

50 MOST IMPORTANT TOPICS-UPSC PRELIMS 2024

POLITY AND GOVERNANCE

PART 3



50 Important Topics - 2024 [2 PM]

Scheduled Date	Subject
01/04/24	Economy
02/04/24	Science & Technology
03/04/24	Environment & D.M.
04/04/24	Science & Technology
05/04/24	Environment & D.M.
06/04/24	-----
07/04/24	-----
08/04/24	Economy
09/04/24	Science & Technology
10/04/24	Economy
11/04/24	English
12/04/24	International Relations
13/04/24	-----
14/04/24	-----
15/04/24	Geography
16/04/24	-----
17/04/24	Geography
18/04/24	-----
19/04/24	Polity & Governance
20/04/24	Polity & Governance
21/04/24	-----
22/04/24	Maths
23/04/24	-----
24/04/24	Geography
25/04/24	Polity & Governance
26/04/24	International Relations
27/04/24	Environment & D.M.
28/04/24	-----
29/04/24	Social Schemes
30/04/24	-----
01/05/24	Reasoning
02/05/24	Geography

RAPID REVISION

CSAT ₹1,500 GS ₹3,500

CSAT + General Studies ₹4,000

MOST IMPORTANT TOPICS FOR PRELIMS 2024



HOURS

1500 TOPICS

11th April 2024 - 29th April 2024

Special Inclusions

- 6 FLT's (3 GS+ 3 CSAT)
- Value Additions Material
- Subject Specific MCQS



Parliament passes bill for appointment of Election Commissioners

Context:

- Recently, The parliament passed the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill.

Parliament passes bill for appointment of Election Commissioners

Background:

- According to the Law Minister, the 1991 Act did not have a clause related to the appointment of the CEC and other ECs, hence the bill was sine qua non.

Parliament passes bill for appointment of Election Commissioners

Analysis for Prelims:

Key Changes:

- **Replacement:** Replaces the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991.
- **Focus:** Addresses appointment, salary, and removal of the Chief Election Commissioner (CEC) and Election Commissioners (ECs).

Parliament passes bill for appointment of Election Commissioners

Appointment:

- Selection Committee: President appoints CEC and ECs based on recommendations of a committee:
 - Prime Minister
 - Union Cabinet Minister
 - Leader of Opposition/leader of largest opposition party in Lok Sabha

Parliament passes bill for appointment of Election Commissioners

- Committee recommendations valid even with vacancies in the committee.
- Search Committee: Law Minister heads a committee to propose a panel of names for the Selection Committee to select from.
- Eligibility for the office of CEC/EC: The person should have held or holding a post equivalent to Secretary to the central government.

Parliament passes bill for appointment of Election Commissioners

Salary and Conditions:

- The Chief Election Commissioner and other Election Commissioners shall be paid a salary which is equal to the salary of a Judge of the Supreme Court.

Parliament passes bill for appointment of Election Commissioners

Removal:

- Retains existing constitutional provision (Article 324(5)) for removal of CEC in a manner similar to a Supreme Court Judge while ECs can be removed only on recommendation of the CEC.

Protection: CEC and ECs shielded from legal proceedings for the actions taken by them during their tenure in discharge of official duties.

Elections and Laws related to elections

- **Representation of People Act 1950**
 1. Allocation of seats in the House of the People, the State Legislative Assemblies and the State Legislative Councils.
 2. Delimitation of Parliamentary, Assembly and Council Constituencies.
 3. Election officers like chief electoral officers, district election officers, electoral registration officers and so on.
 4. Electoral rolls for Parliamentary, Assembly and Council constituencies.
 5. Manner of filling seats in the Council of States to be filled by representatives of union territories.

Elections and Laws related to elections

- **Representation of People Act 1950**
 6. Local authorities for purposes of elections to the State Legislative Councils.
 7. Barring the jurisdiction of civil courts.

Elections and Laws related to elections

- **Representation of People Act 1951**

1. Qualifications and disqualifications for membership of Parliament and State Legislatures
2. Notification of general elections
3. Administrative machinery for the conduct of elections
4. Registration of political parties
5. Conduct of elections
6. Free supply of certain material to candidates of recognised political parties
7. Disputes regarding elections
8. Corrupt practices and electoral offences
9. Powers of Election Commission in connection with inquiries as to disqualifications of members.
10. Bye-elections and time limit for filling vacancies.
11. Miscellaneous provisions relating to elections.
12. Barring the jurisdiction of civil courts.

Salient Features of Representation of People's Act 1951

- Disqualifications - From Voting

Section 11A

Section 171E (offence of bribery) or

- Section 171F (offence of undue influence or personation at an election) of the Indian Penal Code; or

- Section 125 (Promoting enmity between classes in connection with election) or

- Section 135 (removal of ballot paper from polling station) or

- Section 136(2)(a) (found guilty of some electoral offences, while being an officer in connection with the election) of RPA 1951,

Salient Features of Representation of People's Act 1951

- Disqualifications – From Voting

Disqualified for 6 years from date of conviction.

Declaration of Assets and Liabilities

Section 75A

Every elected candidate for either Houses of Parliament shall furnish information regarding relating to the movable and immovable property owned by him, his spouse or his children; the liabilities to any public financial institution or to the Central Government or State Government within 90 days from the date of subscribing an oath for taking a seat in Parliament.

Salient Features of Representation of People's Act 1951

- Section 33A under RPA, 1951:
- Requires candidates to disclose information about charges framed by a court against them for offences punishable by more than two years
- imprisonment and any convictions resulting in imprisonment of one year or more

Salient Features of Representation of People's Act 1951

Dispute Resolution :

- No election shall be called in question except by an election petition presented to the High Court having jurisdiction of the state involved.
- Such jurisdiction of High court shall be exercised ordinarily by a single Judge of the High Court and the Chief Justice shall, from time to time, assign one or more Judges for that purpose.
- An election petition can either be filed by any candidate at such election or by any elector within forty-five days from, the date of election of the elected candidate.

Salient Features of Representation of People's Act 1951

Dispute Resolution :

- Every election petition shall be tried as expeditiously as possible and efforts shall be made to conclude the trial within six months from the date on which the election petition is presented.
- If the High Court upholds the election petition, it declares the election of the selected candidate to be void.
- However, an appeal can be made to the Supreme Court within a period of thirty days from the date of the order of the High Court

Salient Features of Representation of People's Act 1951

Corrupt Practices :

Section 123

- Bribery
- Undue Influence
- Appeal to vote or refrain from voting on ground of religion, race, caste, community, language or use of appeal fo religious symbols
- Promotion of feelings of enmity or hatred between different classes of citizens on ground of religion, race, caste, community or language

Salient Representation of People's Act 1951

Corrupt Practices :

Section 123

- Practice/ glorification of Sati
- Publication of false statement of fact in relation to personal character or conduct of any candidate
- hiring or procuring of any vehicle or vessel or the use of such vehicle or vessel for the free conveyance of any elector
- Booth Capturing

Salient Representation of People's Act 1951

Electoral Offences

127. Disturbances at election meetings.

127A. Restrictions on the printing of pamphlets, posters, etc.

128. Maintenance of secrecy of voting.

129. Officers, etc., at elections not to act for candidates or to influence voting.

130. Prohibition of canvassing in or near polling stations.

131. Penalty for disorderly conduct in or near polling stations.

132. Penalty for misconduct at the polling station.

Salient Features of Representation of People's Act 1951

Electoral Offences

132A. Penalty for failure to observe procedure for voting.

133. Penalty for illegal hiring or procuring of conveyances at elections.

134. Breaches of official duty in connection with elections.

134A. Penalty for Government servants for acting as election agent, polling agent or counting agent.

134B. Prohibition of going armed to or near a polling station.

135. Removal of ballot papers from polling station to be an offence.

135A. Offence of booth capturing.

135B. Grant of paid holiday to employees on the day of poll.

135C. Liquor not to be sold, given or distributed on polling day.

