



THE STUDY
By Manikant Singh



Delhi Ordinance Case

Why in the news?

- ◆ The Supreme Court stated that it might refer the Delhi government's petition against the Central Ordinance, which grants power over civil services in the national capital to the Lieutenant Governor, to a Constitution Bench for an authoritative pronouncement.

Reason of Dispute

- ◆ Key points that the Delhi government and the Centre raised in the Supreme Court:

Delhi

- ◆ The Ordinance has amended the Constitution through the ordinance route.
- ◆ The Delhi government's power over State Public Services under Entry 41 in the State List taken away.
- ◆ The "permanent" National Capital Civil Service Authority renders the Chief Minister a "minority voice" in the governance of Delhi.

Centre

- ◆ The Ordinance will be tabled in Parliament during the monsoon session. Court should wait.
- ◆ Parliament has overriding powers to make laws even on subjects regarding which the Legislative Assembly of Delhi would be competent to enact laws.



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- ◆ Post the May 11 Supreme Court verdict, the Chief Minister and his Ministers went on a "rampage", started a "witch hunt" against officers, necessitating the Ordinance.
- ◆ The CJI, however, went on to outline the questions of law that may require the attention of the Constitution Bench. He said a cardinal issue would be whether the **National Capital Territory of Delhi (Amendment) Ordinance, 2023** amounted to an amendment of the Constitution via the Ordinance route.
- ◆ The Delhi government has argued that the Ordinance took away its control over civil servants without actually amending Article 239AA, which holds that the power and control over services should be vested in the elected government.

Validity of Delhi Ordinance

- ◆ Secondly, the CJI orally observed that the effective transfer of power over the civil services amounted to nullifying Entry 41 of the State List of the Constitution. Entry 41 deals with the State's power over the "State public services and the State Public Service Commission".
- ◆ The judgment of a Constitution Bench led by Chief Justice Chandrachud had limited the role of the Lieutenant Governor, considered an arm of the Centre, over bureaucrats in the capital to three specific areas – public order, police and land.
- ◆ The Ordinance was promulgated within eight days of the Supreme Court verdict, which had upheld the authority of Delhi government to make laws and administer civil services in the national capital.



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