

6. 04. 21

Centre-State Relation

Judicial interpretation of federalism →

in several Supreme Court of its adjudications clarified the nature of Indian constitution & federalism by giving some practical & progressive interpretation to the values of federalism.

In Kesavananda Bharti case, Court categorically held that Indian constitution is federal & federal character is a basic feature of constitution.

Similarly, in State of Rajasthan Case, 1977, Court also held that Indian Union is federal & the need of federalism is for the progress of a country which has to be nationally integrated, politically & economically coordinated & socially, intellectually uplifted.

Supreme Court in S.R. Bommai case, clearly enunciated specified that Indian Constitution is federal. According to Supreme Court, the Constitution of India is differently described, more appropriately as Quasi-federal because it is a mixture of federal & unitary elements.

Recently, in National Capital Territory of Delhi Case, 2018, court held that the constitutional state mentioned between two levels of govt, ought to ensure that practical issues should be resolved by political maturity & administrative experience. Court further held that our constitution contemplates a meaningful orchestration of federalism & Democracy to put in place

an egalitarian social order.

Legislative Relation between Union & States

Art. 245

Art. 246

Article 245 provides for a test legislative & territorial extent of a law enacted by parliament or state legislature.

Two specific principles namely namely the principle of territorial extent, & territorial nexus also evolved from the same article.

The laws enacted by parliament have both territorial & extra territorial implications. It means it could also remain applicable outside the territory of India when the provocation of law have taken within the territorial boundary of India. On the other hand, the law enacted generally by state legislature does not have

extra territorial application. Although, the law could remain valid outside the territory of state if it has any nexus ^{with} of the object of a law.

The principle of territorial nexus signifies the object to which the law applies, need not to be physically located within the territorial boundary of the state. But must have a sufficient nexus with the state.

Art 246

The power to legislate over different matters & subjects is codified within the provisions of Art. 246. It empowers both Parliament & State legislature to enact a law on the matter of Respective list. However, in the process of legislation, sometimes the Respective legislature goes out of their legislative competence & transgress, trespass

Or overlap with the laws enacted by other legislature over different subject & entries. It should be noted that to clarify the legal position of a law enacted by parliament or state legislature Supreme Court applied several principles in our constitutional/parliamentary system:→

1) Harmonious construction

According to this doctrine, whenever there is a case of conflict between two or more statutes or laws or between two or more provisions of the law then the statute has to be interpreted on the basis of harmonious construction. It signifies that in case of inconsistencies proper harmonisation is to be done between the conflicting parts so that one part does not defeat the purpose of other part. The essence of this doctrine is to give effect to both the provisions of the law & to avoid conflict by

reconciliation & progressive interpretation.

(ii) Principle of Colourable legislation

The doctrine is used in the case to determine the question of competence of respective legislature. When a legislature oversteps its conferred power & legislate upon something indirectly which it can't do in a direct manner then the court could declare the law as a colourable piece of legislation. This doctrine of colourable legislation is based on a maxim that "what can't be done ~~directly~~, should not be done indirectly."

(iii) The Principle of Repugnancy

parliamentary ~~previ~~ predominance over state.

III) Principle of Pith & Substance

Pith reflects to the true nature or essence of something & substance in its means an essential part. Thereby, the doctrine is termed as the most significant part of something in which true essence lies.

It emphasised that only the real & essential subject matter of a case has to be challenged & not its incidental or ancillary effect on something. The doctrine is used in a manner to find out the real essence of a statute or a law for which it has been formulated & not its incidental effect.

IV) The principle of Repugnancy

If there is a conflict between

2 pieces of legislation which when applied to some fact produce different result & reconciliation or harmonious construction is also not possible, then the Union laws^{would} prevail over State legislation.

Article 249 } Ref. Gaxmikant for notes
Article 250 }