136. Other offences and penalties therefor

Elections

1. UOI v. ADR [2002] – Court made it mandatory to file an affidavit before the returning officer disclosing criminal cases pending against him
2. Lily Thomas v. Union of India [2013] – Court held convicted MPs and MLAs will be immediately disqualified from holding membership of the House without being given 3 months' time for appeal [struck down section 8(4) which provided 3 months' time].

Elections

3. PUCL v. UOI [2013] – Supreme Court introduced the concept of NOTA (None of the Above) Option mandatorily in EVMs.

4. Public Interest Foundation v. UOI [2014]:
Court directed all subordinate courts to give their verdict on cases involving legislators within a year, or give reasons for not doing so to the Chief Justice of the HC.

Elections

5. **Public Interest Foundation v. UOI (2018):**

Supreme Court recommended Parliament to bring out a law to make it mandatory for political parties to revoke membership of persons against whom charges are framed in heinous and grievance offences to ensure they do not enter political stream

6. **Rambabu Singh Thakur v. Sunil Arora (2020) –**

Criminalization of Politics is an “extremely disastrous and lamentable situation”, and raised concerns about “unsettlingly increasing trend” in the country. Court issued some directions:

Elections

- **Mandatory publications:** Mandatory for political parties to publish detailed information regarding candidates with pending criminal cases and reasons for selecting them over others and why individuals without criminal antecedents could not be selected within 48 hours of the selection of the candidate or not less than 2 weeks before the first date for filing the nominations whichever is earlier

Elections

- **Reasons for selection of candidates:** They shall be with reference to the qualifications, achievements and merit of the candidate concerned, and not mere “winnability” at the polls.
- **Non-compliance:** If directions not followed EC to bring such non-compliance to the notice of SC as contempt of SC's order/directions.

Elections

Brajesh Singh v Sunil Arora [2021]: In order to make the right of information of a voter more effective and meaningful, the Court found it necessary to issue following further directions:

- Political parties are to publish information regarding criminal antecedents of candidates on the homepage of their websites, thus making it easier for the voter to get to the information that has to be supplied.

Electoral reforms

- **Names of prominent committees**
 1. **Tarkunde Committee (Unofficial in 1974)**
 2. **Dinesh Goswami Committee 1990**
 3. **Vohra Committee 1993**
 4. **Indrajit Gupta Committee on State Funding of elections**
 5. **Tankha Committee 2010**
 6. **Justice Verma Committee 2013**

Section 20(8) of RPA 1950

(8) In sub-sections (3) and (5) "service qualification" means—

(a) being a member of the armed forces of the Union; or

(b) being a member of a force to which the provisions of the Army Act, 1950 (46 of 1950), have been made applicable whether with or without modifications; or

(c) being a member of an armed police force of a State, who is serving outside that State; or

(d) being a person who is employed under the Government of India, in a post outside India.

Section 60 (c) of RPA 1951

(c) any person belonging to a class of persons notified by the Election Commission in consultation with the Government to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken subject to the fulfilment of such requirements as may be specified in those rules;

HOME VOTING

- The provision of home voting is a progressive measure aimed at empowering voters who encounter barriers to participating in the electoral process at the polling stations.
- Specifically, this facility is extended to two key demographic groups: persons with disabilities (PwDs) meeting the 40% benchmark disability criteria and senior citizens aged above 85 years.
- By extending this optional facility to these segments of the voters, the Election Commission recognizes the need to ensure that citizens' right to vote is not encumbered by physical barriers and disabilities.
- This upholds the Commission's motto of ensuring - No voter is left behind.

HOW TO AVAIL OPTIONAL HOME VOTING FACILITY:

HOW TO AVAIL OPTIONAL HOME VOTING FACILITY:



01

Fill form 12D and apply to the returning officer within 5 days of notification.



02

PwD voters to submit a copy of the benchmark disability certificate.



03

BLO will collect form 12D from the elector's home.



04

Candidates will also be provided a list of such electors, if they wish to depute their representatives to watch the process.



05

Team of polling officials visit the elector's address to collect his/her vote.



06

Electors will be informed in advance of their visit.



07

A videographer shall accompany polling officials along with police security cover.



08

They will be informed of dates on which home voting facility will remain open through SMS.



List of Electoral Reforms

2013 - NOTA

PUCL vs. Union of India Judgement 2013

According to the directions of Supreme Court, the Election Commission made provision in the ballot papers / EVMs for None of the Above (NOTA). The voters polled against the NOTA option are not taken into account for calculating the total valid voters polled by the contesting candidates for the purpose of return of security deposits to candidates.

Even if the number of electors opting for NOTA options is more than the number of votes polled by any of the candidates, the candidate who secures the largest number of votes has to be declared elected.

List of Electoral Reforms

2013 - VVPAT

The Voter Verifiable Paper Audit Trail is an independent system attached with the EVMs that allows the voters to verify that their votes are cast as intended.

When a vote is cast, a slip is printed and remains exposed through a transparent window for seven seconds, showing the serial number, name and symbol of the candidate.

The Government of India notified the amended Conduct of Elections Rules, 1961 on 14th August, 2013, enabling the Commission to use VVPAT with EVMs.

2013 - Persons in jail

Changes in RPA

By reason of the prohibition to vote (either due to in jail or in police custody), a person whose name has been entered in the electoral roll shall not cease to be an elector.

Section 102 of RPA 1951

102. Procedure in case of an equality of votes.—If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates—

(a) any decision made by the returning officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

(b) in so far as that question is not determined by such a decision ¹[the High court] shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

Supreme court's verdict on Electoral Bonds

Context:

- Recently, the Supreme Court struck down the electoral bonds scheme as being **'unconstitutional', 'arbitrary and violative of Article 14'** of the constitution.
- The court also directed the SBI to submit details of electoral bonds purchased since April 12th 2019 till date to the Election Commission by March 6th 2024.
 - The details shall include the date of encashment and the denomination of the electoral bonds.

Supreme court's verdict on Electoral Bonds

- In April 2019, the Supreme Court, in an interim order, had asked political parties to submit details of donations via electoral bonds to the EC in a sealed cover to be kept in the safe custody of the commission till further orders.

Supreme court's verdict on Electoral Bonds

- **Four Questions :**

1. **Is the electoral bond scheme unconstitutional ?**
2. **Does the Electoral Bond Scheme violate the voters' right to information ?**
3. **Can the scheme allow anonymity with the view to protect donors' right to privacy ?**
4. **Does the electoral bond scheme threaten the democratic process and free and fair elections ?**

Supreme court's verdict on Electoral Bonds

Background:

What are Electoral Bonds?

- Electoral bonds are a type of financial instruments that can be purchased by eligible donors to donate to political parties in India.
- These bonds are similar to promissory notes wherein the bank acts as the custodian and pays to the political party holding the bonds.

Supreme court's verdict on Electoral Bonds

Introduction:

- First announced in then Finance Minister Arun Jaitley's Budget speech of 2017.
- Introduced through the Finance Bill 2017.
- Scheme notified by the Union government in 2018.

Supreme court's verdict on Electoral Bonds

Changes made during introduction to Electoral Bond scheme to other Acts:

1. Section 13A of the Income Tax Act: It earlier said political parties must maintain a record of contributions above ₹20,000.

- The Finance Act 2017 amended this to make an exception for contributions through electoral bonds.
 - Due to this amendment, parties are not required to maintain any record of what they receive through the electoral bonds.

Supreme court's verdict on Electoral Bonds

2. Section 29C of the Representation of the People Act (RPA), 1951: Its earlier provisions mentioned that the parties should prepare a report on contributions in excess of ₹20,000 from any person or company in a financial year.

This was amended in 2017.

Due to this amendment the contributions through electoral bonds need not be included in the report.

Supreme court's verdict on Electoral Bonds

3. Section 182(3) of the Companies Act: Under the earlier provision, the companies were required to disclose details of contributions to a political party, including the amount and the party's name, in its profit-and-loss account.

- After the amendment, it was only required to reveal the total amount given to parties in a financial year. Besides the cap on total amount to be given was removed.

