



Explain the constitutional provisions with respect to the NCT of Delhi emphasizing Article 239AA.

The **National Capital Territory (NCT) of Delhi** holds a unique position in India's constitutional framework due to its dual nature as both a Union Territory and the capital city of India. The constitutional provisions governing Delhi are primarily enshrined in **Article 239AA** of the **Indian Constitution**, introduced by the **69th Constitutional Amendment Act, 1991**. This article granted Delhi a **special status** and led to the creation of a **Legislative Assembly** for Delhi with limited powers.

Key Provisions of Article 239AA:

Article-239AA was inserted by following the recommendations the S. Balakrishnan Committee, set up to look into demand for statehood for Delhi.

1. Special Status for Delhi:

- Delhi is designated as the **National Capital Territory (NCT)** under Article 239AA, and its governance is distinct from other Union Territories.
- The **Lieutenant Governor (LG)** is appointed by the **President of India** to act as the administrator of Delhi, representing the **Union Government**.

2. Creation of a Legislative Assembly:

- Article 239AA provides for a **Legislative Assembly** for Delhi, with **70 members** directly elected by the people. The assembly has the power to make laws on matters under the **State List** and **Concurrent List**, except for subjects explicitly reserved for the Union.

3. Division of Legislative Powers:

- The Legislative Assembly has the power to make laws on all matters in the **State List** and **Concurrent List**, except for:
 - **Public Order**
 - **Police**
 - **Land**
- These three subjects remain under the exclusive jurisdiction of the **Union Government**.

4. Lieutenant Governor's Role:

- The Lieutenant Governor (LG) acts as the administrator of the NCT of Delhi. While the LG must act on the advice of the Council of Ministers in matters within the purview of the Legislative Assembly, he/she has the authority to refer certain matters to the President of India for final decision, especially when there is a difference of opinion with the Council of Ministers.
- In such cases, the LG may exercise discretion until the President's decision is received.

5. Council of Ministers:

- Delhi has a Council of Ministers headed by the Chief Minister. The Chief Minister is appointed by the President, and the other ministers are appointed by the LG on the advice of the Chief Minister.
- The Council of Ministers is responsible for aiding and advising the LG on matters for which the Legislative Assembly has legislative competence.

6. Powers of the Union Government:

- Despite the creation of a Legislative Assembly, the Union Government retains significant control over Delhi. The **Parliament of India** continues to have overriding legislative powers over Delhi, meaning that Parliament can legislate on any matter for the NCT of Delhi, even in areas where the Legislative Assembly is competent.
- In case of conflict between a law passed by the Delhi Assembly and one passed by Parliament, the **Parliamentary law prevails**.

Article 239AB: Power to Suspend Functions of the Assembly

- Article 239AB empowers the **President of India** to suspend the Legislative Assembly and the Council of Ministers if it is determined that the governance of Delhi cannot be carried out according to the provisions of Article 239AA. This can be invoked during situations like a breakdown of constitutional machinery.

Judicial Interpretation and Recent Developments:

The exact interpretation of Article 239AA and the division of powers between the **Delhi Government** and the **Union Government** has led to several legal disputes. Some of the notable cases include:

- **2018 Supreme Court Verdict:** In a landmark judgment, the **Supreme Court of India** ruled that the **Lieutenant Governor** must act on the aid and advice of the elected **Council of Ministers of Delhi** in most matters, except those concerning **Public Order, Police, and Land**. The court emphasized the **principle of cooperative federalism** and clarified that the LG does not have independent decision-making powers beyond these reserved subjects.
- **2023 Delhi Ordinance:** The Union Government promulgated an ordinance concerning the transfer and postings of bureaucrats in Delhi. This ordinance effectively limited the control of the Delhi government over civil services, sparking a legal and political debate about the extent of executive powers in the NCT of Delhi.

Conclusion:

Article 239AA was introduced to balance the governance needs of Delhi as a national capital with the aspirations of its residents for self-governance. However, the complex structure has led to frequent conflicts between the Delhi government and the Union government over jurisdiction and control. The role of the **Lieutenant Governor**, the limited powers of the Legislative Assembly, and the overriding authority of the **Union Government** continue to make Delhi's governance a subject of ongoing legal and political debate.