UK Supreme Court Ruling on Parliament Prorogation

What is the issue?

- The UK Supreme Court has ruled that the UK PM Boris Johnson's decision to suspend Parliament for 5 weeks was unlawful.
- The ruling holds larger significance for the judicial review process in Parliamentary democracies.

What is the contention?

- UK PM insisted he wanted to outline his government's policies in a Queen's Speech on 14 October.
- To do that, Parliament must be prorogued and a new session started.
- But, it is widely perceived as a calculated move by the government to conclude the Brexit process with minimal parliamentary scrutiny.
- There is a view that the suspension was far longer than necessary.
- Notably, the Boris Johnson-led government had promised to make Britain leave the European Union by October 31 2019, even if that meant an exit without a deal.
- The PM, who has faced calls to resign, said he "profoundly disagreed" with the Supreme Court ruling but would "respect" it.
- There is also an opinion that the action by the court had amounted to a "constitutional coup".

What is the judiciary's rationale?

- The verdict had the effect of quashing the Queen's order to prorogue Parliament on the advice of the Prime Minister.
- U.K.'s Supreme Court found that the actions of Prime Minister Boris Johnson to prorogue Parliament were unlawful.
- Judges said it was wrong to stop MPs carrying out duties in the run-up to the Brexit deadline.
- It had the effect of preventing the ability of Parliament to carry out its constitutional functions without reasonable justification.

Why is it a significant ruling?

- The prorogation triggered a legal challenge culminating with the Scottish Court of Session finding that the PM had misled the Queen.

- Simultaneously, the matter was heard by the High Court of England and Wales, which ruled that the prerogative powers of the government were non-justiciable.
- These conflicting decisions and the appeals emanating from these two courts were heard by the Supreme Court.
- The matter had come to be heard before a panel of 11 Justices, the permitted maximum quota of serving Justices, of the Supreme Court.
- The entire judicial approach, in dealing with a matter concerning the "fundamentals of democracy", underlines the effectiveness of the judicial review process when conducted in a timely manner.
- The Court's ruling is an exemplar on how the judiciary views executive actions.
- By doing so, the U.K. Supreme Court asserted its majesty in the constitutional framework.
- Following this, other countries, that follow the Westminster system of government, should make increased introspection of executive actions and provide a boost to due parliamentary processes.

What does this hold for India?

- There have been at least two key executive actions this year that have undermined parliamentary processes:
    1. Reservation for Economically Weaker Sections (EWS)
    2. the Bills passed around Jammu and Kashmir (J&K)
- The Constitution 103rd Amendment Act 2019 on reservation for EWS was brought for Parliament's consideration in less than 48 hours from Centre's decision to do so.
- By doing so, the government ensured that there was insufficient time for Parliament scrutiny.
- The Bills around J&K also suffered from a similar defect.
- The conventional practice is that legislative documents are provided at least a few days before they are tabled.
- This is done for the MPs to understand the contents of the legislation, seek views and formulate their positions better.
- But, the J&K Reservation (Second Amendment) Bill, 2019 was suddenly introduced to the 'Parliamentary List of Business'.
- Copies of the Bill and the Resolution were provided to MPs only after tabling it.
- **Concerns** - Clearly, the above legislations were introduced in Parliament in direct violation of the Rules of Procedure and Conduct of Business.
- In Rajya Sabha, specifically, Rule 69 talks about 'Motions after Introduction of Bills' and 'Scope of Debate'.

- According to Rule 69, there is discretion given to the Chairman in exceptional situations.
- But, there has been no detailed explanation given by the presiding officers as to why the government has been allowed to breach parliamentary rules and convention on more than one occasion.
- **Way forward** - It is now for the Indian courts to assess whether executive actions have undermined parliamentary processes.
- This would largely determine the majesty of the judicial review process in India.

Source: The Hindu