Supreme court's verdict on Electoral Bonds

4. Section 31 of RBI Act 1934

This permitted the union government to authorise any scheduled bank to issue electoral bonds.

Supreme court's verdict on Electoral Bonds

Provisions of Electoral Bonds:

Electoral bonds:

- Are bearer instruments in the nature of a Promissory Note and an interest free banking instrument.
- Can be purchased from designated branches of State Bank of India (SBI).

Supreme court's verdict on Electoral Bonds

- Are available for purchase for a period of 10 days each in the months of January, April, July and October as may be specified by the Central Government.
- An additional period of 30 days can be specified by the Central Government in the year of the General election to the House of People.
- Are available in denominations of Rs 1,000, Rs 10,000, Rs 1 lakh, Rs 10 lakh and Rs 1 crore.
- Are valid for 15 days from the date of issue.

Supreme court's verdict on Electoral Bonds

- Can be purchased only on due fulfilment of all the extant KYC norms and by making payment from a bank account.
- Do not carry the name of payee.
- Can be purchased by Indian citizens or entities established in India.
- Can be bought individually or jointly with other individuals.
- Can be purchased digitally or through cheques.

Supreme court's verdict on Electoral Bonds

- Can only be donated to political parties that are registered under Section 29A of the Representation of the People Act, 1951 with the Election Commission of India.
- Such political parties must not have secured less than 1% of the votes polled in the last general election to the House of the People or the Legislative Assembly.
- Must be deposited by the political parties in their designated bank accounts with authorised bank.

Supreme court's verdict on Electoral Bonds

Analysis (of the judgement):

Besides holding the scheme as Unconstitutional, the Supreme court held that:

- The voters have a right to information about political parties and their sources of funding.
- There is a “deep association” between money and politics.

Supreme court's verdict on Electoral Bonds

- Economic inequality contributes to political inequality by increasing the possibility of quid pro quo arrangements for those with the ability to contribute larger amounts to political parties.
- The Electoral Bond scheme violates the Right to information (RTI) under Article 19(1)(a), which guarantees the freedom of speech and expression.

Supreme court's verdict on Electoral Bonds

- RTI can only be restricted based on reasonable restrictions to freedom of speech and expression provided in Article 19(2) of the constitution.
- Article 19(2) does not include curbing black money as a restriction in its provisions.
- Even assuming curbing black money is a legitimate purpose, it is not proportional to the restrictions posed by the electoral bond scheme.

Supreme court's verdict on Electoral Bonds

Doctrine of Double Proportionality :

Two competing rights :

Right of the electorate to full information

VERSUS

Right of the donors to informational privacy

Supreme court's verdict on Electoral Bonds

Four step process :

1. Analysis of comparative importance of the rights claimed
2. Examination of respective justifications for infringement of rights
3. Independent application of proportionality standards
4. Evaluation of cost of interference with the right.

Supreme court's verdict on Electoral Bonds

- Electoral Bond scheme is not the only means to curb black money in electoral financing.
- Other options such as Electoral Trusts are “less restrictive” and “equally effective” in fulfilling this purpose.
- Financial contributions to political parties are usually made for two reasons:
 - One is support for a political party.
 - Second, as a quid pro quo.

Supreme court's verdict on Electoral Bonds

RPA 1951 already mandated disclosures of amounts above 20000 rupees only.

So individual donors donating less than 20000 rupees were preserved their right to privacy.

But when larger contributions are made there is every chance that the donation isn't merely an expression of political affiliation but also involves some quid pro quo.

Supreme court's verdict on Electoral Bonds

- Huge contributions made by corporations should not be allowed to conceal the reason for financial contributions made by other sections of the population.
- The right to privacy of political affiliation only extends to contributions that are made as genuine forms of public support, not contributions that are made to influence the policies of a political party

Supreme court's verdict on Electoral Bonds

- The ability of companies to influence the political process through contributions is much higher compared to individuals.
- Besides, the contributions made by companies are purely business transactions made with the intent of securing benefits in return.

Supreme court's verdict on Electoral Bonds

- The court noted that “unlimited corporate contributions to political parties is arbitrary and violative of Article 14 [of the constitution],” which guarantees the right to equality before law.
- It added that this violates “free and fair elections” as it would enable companies to unduly influence the ruling parties by giving them huge contributions.
- Hence, the court struck down the amendment to Section 182 of the Companies Act and reinstated the cap on political contributions from companies (set at 7.5% of its average net profits from the preceding three years).

Supreme court's verdict on Electoral Bonds

- **Four Questions :**

1. **Is the electoral bond scheme unconstitutional ?**
2. **Does the Electoral Bond Scheme violate the voters' right to information ?**
3. **Can the scheme allow anonymity with the view to protect donors' right to privacy ?**
4. **Does the electoral bond scheme threaten the democratic process and free and fair elections ?**

Supreme court's verdict on Electoral Bonds

Associated Additional Information:

Electoral Trusts:

- Introduced by the government in 2013 to facilitate donations to political parties by corporates and individuals.
 - Any company registered under Section 25 of the Companies Act, 1956, can form an electoral trust.

Supreme court's verdict on Electoral Bonds

- Any citizen of India, a company registered in India, or a firm or Hindu Undivided Family or association of persons living in India, can donate to an electoral trust under Section 17CA of the Income-tax Act, 1961.
- The contributors' PAN (in case of a resident) or passport number (in case of an NRI) is required at the time of making contributions.

Supreme court's verdict on Electoral Bonds

- They have to apply for renewal every three financial years.
- They must donate 95% of contributions received in a financial year to political parties registered under the Representation of the People Act, 1951.
- They are required to submit to the Election Commission of India, a report on contributions from individuals and companies and their donations to parties every year.

Supreme court's verdict on Electoral Bonds

Donations Electoral Trusts vis-à-vis Electoral Bonds:

During the period 2017-18, the financial year in which Electoral Bonds (EBs) were first made available, to 2021-22:

- The money donated through EBs was more than five times the amount that came through the Electoral Trusts (ETs).
- Political parties got a total Rs 1,631 crore through ETs, while Rs 9,208 crore was donated through EBs.

List of Electoral Reforms

Electoral Trust

- Before the controversial Electoral Bonds (EB) Scheme was introduced in 2018, there was something called an Electoral Trusts (ET) Scheme, which was introduced by the UPA government in 2013.
- While the EB scheme seeks to ensure anonymity for the donor, the electoral trusts under the previous scheme were required to submit to the Election Commission of India a report on contributions from individuals and companies, and their donations to parties every year.
- Under the scheme notified by the UPA-2 government on January 31, 2013, any company registered under Section 25 of the Companies Act, 1956, can form an electoral trust.
- Under Section 17CA of the Income-tax Act, 1961, any citizen of India, a company registered in India, or a firm or Hindu Undivided Family or association of persons living in India, can donate to an electoral trust.

List of Electoral Reforms

Electoral Trust

- The electoral trusts have to apply for renewal every three financial years.
- They must donate 95% of contributions received in a financial year to political parties registered under the Representation of the People Act, 1951.
- The contributors' PAN (in case of a resident) or passport number (in case of an NRI) is required at the time of making contributions.
- **The number of registered trusts has ranged from three in 2013 to 17 in 2021-22, but only a few of them actually make donations every financial year.**

List of Electoral Reforms

Electoral Trust

- For administrative expenses, the Electoral Trusts are permitted to set aside a maximum of 5% of the total funds collected during a financial year.
- The remaining 95% of total income of the Trusts is required to be distributed to eligible political parties.
- Parties registered under the Representation of the People Act, 1951 are eligible to receive the contributions.
- Electoral trust are required to keep and maintain books of account including details of receipts, distribution and list of donors and receivers.

List of Electoral Reforms

Electoral Trust

- The electoral trusts route is transparent on contributors and beneficiaries.
- Where there is only one contributor and one beneficiary of a particular trust, the public can know for sure who is funding whom.
- For instance, in 2018-19, the Janhit Electoral Trust had just one contribution of Rs.2.5 crore from Vedanta, and the entire amount was donated to the BJP, as per the trust's annual contribution report.

