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Long Lasting Tussle: Lieutenant Governor vs Chief Minister in Delhi

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In News: Two days after Delhi Chief Minister Arvind Kejriwal came down heavily on alleged interference in the affairs of the elected AAP government during his address in the Delhi Legislative Assembly, asking "Who is the LG, where did he come from?", Lieutenant Governor Vinai Kumar Saxena wrote to him, asking him to refer to the Constitution for the answer. In his letter, L-G Saxena termed Kejriwal's statements against him both in the Delhi Assembly and outside it as "substantively misleading, untrue and derogatory". 'Sir, let us do our work, you fix the law and order of Delhi so that another case like Kanjhawala does not happen again,' says Delhi CM Arvind Kejriwal in response to L-G Vinai Saxena's letter accusing him of 'untrue and derogatory' statements.

What is/are the roles and functions of Lieutenant Governor?

Lieutenant Governor is its "administrative head". LG has special powers greater than the President, greater than other Governors of States. Delhi High Court in its earlier judgement sets aside the ruling government's contention that the L-G was supposed to act "only on the aid and advice of the Ministers." It declared the LG to have "complete control of all matters regarding National Capital Territory of Delhi, and nothing will happen without the concurrence of the LG." The HC also had upheld the LG's power not only over the police, land and public order but also in "services". The judgment had effectively shrunk the Delhi Cabinet's girth.

What is/are the background of the tussle between Lieutenant Governor and Council of Minister in Delhi?

The 1996 judgment by the Supreme Court in North Delhi Municipal Corporation versus State of Punjab clearly terms Delhi as a Union Territory in a class by itself. The judgment observed that "the Union Territory of Delhi is in a class by itself but is certainly not a State". Union territories are in different stages of evolution. Union Territories are governed by Article 246 (4) of the constitution notwithstanding the differences in their respective set-ups. The 69th Amendment of the Constitution in 1992 gave the National Capital of Delhi special status with its own democratically elected government and legislative assembly. Sub-section (4) of Article 239AA mandates that a Council of Ministers shall aid and advice the LG in his functions regarding laws made by the Legislative Assembly. The Constitution Bench, led by Chief Justice Dipak Misra, prima facie said that the Delhi government's ability to "aid and advice" the LG is limited to subjects other than public order, police and land in the National Capital. It said that the proviso to Article 239AA (4), on plain reading, seems to give primacy to the LG. Justice Ashok Bhushan remarked that the LG is entitled to take a different view and is not bound by the aid and advice of the Delhi Cabinet.

What is the main controversy?

LG has misused the discretion in this proviso to block governance to such an extent that decisions from appointment of teachers in municipal schools to opening of mohalla clinics have been pending for over a year. The Chief Secretary and other officers, without applying their minds to the various welfare proposals and schemes, simply forward the files to the LG, where it remains indeterminately. Many counter argue that the "extraordinary discretion" of the LG is confined to special circumstances and not in everything.

What is/are the other controversies?

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Proviso to Article 239AA (4), which mandates that in case of a difference of opinion between the LG and the Council of Ministers, the former has to refer the issue to the President. In the meanwhile, while that decision is pending before the President, the LG, if the matter is urgent, can use his discretion to take immediate action.

What is the long pending demand of Delhi Government?

It does not seek full Statehood for Delhi but more administrative powers, contending that a “democratically elected government cannot be subservient to the Lieutenant-Governor”. It wants the Supreme Court to lay down the law on whether the LG can unilaterally administer the National Capital without being bound by the “aid and advice” of the elected government.