The right call - SC stay on A.P. HC Order

Why in news?

The Supreme Court has stayed an Andhra Pradesh HC order that sought to convene a judicial inquiry into whether there is a “constitutional breakdown” in the Y.S. Jagan Mohan Reddy-led government in the State.

What is the existing practice?

- The question of a “constitutional breakdown” or the failure of constitutional machinery is dealt with under Article 356 of the Constitution.
- Article 356 also allows the imposition of President’s Rule in the States.
- Invoking of Article 356 comes under the prerogative of the executive and not the judiciary.
- In the S.R. Bommai case, a nine-member Bench of the Supreme Court interpreted the scope of Article 356.
- It made stringent conditions for the valid exercise of that power by the President after being presented with a proclamation by the Union Council of Ministers.
- These included ascertaining whether objective conditions exist which render it impossible to carry out governance in the State.
- Proclamation should have been made and the process should have been approved by both Houses of Parliament before consideration for judicial review.
    - The A.P. HC order seemed to have reversed the scheme of things by asking to ascertain if there is a constitutional breakdown in the State.

Why is SC's move welcome?

- The A.P. High Court order on inquiry into a ‘constitutional breakdown’ was seen as a judicial over-reach.
- The High Court's possibly flawed decision might have required the imposition of President’s Rule, which was halted by SC's intervention.

What is the larger issue in A.P?

- The Supreme Court’s order comes in the wake of incidents pointing to a tussle between the judiciary and the elected government in Andhra Pradesh.
- Earlier, Chief Minister Jagan Mohan Reddy had, in an unprecedented letter

to the CJI, complained about the alleged hostile attitude of the HC against him and his government.
- This was besides making controversial allegations against a senior Supreme Court judge.
- Simultaneously, the High Court ordered a CBI probe into what it termed was a social media campaign against the judges.

What is the way forward?

- The onus is now on the Supreme Court to put an end to the unseemly tussle between the judiciary and government in the State.
- Ordering an internal inquiry into the Chief Minister's letter would be a good beginning.
- Also, a clear nullification of the High Court order will ensure that such legal adventures impinging upon the separation of powers in the State are not repeated.

Source: The Hindu

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