List of Electoral Reforms

Electoral Trust

- However, if there are multiple contributors and recipients of donations, it cannot be specified which company is funding which party.
- So, Prudent Electoral Trust, which was known as Satya Electoral Trust before 2017, received contributions from a host of companies such as DLF, GMR, and Bharti Airtel, as well as several individuals, and donated to a range of national and regional parties.
- But it is difficult to pinpoint which donor gave to which party.

List of Electoral Reforms

Election Laws Amendment Act 2021

- **Linking electoral roll data with Aadhaar:** the electoral registration officer may require a person to furnish their Aadhaar number for establishing their identity. If their name is already in the electoral roll, then the Aadhaar number may be required for authentication of entries in the roll. Persons will not be denied inclusion in the electoral roll or have their names deleted from the roll, if they are unable to furnish Aadhaar number due to sufficient cause as prescribed. Such persons may be permitted to furnish alternate documents prescribed by the central government.
- **Qualifying date for enrolment in electoral roll :** Four qualifying dates in a calendar year, which will be January 1, April 1, July 1, and October 1.
- **Requisitioning of premises for election purposes:** The act expands the purposes for which premises can be requisitioned by the state government. These include using the premises for counting, storage of voting machines and poll-related material, and accommodation of security forces and polling personnel.
- **Gender-neutral provisions:** Replaces the term wife with spouse

Election Symbols

A political party shall be treated as a recognized political party in a **State**, if and only if the political party fulfills any of the following conditions:

➤ At General Elections or Legislative Assembly elections, the party has won **3% of seats** in the **legislative assembly** of the State (subject to a minimum of 3 seats).

➤ At a Lok Sabha General Elections, the party has won **1 Lok sabha seat** for every **25 Lok Sabha seat** allotted for the State.

➤ At a General Election to **Lok Sabha or Legislative Assembly**, the party has polled **minimum of 6% of votes** in a State and in addition it has won **1 Lok Sabha or 2 Legislative Assembly seats.**

➤ At a **General Election to Lok Sabha or Legislative Assembly**, the party has polled **8% of votes in a State.**

Election Symbols

For National Status:

- The party wins **2% of seats** in the **Lok Sabha** from at **least 3 different States**.
- At a General Election to **Lok Sabha or Legislative Assembly**, the party polls **6% of votes in four States and in addition it wins 4 Lok Sabha seats**.
- A party gets recognition as State Party in **four or more States**.

Both national and state parties have to fulfill these conditions for all subsequent Lokshabha or State elections. Else, they lose their status.

Model Code of Conduct

- The Model Code of Conduct (MCC) is a consensus document. In other words, political parties have themselves agreed to keep their conduct during elections in check, and to work within the Code.
- The MCC is intended to help the poll campaign maintain high standards of public morality and provide a level playing field for all parties and candidates.
- At the time of the Lok Sabha elections, both the Union and state governments are covered under the MCC.
- Kerala was the first state to adopt a code of conduct for elections. In 1960, ahead of the Assembly elections, the state administration prepared a draft code that covered important aspects of electioneering such as processions, political rallies, and speeches.

Model Code of Conduct

- The experiment was successful, and the Election Commission decided to emulate Kerala's example and circulate the draft among all recognised parties and state governments for the Lok Sabha elections of 1962.
- In 1974, just before the mid-term general elections, the EC released a formal Model Code of Conduct. This Code was also circulated during parliamentary elections of 1977.
- On September 12, 1979, at a meeting of all political parties, the Commission was apprised of the misuse of official machinery by parties in power.
- The Commission was told that ruling parties monopolised public spaces, making it difficult for others to hold meetings. There were also examples of the party in power publishing advertisements at the cost of the public exchequer to influence voters.

Model Code of Conduct

- The EC, just before the 1979 Lok Sabha elections, released a revised Model Code with seven parts, with one part devoted to the party in power and what it could and could not do once elections were announced.
- The MCC has been revised on several occasions since then. The last time this happened was in 2014, when the Commission introduced Part VIII on manifestos, pursuant to the directions of the Supreme Court.

Model Code of Conduct

- Part I - general precepts of good behaviour expected from candidates and political parties.
- Part - II and III- public meetings and processions.
- Parts IV and V - describe how political parties and candidates should conduct themselves on the day of polling and at the polling booths.
- Part VI - authority appointed by the EC to receive complaints on violations of the MCC.
- Part VII - party in power.
- Part VII - Manifestos

Bails and Types

- Broadly speaking there are three categories of bail and they are
 - i] bail in bailable offences,
 - ii] bail in non bailable offences,
 - iii] anticipatory bail

Bails and Types

- **Section 436 of the Code of Criminal Procedure deals with provisions of bail in bailable offences.**
- **Under this section, bail is the right of person, who has been accused for commission of offence, which is bailable in nature.**
- **This provision casts a mandatory duty on police official as well as on the Court to release the accused on bail if the offence alleged against such person is bailable in nature.**

Bails and Types

Under section 437 (Non Bailable Offence)

- **When a person is accused of, or suspected of, the commission of any non-bailable offence, is arrested or detained without warrant or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but such person shall not be so released,**
 - a] **if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;**
 - b] **if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a nonbailable and cognizable offence**
 - c] **He may be released if under the age of sixteen years or is a woman or is sick or infirm**
 - d] **He may be released if it is satisfied that it is just and proper so to do for any other special reason.**

Bails and Types

Anticipatory Bail

Section 438 of Cr.P.C. deals with anticipatory bail.

when any person has an apprehension or reason to believe that he may be arrested of an accusation of having committed a nonbailable offence then he may apply to High Court or Court of Sessions for direction that in the event of arrest he shall be released on bail.

Bails and Types

Anticipatory Bail

Section 438(2) of Cr.P.C. provides that, the High Court or the Sessions Court may also impose some conditions while granting the application. The conditions may be as follows :

- a) That the persons shall make himself available for the interrogation by police officer as and when required;**
- b) That the person shall not directly or indirectly make any inducement, threats or promise to any witness;**
- c) That a person shall not leave India without previous permission of the Court.**

Bails and Types

Default Bail

(Fundamental Right) (Ritu Chhabria versus Union of India 2023)

Also known as statutory bail, this is a right to bail that accrues when the police fail to complete investigation within a specified period in respect of a person in judicial custody.

Under Section 167(2) of the Code, a Magistrate can order an accused person to be detained in the custody of the police for 15 days.

Beyond the police custody period of 15 days, the Magistrate can authorize the detention of the accused person in judicial custody i.e., jail if necessary.

However, the accused cannot be detained for more than:

- 90 days, when an authority is investigating an offense punishable with death, life imprisonment or imprisonment for at least ten years; or
- 60 days, when the authority is investigating any other offense.

Bails and Types

Interim Bail:

Bail granted for a temporary and short period by the Court till the application seeking Anticipatory Bail or Regular Bail is pending before a Court.

Bails and Types

Transit anticipatory bail

In a significant and groundbreaking judgment, the Supreme Court has held that High Courts and Sessions Court have power to grant interim/transit anticipatory bail even when the First Information Report (FIR) has been registered in another State.

- The Court laid down the conditions for the grant of limited anticipatory bail as follows-

Notice to Investigating Officer and Public Prosecutor

The order granting limited relief must explicitly record reasons explaining why the applicant anticipates an inter-state arrest and the potential impact of such protection on the ongoing investigation.

Bails and Types

Transit anticipatory bail

- The applicant must satisfy the court regarding their inability to seek anticipatory bail from the court with territorial jurisdiction over the FIR.
- The satisfaction could be based on apprehension of threats to life or personal liberty in the jurisdiction where the FIR is registered, concerns about arbitrariness, or medical reasons.
- The ruling acknowledges the possibility of accused individuals choosing a favourable court for interim protection.
- To prevent abuse, the court highlights the importance of a territorial connection between the accused and the court's jurisdiction.

Bails and Types

Transit anticipatory bail

- The SC introduced the concept of transit anticipatory bail in the case of State of Assam v. Brojen Gogol in 1998.


