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CURRENT AFFAIRS

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ARTICLE 142

THIS ARTICLE COVERS 'DAILY CURRENT AFFAIRS' AND THE TOPIC DETAILS OF "ARTICLE 142". THIS TOPIC IS RELEVANT IN THE "POLITY" SECTION OF THE UPSC CSE EXAM.

WHY IN THE NEWS?

The Chandigarh Municipal Corporation mayoral elections held on January 30 were nullified by the Supreme Court. Rather than the BJP candidate who had been proclaimed the winner, the AAP-Congress candidate was pronounced the victor by the Supreme Court. The Supreme Court used the broad authority granted to it by **Article 142** of the Constitution to reverse the outcomes.

ABOUT ARTICLE 142 OF THE INDIAN CONSTITUTION

- It addresses the authority of the Supreme Court to exercise its jurisdiction and issue a directive for the full administration of justice in any case that is pending before it.
- It gives the Supreme Court unique and extraordinary authority and is designed to give justice to litigants who have endured injustice or illegality during the legal process.

Article 142(1): The Supreme Court, in the exercise of its jurisdiction, may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

Article 142(2): Subject to the provisions of any law made on this behalf by Parliament, the Supreme Court shall, with respect to the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

CRITICAL JUDGEMENTS WHERE ARTICLE 142 WAS INVOKED

Prem Chand Garg case, 1962: In its decision, the Supreme Court ruled that a court order intended for achieving full justice between the parties must not just be consistent with the fundamental rights but also with the substantive provisions of the relevant statutory laws, which are state laws.

M.C. Mehta vs. Union of India, 1996: This case is notable for the court's use of Article 142 to tackle environmental concerns. Concerned about the degradation of the Taj Mahal due to environmental pollution, the Supreme Court invoked its inherent powers to issue directives for controlling vehicular pollution and safeguarding the iconic monument. The case exemplifies the court's proactive role in environmental protection through the invocation of Article 142.

Union of India v. Union Carbide Corporation case, 1991: The SC elevated itself above parliamentary laws in 1991 when it ordered UCC to compensate the tragedy's victims with \$470 million.

Vineet Narain vs. Union of India 1994: The Supreme Court used its authority under Article 142 to take up the topic of police reforms in this historic case. The court used its inherent authority to order the creation of a National Police Commission after realising the shortcomings in the current law enforcement system. The objective of this ruling was to guarantee police independence, openness, and responsibility, demonstrating the broad application of Article 142 concerning institutional restructuring.

IMPORTANCE OF ARTICLE 142

Inherent Powers for Holistic Justice: Article 142 empowers the Supreme Court to pass decrees or orders necessary for complete justice. It allows the judiciary to fill legislative voids and address unique situations.

Dynamic Application: The provision's flexibility enables the court to adapt to evolving social, environmental, and legal challenges. Hence, ensuring its relevance in a changing society.

Addressing Institutional Reform: Landmark cases, such as Vineet Narain vs. Union of India, showcase Article 142's role in directing institutional reforms, exemplified by the establishment of the National Police Commission.

Environmental Safeguards: M.C. Mehta vs. Union of India highlights the court's proactive stance in environmental protection, utilising Article 142 to issue directives for controlling pollution and safeguarding national monuments.

Social Justice in Family Matters: In cases like **Jaya Prada vs. Rajesh Khanna**, the provision has been invoked to grant relief in family law matters, ensuring justice even in the absence of specific legal provisions.

CRITICISM OF ARTICLE 142

Potential for Judicial Overreach: While some judgments suggest that Article 142 should be utilised in the absence of specific statutes, its application extends beyond filling legal gaps. The concern is that the provision might be used to overstep legal boundaries, straying into the legislative realm.

Violation of Separation of Powers: Critics argue that Article 142 contradicts the doctrine of separation of powers. This constitutional principle asserts that the judiciary should refrain from entering legislative domains, fearing potential judicial overreach. The ambiguity surrounding the application of Article 142 raises concerns about the judiciary encroaching on legislative functions.

Ambiguity Challenges: Despite attempts by the Supreme Court to elucidate the concept of 'complete justice,' ambiguity persists. Judgments rendered by the Apex Court have engendered confusion, and the invocation of Article 142 lacks clarity, leaving room for varied interpretations.

Economic Ramifications: The impact of Article 142 decisions on the economy has been a subject of criticism. For instance, the ban on liquor sales near highways adversely affected the hospitality industry. It also leads to the closure of numerous establishments and the subsequent unemployment of a substantial workforce. This outcome raises questions about the proportionality and economic prudence of Article 142 interventions.

PRELIMS PRACTICE QUESTIONS

Q1. What constitutional principle do Article 142 critics fear might be violated due to its sweeping powers?

- A. Rule of law
- B. Judicial activism
- C. Separation of powers
- D. Due process

ANSWER: C

Q2. What guiding principle does the Supreme Court emphasise regarding the exercise of powers under Article 142?

- A. Legislative autonomy
- B. Executive discretion
- C. Judicial self-restraint
- D. Administrative efficiency

ANSWER: C

MAINS PRACTICE QUESTIONS

Q1. Critically analyse the criticism surrounding the ambiguity of the term 'complete justice' in Article 142. How have Supreme Court judgments contributed to the confusion, and what implications does this ambiguity pose for the legal system?

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