

## A Few Minutes Series

### Subject – Polity

Date – 25<sup>th</sup> March 2023

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### Most Important Constitutional Amendments (Part 2)

#### 38<sup>th</sup> Constitutional Amendment Act 1975

- Made the declaration of emergency by the president non-justiciable.(Article 352,356,360)
- Made the promulgation of ordinances by the president, governors and administrators of union territories non-justiciable.(Article 123,213,239B)
- Empowered the president to declare different proclamations of national emergency on different grounds simultaneously.(Article 352)

#### 42<sup>nd</sup> Amendment Act 1976

- Added three new words (i.e., socialist, secular and integrity) in the Preamble.
- Scope of Article 31C was expanded to all Directive Principles of State Policy
- Inserted Article 31D that provided for saving of laws in respect of anti-national activities and the formation of anti-national associations. "Anti-national activity" from being challenged under Article 14,19,31.
- Inserted Article 32 A - provided that the Supreme Court will have no jurisdiction to decide the constitutional validity of a State law in any writ proceedings under article 32 unless the validity of a Central law is also in issue in such proceedings.

#### New Directives Under part IV

- Article 39 f children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity.
- Article 39A -Equal Justice and Free legal Aid
- Article 43 A - Participation of workers in management of industries
- Article 48 A - Protection of environment and forest and wildlife
- Inserted Part IV A - Article 51A - 10 Fundamental Duties
- Article 74(1) - Explicitly state that President shall act on the aid and advise of C.O.M
- Freezing the allocation of seats in Lok Sabha and Rajya Sabha as per 1971 census till 2000.
- Duration of Lok Sabha and Assembly changed from 5 years to 6 years.
- Provision related to Quorum removed from Article 100 and Article 189.
- New Article 131 A - Supreme Court with exclusive jurisdiction as regards determination of the constitutional validity of Central laws.
- Article 144A - Minimum size of bench in such a hearing is 7 and 2/3<sup>rd</sup> judges must agree on constitutional invalidity.
- High Court power to issue writs under Article 226 restricted.
- Minimum size of bench in such a hearing is 5 and 2/3<sup>rd</sup> judges must agree on constitutional invalidity.
- Article 311 - No second opportunity to civil servant to make representation at awarding stage.
- Article 312 - Creation of All India Judicial Service by a parliamentary law
- Article 323A and 323 B- Tribunals
- Article 352 -Emergency can be declared in whole as well as part of country.

- Article 356 – Emergency can be renewed for one year at a time
- Article 368 – No Constitutional Amendment shall be called in question in any court on any ground
- **5 entries shifted from state list to concurrent list**
  - Administration of justice, constitution and organisation of all Courts except the Supreme Court and the High Courts.
  - Education
  - Weights and measures except establishment of standards
  - Forests
  - Protection of wild animals and birds

### 43<sup>rd</sup> Constitutional Amendment Act

- Restored the jurisdiction of the Supreme Court and the high courts in respect of judicial review and issue of writs.
- Deprived the Parliament of its special powers to make laws to deal with anti-national activities.

### 44<sup>th</sup> Constitutional Amendment Act

- Right to property removed from fundamental rights (Article 19 and 31) and moved it to Article 300A.
- New DPSP (Article 38)

“State shall strive to minimise inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities”

- Restored jurisdiction of Supreme Court to enquire into disputes regarding President/Vice President/PM/Lok Sabha speaker elections.
- Empowered the President to send back once the advice of cabinet for reconsideration.
- Terms of Lok Sabha and Legislative assembly were restored to 5 years.(83,172)

- Omitted the reference to British House of Commons in parliamentary privileges(105 and 194)
- Distinguished jurists not eligible for appointment as High Court Judges
- Writ jurisdiction of High Courts restored(Art 226)
- Deleted the provision making satisfaction of President and Governor final in issuing ordinances.
- Restored power of superintendence of High Courts over tribunals.

### Changes to Emergency : (National Emergency)

- Internal Disturbance replaced by armed rebellion.
- No proclamation of National Emergency without written recommendation of Union Cabinet.
- Approval of N.E – within 1 month of proclamation.
- Approval by special majority- (Article 368 vaali)
- Approval needs to be renewed every 6 months.
- Lok Sabha through simple majority can pass resolution to revoke proclamation.
- Article 19 will be suspended only in case of emergency by external aggression or war.
- Article 20 and 21 can never be suspended during National Emergency
- Approval of Six months at a time.
- Proclamation may be revoked or varied by subsequent proclamation.