JUDGEMENT EXPLAINED

- Sections in Question

Section 3

What Supreme Court Said :

- “Section 3 of the 2002 Act has a wider reach and captures every process and activity, direct or indirect, in dealing with the proceeds of crime and is not limited to the happening of the final act of integration of tainted property in the formal economy.”
- The process or activity can be in any form – be it one of concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so.



The Act

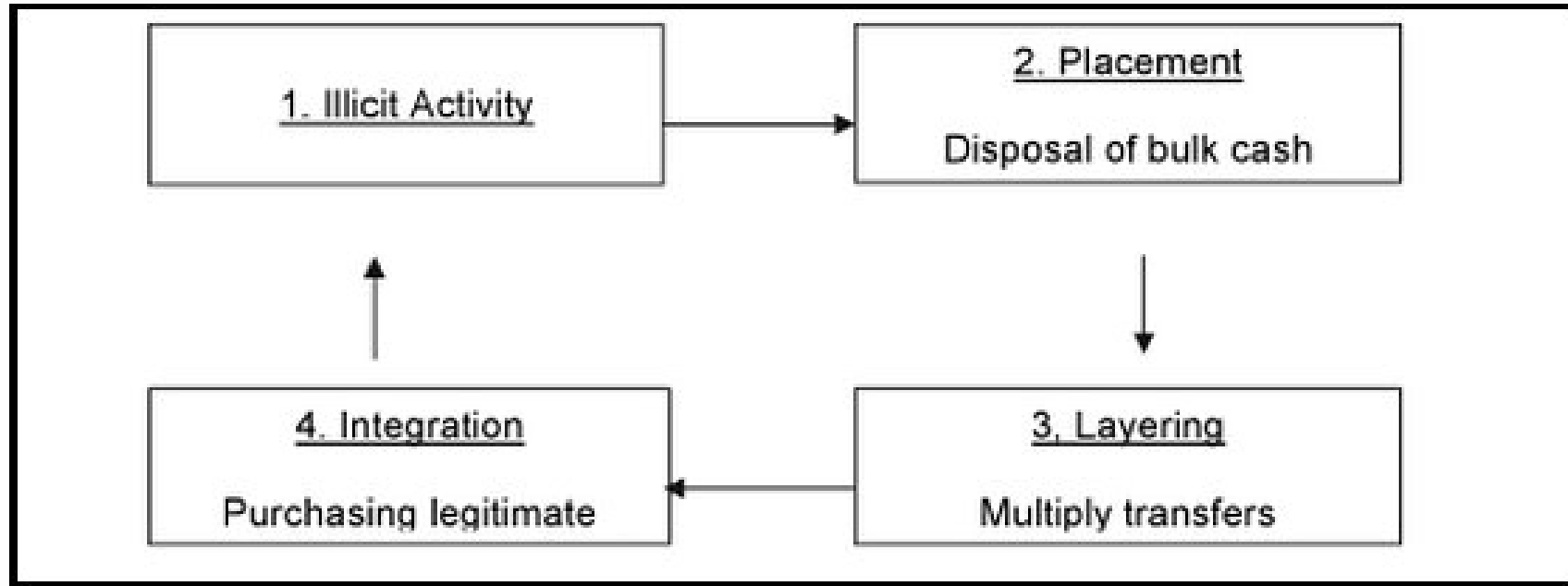
Prevention of Money Laundering (Amendment) Act, 2012

Amendment	Amendment
Under Section 3 of the Act, mere “possession” of proceeds of crime is now an offense	₹30 lakh threshold limit for initiating money laundering cases for economic offences is done away with
What It Means If X deposits tainted money in accounts of Y, then Y will also be punished	What It Means A person can be booked for laundering even ₹10,000 if the offence violates any of the 30 acts listed under the Act

The Penalty

- Rigorous imprisonment of at least 3 years and up to 7 years
- No upper limit on fines (earlier it was up to ₹ 5 lakh)

JUDGEMENT EXPLAINED



JUDGEMENT EXPLAINED

- Sections in Question

Section 5 - Attachment of property involved in money laundering

What Supreme Court Said :

- The bench upheld the ED's power under Section 5 of the Act to order provisional attachment of any proceeds of crime.
- "It provides for a balancing arrangement to secure the interests of the person as also ensures that the proceeds of crime remain available to be dealt with in the manner provided by the 2002 Act"

JUDGEMENT EXPLAINED

- Sections in Question

Section 24 - Burden of Proof

²[24. Burden of Proof.—In any proceeding relating to proceeds of crime under this Act,—

- (a) in the case of a person charged with the offence of money-laundering under section 3, the Authority or Court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering; and
- (b) in the case of any other person the Authority or Court, may presume that such proceeds of crime are involved in money-laundering.]

JUDGEMENT EXPLAINED

- Sections in Question

Section 24 - Burden of Proof

What Supreme Court Said :

It approved the validity of Section 24 which puts the onus on the accused to prove that the proceeds of crime are untainted property.

The judgment said this “has reasonable nexus with the purposes and objects sought to be achieved by the 2002 Act and cannot be regarded as manifestly arbitrary or unconstitutional”.

JUDGEMENT EXPLAINED

- Sections in Question

Section 45 - Condition of bail

Put two pre conditions for granting bail

Supreme Court upheld these provisions as well

In 2017 Nimesh Tarachand Case, 2 judge SC bench had declared this twin test as unconstitutional

- (i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and
- (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

JUDGEMENT EXPLAINED

- Sections in Question

Section 50 – Powers of authorities and statements given to ED officers as evidence

What Supreme Court said :

It rejected the argument that ED authorities are police officers and, hence, a statement recorded by them under Section 50 of the Act would be hit by Article 20(3) of the Constitution which says no person accused of an offence shall be compelled to be a witness against himself.

JUDGEMENT EXPLAINED

- Sections in Question

The Court also said an Enforcement Case Information Report (ECIR) cannot be equated with an FIR, that supplying an ECIR in every case to the person concerned is not mandatory and “it is enough if ED, at the time of arrest, discloses the grounds of such arrest”.

Delhi CM arrest

- A Delhi Court on Thursday extended the Enforcement Directorate's (ED) custody of Delhi Chief Minister Arvind Kejriwal till April 1 in the money laundering case registered in connection with the Delhi Excise Policy issue. He was earlier remanded to the agency's custody till March 28.
- Mr Kejriwal was arrested on March 21, hours after his plea for interim protection from arrest was rejected by the Delhi High Court.

Delhi CM arrest

- Since Section 29A of the Representation of the People Act, 1951, refers to a political party as “any association or body of individual citizens of India” – the phrase “association of individuals” under Section 70 of the PMLA could include within its ambit a political party.
- If AAP is named as an accused in the case, it will be the first instance of a political party being brought under the ambit of the PMLA on charges of money laundering.

Delhi CM arrest

- An approver is an accomplice who is directly or indirectly involved in the commission of an offence and has been granted a pardon by the court under Section 306 of the Code of Criminal Procedure, 1973, (CrPC) with a view to securing his testimony against other persons guilty of the offence. Once an accomplice turns into an approver, he acquires the status of a prosecution witness.
- Last year, a Supreme Court bench of Justices A.S. Bopanna and PV Sanjay Kumar in *Pankaj Bansal v. Union of India* underscored that a person cannot be arrested by the ED for mere non-cooperation in response to summons issued under Section 50 of the PMLA.

