



Daily Mains Answer Writing (Day - 70)

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Q.) Recently, Supreme Court has struck down the 97th constitutional Amendment, what was 97th constitutional amendment and explain the reason and context because of which Supreme Court has taken such a step. Also, analyse its impact on federal principles in India.

Answer

- The 97th constitutional amendment act deals with the effective management of cooperative societies.
- With the 97th constitutional amendment acts several changes were made:
 - The amendment added “cooperative societies” to the protected forms of association under Article 19(1)(c), elevating it to a fundamental right.
 - A new Article 43B was added in the Directive Principles of State Policy (Part IV) regarding the “promotion of cooperative societies”.
 - It also inserted Part IXB in the Constitution which laid down the terms by which cooperative societies would be governed.
- Recently the Supreme Court has struck down certain parts of the act as unconstitutional.
- Reasons for struck down
 - **State Ratification:** SC held that the 97th Constitutional Amendment required ratification by at least one-half of the state legislatures as per Article 368(2) of the Constitution, since it dealt with an entry which was an exclusive state subject (co-operative societies). Under Article 368(2), Parliament can amend the Constitution by passing a Bill with a special majority. Since such ratification was not done in the case of the 97th amendment, it was liable to be struck down.
 - **Quasi Federal:** Although the constitution is regarded as quasi-federal, the States have sole authority to legislate on matters that are unique to them. Under Entry 32 of the State List, Part IX B, which comprises of Articles 243ZH to 243ZT, has "significantly and severely harmed" State legislatures' "exclusive legislative jurisdiction" over their co-operative sector. The court noted that Article 243ZI specifies that a state may only enact legislation relating to the incorporation, regulation, and dissolution of a society if it complies with the terms of Part IXB of the 97th Amendment.
 - **Increasing Control of the Union Government:** Over time, the Union government has gradually gained more influence over cooperative societies. The Reserve Bank of India has taken over the regulation of cooperative banks. The Union Ministry for Cooperation was recently founded by the Union Government.

- The Supreme court using the Doctrine of severability upheld the validity of provisions related to Multi State Cooperative Societies. It is declared that Part IXB of the Constitution is operative only insofar as it concerns multi-State cooperative societies both within the various States and in the Union Territories.
- Impact on Federal Principles
 - It will strengthen the federal principles as the power to manage the societies back to the states which was initially taken by the centre.
 - The 97th constitutional amendment gave the centre the power to direct states regarding the functioning of cooperatives but now the states will run the cooperatives based on the local needs.
- A separate 'Ministry of Co-operation' has been created by the Central Government for realizing the vision of 'Sahakar se Samriddhi' and to give a new push to the cooperative movement. This reflects on the importance of cooperatives and so the states should work in collaboration with the union government to uphold the value of the constitution of India and for the welfare of the people.