

08 May 2019: UPSC Exam Comprehensive News Analysis

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Category: POLITY AND GOVERNANCE

1. [Rajasthan to execute business reforms plan on time](#)

Context:

The government in Rajasthan has decided to execute the Business Reforms Action Plan (BRAP) on time this year.

Details:

- The move is aimed at facilitating ease of business in order to maintain the State's ranking as one of the top achievers in the field.
- The World Bank has been giving the ranking to the States in consultation with the Union Government since 2015.

- It was said that the works and services for improving the ease of business would be completed by June 15 to ensure high ranking in the key areas, involving 80 action points laid down this year, on which the feedback would be obtained.
- It is also found that as many as six departments of the State government were involved in the implementation of BRAP.
- Rajasthan was one among the Top achievers in Ease of doing business ranking of states of India 2018.
- The 2018 list was topped by Andhra Pradesh, Telangana and Haryana.

Ease of doing business ranking of states of India:

- It is the annual ease of doing business index of states and union territories of India based on the completion percentage scores of action items points of annual Business Reforms Action Plan (BRAP) under the make in India initiative.
- This ranking of states has been done by World Bank since 2015 and facilitated by the Ministry of Personnel, Public Grievances and Pensions of Government of India based on the progress of states in completing annual reform action plan covering 8 key areas which has a number of points that vary every year.
- The World Bank ranks individual nations on the Ease of doing business index.
- The ranking of states is not done on same criteria as ranking of nations.
- Ranking of states does not reflect the level of business-conducive nature of the states, it reflects the willingness of states to reform and attract investments.

2. Road accidents still cause most deaths

Context:

The World Health Organisation has said that over 1.35 mn lives are lost in a year owing to road accidents.

Details:

- Road accidents are the leading cause of death among people in the 5-29 age-group worldwide with more than 1.35 million lives lost each year and 50 million sustaining injuries, according to a WHO report released during the on-going global road safety week.
- What makes matters worse for India is the fact that since 2008, India has maintained the dubious distinction of being world number one in road crash deaths.
- In 2015, India became a signatory to the Brasilia Declaration on Road Safety, where she committed to halving road crash deaths by 2020.
- A member of Save LIFE foundation said that India has not even addressed the full scale of the problem.
- The data released by the Indian government, road crashes kill close to 1,50,000 people each year. However, the WHO global status report on road safety had challenged the numbers and stated that India might be losing over 2,99,000 people each year.

Major causes of increase in road accident death toll:

- Rapid urbanisation
- Poor safety
- Lack of enforcement of rules
- Riding/ driving under the influence of drugs or alcohol
- Speeding
- Not paying heed to safety measures such as wearing seat-belts or helmets.

India is in the midst of a major pandemic and the need of the hour is strong political will and leadership to address the issue. Simply blaming individual drivers will not help when the existing systems in which they are forced to operate are outdated.

3. Panel report that cleared CJI must be made public: ex-CIC

Have right to copy of Bobde panel report

Context:

The Supreme Court in-house panel gave CJI a clean chit stating that there was “no substance” found in the sexual harassment allegations raised against him by a staff member of the Supreme Court.

Background:

- The Supreme Court said the committee’s report would be kept confidential. As part of the in-house procedure, the report would not be placed in the public domain.
- It said copies of the report were given to Chief Justice Gogoi and the “next senior judge competent to receive the report”, that is Justice Arun Mishra who is the fourth senior most judge.
- It was announced that even the complainant will not be provided a copy of the report.
- The Supreme Court quoted its reported decision of 2003 in Indira Jaising versus Supreme Court of India, which had held that an in-house inquiry report was “discreet” and “not for the purpose of disclosure to any other person”.

Issue:

- The complainant has stated that she has the right to know how, why and on what basis have the Lordships found her complaint to have ‘no substance’.
- The woman has appealed that if a copy of the report is being given to the CJI directly or indirectly, she is also entitled to a copy thereof in any case.
- Her letter said “The Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013, in Section 13 provides that both parties have a right to receive a copy of the report. Not providing a copy to the complainant while holding her complaint to be unfounded would be a violation of the principles of natural justice and a complete travesty of justice.”
- She said the Supreme Court is relying on a judgment which pre-dates the Right to Information (RTI) Act of 2005 which mandates the fundamental right to information.