Conditions	ECI	UPSC	SPSC	NCSC/ST /SC	Special Officer for Linguistic Minorities	Attorney General	Advocate General	Finance Commission	GST Council	CAG
Article	324	315-323	315-323	338,338 A,338B	350-B	76	165	280	279-A	148
Composition	1 CEC+2EC	Max 11	Governor Discretion	Chairperson +VC+3 members		Highest law officer Person qualified to be SC judge.	Highest law officer Person qualified to be HC judge.	Chairman + 4 members	Chairperson – FM Minister of State State FM	Single Person
Appointment	President	President	Governor	President	President	President	Governor	President	NA	President
Max Age or Term	6years/65 years	6 years/65 years	6 years/62 years	X	NA	NA	NA	NA	NA	6 years/65 years
Removal	CEC : Special majority EC : after CEC recommends	1. Insolvent 2. Paid employment outside UPSC 3. Infirmity of mind and body 4. Misbehaviour (SC)	Same as UPSC	X	NA	Pleasure of President	Pleasure of Governor	NA	NA	Same as SC judge
Functions	Pres/VP /LS/RS/L.A/L.C	Recruitment	Recruitment	Welfare + policy	Const safeguard s to	Legal advisor and	Legal advisor and	Distribution of net	Constitutional	

	elections			consultations	linguistic minorities	Counsel of the government	Counsel of the government	proceeds of tax Principles for grants in aid Augment Consolidated funds of states		
Remarks	No qualifications No Term in constitution No bar on post constitutional office	½ should be with 10 years experience in govt service. Not Eligible for further employment Chairman is not eligible for re appointment Charged expenditure on CFI		Added later NCSC/ST 65 TH CAA 89 TH CAA bifurcated 102 ND CAA NCBC	HQ at Allahabad Ministry of Minority affairs	Solicitor General and Additional Solicitor General not part of constitution but part of AG office		Parliament specified qualifications under Finance Commission Act 1951	101 st CAA 2016 Voting Centre 1/3 States 2/3 Total requirement 3/4	Head of Audit and Account services Takes constitutional oath Ineligible for further office Charged Expenditure

Scheduled Areas (5th Schedule)

- Article 244 in Part X of the Constitution envisages a special system of administration for certain areas designated as 'scheduled areas' and 'tribal areas'.
- The Fifth Schedule of the Constitution deals with the administration and control of scheduled areas and scheduled tribes in any state except the four states of Assam, Meghalaya, Tripura and Mizoram.

Scheduled Areas (5th Schedule)

- **Declaration of Scheduled Areas:** The president is empowered to declare an area to be a scheduled area. He can also increase or decrease its area, alter its boundary lines, rescind such designation or make fresh orders for such redesignation of an area in consultation with the governor of the state concerned.

Scheduled Areas (5th Schedule)

- **Executive Power of State and Centre:** The executive power of a state extends to the scheduled areas therein. But the **governor has a special responsibility regarding such areas**. He has to submit a report to the president regarding the administration of such areas, annually or whenever so required by the President. The executive power of the Centre extends to giving directions to the states regarding the administration of such areas.

Scheduled Areas (5th Schedule)

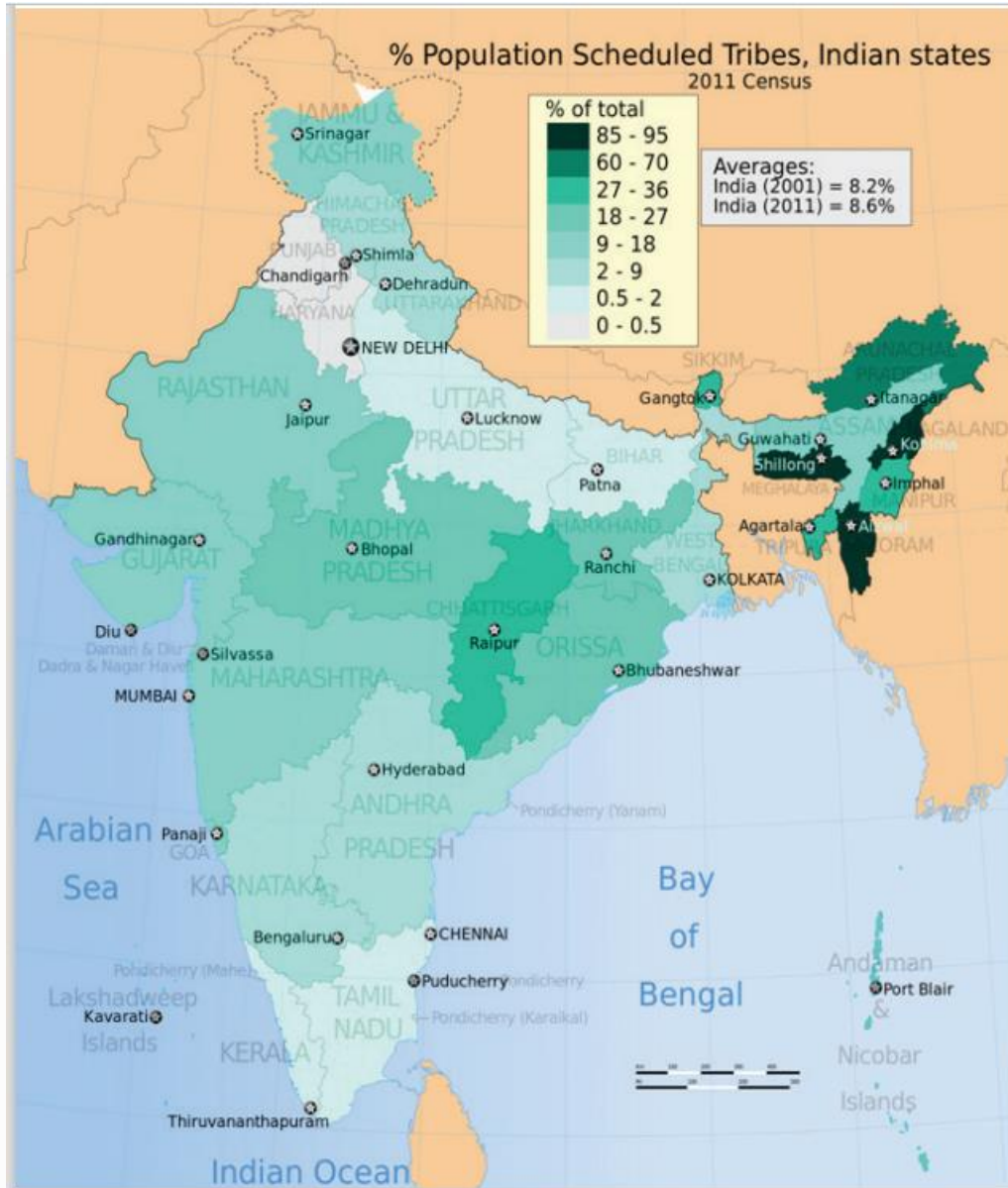
- **Tribes Advisory Council:** Each state having scheduled areas has to establish a tribes advisory council to advise on welfare and advancement of the scheduled tribes.
- It is to consist of 20 members, three-fourths of whom are to be the representatives of the scheduled tribes in the state legislative assembly.
- A similar council can also be established in a state having scheduled tribes but not scheduled areas therein, if the president so directs.

Scheduled Areas (5th Schedule)

- **Law applicable to Scheduled Areas:** The **governor is empowered to direct that any particular act of Parliament or the state legislature does not apply to a scheduled area or apply with specified modifications and exceptions.**
- He can also make regulations for the **peace and good government of a scheduled area after consulting the tribes advisory council.**

Scheduled Areas (5th Schedule)

- Such regulations may prohibit or restrict the transfer of land by or among members of the scheduled tribes, regulate the allotment of land to members of the scheduled tribes and regulate the business of moneylending in relation to the scheduled tribes.
- Also, a regulation may repeal or amend any act of Parliament or the state legislature, which is applicable to a scheduled area.
- But, all such regulations require the assent of the president.



Source: Census of India 2011

- Criteria for declaring an area as a Scheduled Area
- The First Scheduled Areas and Scheduled Tribes Commission, also known as the Dhebar Commission (1960-61) laid down the following criteria for declaring any area as a 'Scheduled Area' under the Fifth Schedule:
- Preponderance of tribal population, which should not be less than 50 percent;

- Compactness and reasonable size of the area;
- Underdeveloped nature of the area;
- Marked disparity in the economic standard of the people, as compared to the neighboring areas
- More recently, a viable administrative entity such as a district, block or taluk, has been also identified as an important additional criteria.

