.

What do the data on sedition cases reveal?

- The National Crime Records Bureau (NCRB) has started compiling data on sedition since 2014 and 399 sedition cases have been filed across the country, including a high of 93 in 2019, and 73 in 2020.
- The conviction rate in cases filed under the sedition law has fluctuated between 3% and 33% over the years, and the pendency of such cases in court reached a high of 95% in 2020.
- The chargesheeting rate of police too has been low.
- As many as 23 cases were found to be false or a mistake of law and 58 were closed for lack of evidence.
- Pendency of cases with police rose from 72% in 2016 to 82% in 2020.
- In 2019, when the highest number of sedition cases were registered in the country, Karnataka had the most at 22, followed by Assam, J&K, Uttar Pradesh and Nagaland.

What does the current move of the Supreme Court signify?

- The Union government has said that it has decided to re-examine and reconsider the provision as part of the Prime Minister's efforts to scrap outdated laws and compliance burdens.
- This has given hope for the Court to expect that government will refrain from registering any fresh case of sedition or any investigation.
- The Court's move has given liberty to the people to approach the courts if any fresh case is registered for sedition.
- Courts have pointed out that the police authorities are not heeding the limitation imposed by a 1962 Constitution Bench of the Supreme Court on what constitutes sedition.
- In practice, the police have been using the broad definition of sedition to book anyone who criticised the Government in strong language.
- Undertrials booked under Section 124A can now use the order to seek bail.
- The court's interim order balances security interests and integrity of the state on one hand, and the civil liberties of citizens on the other.

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