### 52<sup>nd</sup> Constitutional Amendment Act 1985

- Added tenth Schedule to the Constitution and added disqualification of Legislators on grounds of defection.

## **61<sup>st</sup> Constitutional Amendment Act 1988**

- Reduced the voting age from 21 years to 18 years for the Lok Sabha and state legislative assembly elections.

## **69<sup>th</sup> Constitutional Amendment Act 1991**

- Designated the UT of Delhi as National Capital Territory of Delhi.
- Provided for creation of 70 member legislative Assembly for Delhi.
- Article 239AA.

## **73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts 1992**

- Granted constitutional status and protection to the panchayati raj institutions.
- For this purpose, the Amendment has added a new Part-IX entitled as "the panchayats" and a new Eleventh Schedule containing 29 functional items of the panchayats.
- Granted constitutional status and protection to the
- urban local bodies.
- For this purpose, the Amendment has added a new Part IX-A entitled as "the municipalities" and a new Twelfth Schedule containing 18 functional items of the municipalities

## **77<sup>th</sup> Constitutional Amendment Act 1995**

- Reservation in Promotion in government jobs.

## **81<sup>st</sup> Constitutional Amendment Act 2000**

- 50 percent ceiling not applicable on backlog vacancies.

## **84<sup>th</sup> Constitutional Amendment Act 2001**

- Extended the freeze on readjustment of Lok Sabha seats upto 2026.

## **86<sup>th</sup> Constitutional Amendment Act**

- Article 21-A - Elementary education a fundamental right
- Article 45 - State shall endeavour to provide early childhood care and education for all children until they complete the age of six years
- Article 51 -A - It shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years

## **91<sup>st</sup> Constitutional Amendment Act 2003**

- Total number of ministers not to exceed 15% of total strength of Lok Sabha/ Assembly.
- MP/MLA who is disqualified under Anti defection will also be disqualified as a minister or any remunerative political post.
- Exemption from disqualification in case of split by one third members of legislature party removed.

## **97<sup>th</sup> Constitutional Amendment Act 2011**

- Gave a constitutional status and protection to cooperative societies. In this context, it made the following three changes in the constitution:
  - It made the right to form co-operative societies a fundamental right.
  - It included a new Directive Principle of State Policy on promotion of co-operative societies.
  - It added a new Part IX-B in the constitution which is entitled as "The Co-operative Societies".

- **38<sup>th</sup> Constitutional Amendment Act**
- **42<sup>nd</sup> Constitutional Amendment Act**
- **43<sup>rd</sup> Constitutional Amendment Act**
- **44<sup>th</sup> Constitutional Amendment Act**
- **52<sup>nd</sup> Constitutional Amendment Act**
- **61<sup>st</sup> Constitutional Amendment Act**

- 73<sup>rd</sup> Constitutional Amendment Act
- 74<sup>th</sup> Constitutional Amendment Act
- 77<sup>th</sup> Constitutional Amendment Act
- 81<sup>st</sup> Constitutional Amendment Act
- 86<sup>th</sup> Constitutional Amendment Act
- 91<sup>st</sup> Constitutional Amendment Act
- 97<sup>th</sup> Constitutional Amendment Act

### **19th Constitutional Amendment Act 1966**

- Abolished the system of Election Tribunals and vested the power to hear election petitions in the High Courts.

### **24th Constitutional Amendment Act 1971**

- New Clause (4) added to Article 13 to provide that provisions of Article 13 will not apply on any amendment made under Article 368.
- Amended Article 368 to state that Parliament has power to amend any part of the Constitution.
- Made it obligatory for President to give assent to a constitutional amendment bill.

### **25th Constitutional Amendment Act 1971**

- Word 'Compensation' replaced by 'amount' in Article 31 (2)
- Introduced New Article 31 (C) : If any law is passed to give effect to Article 39(b) or (c) of DPSP, it cannot be challenged on the ground of violation of the rights guaranteed by Articles 14, 19 and 31.

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