- In a number of cases, the Supreme Court has held that the powers exercisable by the governor under the Fifth Schedule are discretionary:
- *Ram Kripal Bhagat v State of Bihar (1969)*, *State of Meghalaya v Brhyien Kurkalang (1972)*, *Samatha v State of Andhra Pradesh (1997)*, *Bhuri Nath v State of Jammu and Kashmir (1997)* and *Madhya Pradesh Special Police Establishment v State of Madhya Pradesh (2004)*.
- The five-judge bench of the Supreme Court in *Shamsher Singh v State of Punjab (1974)* observed that only in the case of governors does Article 163 permit discretion.
- In the *Samatha* case, the Supreme Court held that the provisions of clauses 5(2)(a) and (c) were legislative as well as executive powers, and that the executive power of the state in para 2 is subject to the legislative powers of the governor in the Fifth Schedule

- The Bhuria Commission obtained the view of Attorney General felt that there being no provision under the Fifth Schedule for the governor to act in his/her discretion, the relevant constitutional provision of acting on the advice of the council of ministers seemed to be binding on the actions of the governor under the Fifth Schedule.

Tribal Areas

- The various features of administration contained in the **Sixth Schedule** are as follows:
- The tribal areas in the four states of Assam, Meghalaya, Tripura and Mizoram have been **constituted as autonomous districts**. But, they do not fall outside the executive authority of the state concerned.
- The **governor is empowered to organise and re-organise the autonomous districts**. Thus, he can increase or decrease their areas or change their names or define their boundaries and so on.



Tribal Areas

- Each autonomous district has a district council consisting of 30 members, of whom four are nominated by the governor and the remaining 26 are elected on the basis of adult franchise.
- The elected members hold office for a term of five years (unless the council is dissolved earlier) and nominated members hold office during the pleasure of the governor. Each autonomous region also has a separate regional council.
- The district and regional councils administer the areas under their jurisdiction.
- They can make laws on certain specified matters like land, forests, canal water, shifting cultivation, village administration, inheritance of property, marriage and divorce, social customs and so on. But all such laws require the assent of the governor.

Tribal Areas

- The district and regional councils within their territorial jurisdictions **can constitute village councils or courts for trial of suits and cases between the tribes.**
- The district and regional councils are empowered to assess and collect land revenue and to impose certain specified taxes.
- **The acts of Parliament or the state legislature do not apply to autonomous districts and autonomous regions or apply with specified modifications and exceptions.**
- The **governor can appoint a commission** to examine and report on any matter relating to the administration of the autonomous districts or regions.

Tribal Areas

- In the case of Assam, it lies with the Governor, both in respect of acts of Parliament or state legislature.
- In the case of Meghalaya, Tripura and Mizoram, it lies with the president in respect of acts of Parliament and governor in respect of acts of state legislature.

Ladakh demand for 6th schedule

- The Ministry of Home Affairs (MHA) recently formed a high-powered committee for the Union Territory of Ladakh to "ensure land and employment protection" for the people of Ladakh.
- For the past three years, civil society groups in Ladakh have been demanding protection of land, resources, and employment after the former state of Jammu and Kashmir's special status under Article 370 of the Constitution was revoked by Parliament in 2019.
- Recently, there have been demands for Ladakh to be included in 6th schedule of the constitution.

Ladakh demand for 6th schedule

- Purpose of the committee
- ✓ To discuss measures to protect the region's unique culture and language taking into consideration its geographical location and strategic importance.
- ✓ To strategize inclusive development and discuss issues related to the empowerment of the Ladakh Autonomous Hill District Councils of Leh and Kargil.

Ladakh demand for 6th schedule

- The UT has two Hill councils in Leh and Kargil, but neither is under the Sixth Schedule.
- Their powers are limited to collection of some local taxes such as parking fees and allotment and use of land vested by the Centre.
- A coalition of social, religious, and political representatives in Leh and Kargil has gone beyond the Sixth Schedule and demanded full statehood for Ladakh.

Ladakh demand for 6th schedule

- Recently, the Union Territory of Ladakh observed a shutdown over demands for statehood and constitutional protection under the Sixth Schedule.
- **Main Demands:** The movement's two socio-political organizations are requesting that the UT, which was previously protected by Article 370 and 35A, be given additional protection.
- Their main requests are as follows:
Ladakh's aspiration to become a state involves converting from its present Union Territory status to a full state, which would provide it more political independence and decision-making authority.

Ladakh demand for 6th schedule

Protections offered by the Sixth Schedule: arguing in favor of constitutional clauses under the Sixth Schedule that safeguard the indigenous people's land rights, culture, and language.

Job Reservation: Requesting that employment opportunities be reserved for Ladakh's youth in order to guarantee fair access to financial resources and opportunities.

Creating Different Parliamentary Constituencies: It is suggested that Leh and Kargil have their own separate parliamentary constituencies, which would represent the distinctive geographic and demographic features of each area.

105th Constitutional Amendment Act 2021

- The National Commission for Backward Classes (NCBC) was established under the National Commission for Backward Classes Act, 1992.
- The 102nd Constitutional Amendment Act, 2018 while giving constitutional status to NCBC also empowered the President to notify the list of SEBCs for any state or union territory for all purposes.
- Prior to 102nd Amendment Act, the prevalent practice was that States and Union would specify their own lists respectively called state list and union list.
- A Constitution Bench of the Supreme Court, by 3:2 majority, held that States lacked the power to identify and specify SEBCs after the 102nd Constitution Amendment Act.

105th Constitutional Amendment Act 2021

- The 105th Constitution Amendment Act overrides the interpretation given by the Supreme Court of India in Maratha Quota Case by clarifying that the State Government and the Union Territories are empowered to prepare and maintain their own State List/ Union territory list of SEBCs.
- Further, it clarifies that the President may notify the list of SEBCs only for the purposes of the Central Government.
- The 105th Constitution Amendment Act amends Article 342A to state that the power of the President to specify the socially and educationally backward classes in the Central List for the purposes of the Central Government.
- It also adds clause (3) to Article 342A, which clarifies that states and union territories will have the power to identify and specify SEBCs for their own purposes and that such list may differ from the Central list.

- The criteria and procedure followed for inclusion of a community/ caste in the list of Scheduled Castes, Scheduled Tribes and Other Backward Classes are as Under:-

- **(i) Criteria**

- **Scheduled Castes(SCs):-**

- Extreme social, educational and economic backwardness arising out of traditional practice of untouchability.

- **Scheduled Tribes(STs):-**

- Indication of primitive traits, distinctive culture, geographical isolation, shyness of contact with community at large and backwardness.

- **Other Backward Classes (OBCs):-**

- Social, educational, economic backwardness and inadequate representation in the Central Government posts and services.

Schedule Tribes

- Cabinet approves addition of four tribes in Himachal, Tamil Nadu, Chhattisgarh to ST list.
- What are the tribes added to the Scheduled Tribes list?
- The Hatti tribe in the Trans-Giri area of Sirmour district in Himachal Pradesh.
- The Narikoravan and Kurivikkaran hill tribes of Tamil Nadu.

Schedule Tribes

- The Binjhia in Chhattisgarh, who were listed as ST in Jharkhand and Odisha but not in Chhattisgarh, were the communities newly added to the list.
- 'Betta-Kuruba' as a synonym for the Kadu Kuruba tribe In Karnataka.
- In Chhattisgarh, the Cabinet approved synonyms for tribes like the Bharia (variations added include Bhumia and Bhuyian), Gadhwa (Gadwa), Dhanwar (Dhanawar, Dhanuwar), Nagesia (Nagasia, Kisan), and Pondh (Pond), among others.

Schedule Tribes

Process to include tribes in the ST list:

It will start with the recommendation from the respective State governments, which are then sent to the Tribal Affairs Ministry, which reviews and sends them to the Registrar General of India for approval.

This is followed by the National Commission for Scheduled Tribes' approval before the list is sent to the Cabinet for a final decision.

As per Article 342 of the Constitution, the President is the sole authority to notify tribal communities as Scheduled Tribes, while the Parliament has the power to modify the Scheduled Tribes list.

Schedule Tribes

Process to include tribes in the ST list:

- However, the Constitution has remained silent on the criterion for the identification of ST communities.
- Thus as a general convention, the recommendations of the 1965 Lokur Committee are followed to identify ST communities based on indicative criterion such as primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large, and backwardness.
- As per the 2011 Census, there are over 700 recognised Scheduled Tribes in India in 30 states and Union Territories.
- Five states/UTs comprising Punjab, Chandigarh, Haryana, NCT of Delhi, and Puducherry have no listed STs at present.

Schedule Tribes

Process to include tribes in the ST list:

- Article 342 clause (2) further provides that the “Parliament may by law include in or exclude from the list of Scheduled tribes specified in a notification issued under clause(1) any tribe or tribal community or part of or group within any tribe or tribal community.”

Denotified Tribes

- These are the most vulnerable and deprived communities.
- DNTs are communities that were 'notified' as 'born criminals' by the British regime through a series of laws beginning with the Criminal Tribes Act of 1871.
- The Independent Indian Government repealed these Acts in 1992, and these communities were "De-Notified."
- "Some of the communities that were de-notified were also nomadic."
- Nomadic and semi-nomadic communities are those that move from one location to another rather than staying in one location all of the time.

Denotified Tribes

- These are the most vulnerable and deprived communities.
- DNTs are communities that were 'notified' as 'born criminals' by the British regime through a series of laws beginning with the Criminal Tribes Act of 1871.
- The Independent Indian Government repealed these Acts in 1992, and these communities were "De-Notified."
- "Some of the communities that were de-notified were also nomadic."
- Nomadic and semi-nomadic communities are those that move from one location to another rather than staying in one location all of the time.

Denotified Tribes

- Nomadic and De-notified Tribes have never had access to private land or home ownership in the past.
- While the majority of DNTs fall into the Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC) categories, some do not.

Denotified Tribes

- Many commissions and committees formed since independence have addressed the issues of these communities.
- These include the Criminal Tribes Inquiry Committee, established in the United Provinces (now Uttar Pradesh) in 1947, and the Ananthasayanam Ayyangar Committee, established in 1949. (it was based on the report of this committee the Criminal Tribes Act was repealed)
- The Kaka Kalelkar Commission (also known as the first OBC Commission) was established in 1953.
- The B P Mandal Commission, which was formed in 1980, also made some recommendations on the subject.

Denotified Tribes

- According to the National Commission to Review the Working of the Constitution (NCRWC), DNTs have been wrongly stigmatised as criminals and subjected to harsh treatment and exploitation by representatives of law and order and general society.

Commissions

- Renke Commission
- Idate Commission .

Denotified Tribes

- The government set up the Development and Welfare Board for De-notified, Nomadic and Semi-Nomadic Communities (DWBDNC).
- DWBDNC was established under the Societies Registration Act, 1860 under the aegis of the Ministry of Social Justice and Empowerment for the purpose of implementing welfare programmes.
- The DWBDNC was constituted on 21st February 2019, under the chairmanship of Bhiku Ramji Idate.

- The Lokur Committee (1965) was set up to look into criteria for defining Schedule Tribes.
- The Committee recommended 5 criteria for identification, namely, primitive traits, distinct culture, geographical isolation, shyness of contact with the community at large, and backwardness.
- Bhuria Commission (2002-2004) focused on a wide range of issues from the 5th Schedule to tribal land and forests, health and education, the working of Panchayats and the status of tribal women.

KG balakrishnan committee

- The Union government has notified a Commission in 2022 under the former Chief Justice of India and former chairperson of the National Human Rights Commission (NHRC) K G Balakrishnan .
- To examine the issue of whether Scheduled Caste (SC) status can be accorded to Dalits who have over the years converted to religions other than Sikhism or Buddhism.
- The commission's inquiry will also look into the changes an SC person goes through after converting to another religion and its implications on the question of including them as SCs.
- These will include examining their traditions, customs, social and other forms of discrimination, and how and whether they have changed as a result of the conversion.
- The commission has also been empowered to examine any other related questions that it deemed appropriate, in consultation with and with the consent of the Central government.

KG balakrishnan committee

- Currently, the Constitution (Scheduled Castes) Order, 1950 provides for only those belonging to Hindu, Sikh, or Buddhist communities to be categorized as SCs.

S.P Gupta Case (1st Judges Case)

- Arguments :

- Petitioners :

- Circular required additional judges of the high courts to give their consent for being appointed as judges outside the state
- They argued that such consent in advance would reduce the consultation with the Chief Justice of India, Chief Justice of High Court and Governor to just a formality.
- It could also be an irrelevant qualification to become a high court judge, not mentioned in the constitution.

S.P Gupta Case (1st Judges Case)

- Arguments :

- Respondents

- Petitioners have no locus standi.
- Transfer of a judge from one high court to another results in vacation of his office and must be construed as fresh appointment.
- Thus an additional judge is being asked to give his consent as he is being appointed as a judge in another High Court which is a fresh appointment.

S.P Gupta Case (1st Judges Case)

- **Judgement :**

Supreme Court quashed and struck down the Circular as impinging on Judicial Independence and as being violative of Article 222 (1) and Article 14.

The court also took the view that the opinion of the CJI is merely consultative and the final decision in the matter of appointment of the judges is **left to the executive.**

Advocate on Record Association Case 1993 (2nd Judges Case)

- In 1993, again writ petitions were filed in Supreme Court for filling vacancies in higher judiciary.
- It raised 2 questions :
 1. Primacy of the opinion of CJI
 2. Justiciability of these matters as well as of the fixing of strength in high courts.

Advocate on Record Association Case 1993 (2nd Judges Case)

- Arguments

Petitioners

- SP Gupta case paid no attention to mandate under Article 50 and its implications on Article 124 and 217.
- Court should construe the word 'consultation' as equivalent to 'concurrence'.

Advocate on Record Association Case 1993 (2nd Judges Case)

- Arguments

- Government :

- Article 50 cannot be availed of with regard to appointment of judges to supreme court and High Courts.
- If primacy is given to the opinion of Chief Justice expressed during consultation, then Article 124(2) will become redundant.
- Constitution already has several safeguards to ensure independence of judiciary.

Advocate on Record Association Case 1993 (2nd Judges Case)

- Judgement

Nine Judge bench of Supreme Court overruled S.P Gupta judgment.

In issues regarding the appointment of judges in higher judiciary, the opinion of CJI must be given primacy in order to minimize executive influence in judicial functions.

Consultation means Concurrence.

The Chief Justice of India must also take into account the views of two senior most judges of the Supreme Court.

Special Presidential Reference 1998(3rd Judges Case)

- **President**, exercising his powers under **Article 143** of the Constitution, referred the following questions to the Supreme Court :
 1. Whether expression consultation in **Article 217(1)** and **222(1)** requires consultation with plurality or sole individual opinion?
 2. Whether transfer of judges is judicially reviewable
 3. Whether Article **124(2)** requires CJI to consult only two senior most judges or a wider consultation is required ?
 4. Whether consultation with judges of high court involves only those who were originally judges of that high court or also includes transferred judges?
 5. Whether any recommendations given by CJI, without complying with norms or guidelines are binding on the Government?

Special Presidential Reference 1998(3rd Judges Case)

- Answers

1. Consultation means consultation with a plurality of judges in the formation of opinion of the CJI.
2. The transfer of judges of High court is only reviewable if the recommendation made by CJI has not been made in consultation with the four seniormost judges of the Supreme Court and the views of the concerned Chief Justices of High Court have not been obtained.
3. For Supreme Court Judges and Transfer of Judges : Consultation must be with **four senior** most judges of S.C and for appointment of High Court Judges, consultation must be with **2 senior most judges of S.C.**

Special Presidential Reference 1998(3rd Judges Case)

- Answers

4. Consultation with colleagues of High court includes both transferred and those judges whose parent High courts these are.

5. Recommendations made by CJI without complying to the norms and requirements of consultation are not binding on the government.