Details:

- Former Central Information Commissioner Sridhar Acharyulu has called for the public release of the report of the Supreme Court’s in-house inquiry committee, stating that it is a very important issue of transparency and good governance in judiciary.
- Apart from issues of principles of natural justice, Mr. Acharyulu said that the committee’s verdict raised several concerns about information rights as well.
- As per Indira Jaising order, the enquiry into Mysore incident was informal and only to gather some information from colleague judges, but in this case, it is a statutorily mandated inquiry and it is not opinion collection or information gathering.
- He also added that the 2003 order also pre-dated the Right to Information Act, which only has an exemption for information that would impede the investigation or prosecution process, which would not apply in this case.
- The CJI in this case was not seeking views of peer judges, but three judges constituted a committee to inquire into an allegation against the CJI, it is not official secret and has to be made public, the statement said.

- When the committee is convinced that there was no substance in allegation, it has a duty to give reasons for their decision and to convince the people in general about the correctness of their conclusion.

C. GS3 Related

Category: ECONOMY

1. Fall armyworm – a threat to crops

Context:

Agriculture scientists and environmentalists predict that the deadly pest, fall armyworm (FAW), could turn out to be a scourge for farmers.

Details:

- Fall Armyworm (FAW), an insect indigenous to the Americas, has been spreading across the globe harming crops.
- It migrated to Africa in 2016 and India in June 2018.
- It has also spread to neighbouring countries like Sri Lanka, Bangladesh, Southern parts of China, Vietnam, Cambodia and Bangladesh.
- The impact of the FAW is so intense that in one year — 2017-18 — it has damaged 20-25% crop yield worth \$3.5 billion to 5 billion in about 40 African countries.
- For the first time, India has imported 5 million tonnes maize and it is suspected that the impact of FAW might be one of the reasons for that.
- FAW is an invasive and damaging pest endemic that is spreading across Asia and Africa particularly targeting maize.
- Being a nocturnal pest, the FAW hide under maize leaves in the day time and is difficult to be detected.
- This lepidopteran pest feeds in large numbers on leaves and stems of more than 80 plant species causing major damage to economically important cultivated crops and grasses such as maize, rice, sorghum and sugarcane, vegetable crops and cotton.
- America addressed the problem by introducing BT Maize.
- The FAW outbreak was reported in neighbouring Bangladesh and Myanmar early this year.

Crops worth ₹20 crore damaged in insect attack in Mizoram:

- The Mizoram government has informed the centre about the crop loss caused by an outbreak of the 'Fall Army Worm' (FAW) in the State.
- The State government has constituted a Rapid Response Team to monitor the outbreak and take measures to mitigate the loss of crops.
- Chemical pesticides and organic ones were being used to kill the worm in maize fields.

Measures taken:

- Four major organisations — USAID, International Crops Research Institute for Semi Arid Tropics (ICRSAT), International Maize and Wheat Improvement Centre (CIMMYT) and Consultative Group on International Agriculture Research (CGIAR) — have joined hands to prepare strategy to address the issue.
- A consortium with 45 institutes was established to chalk out strategies to address the problem.
- The scientists also suggest sowing of treated maize seeds and inter-cropping with red gram and use

D. GS4 Related

Nothing here for today!!!

E. Editorials

Category: POLITY AND GOVERNANCE

1. Prisoner of Procedure

Note to Students:

This is an important issue to cover from the civil services perspective as it involves an allegation of sexual harassment on part of the Chief Justice of India. Several articles have featured in the press since the news made headlines and there have been multiple perspectives brought out in the media on the same. Here we present some of the salient points and perspectives on this issue as covered by two articles, namely, “A miscarriage of justice” as published in the Hindu on the 7th of May, 2019 and “Prisoner of procedure” as published by the Hindu on the 8th of May, 2019.

Larger Background:

Important facets of the complaint filed:

- The complaint made by the victim of sexual harassment to the judges of the Supreme Court had two equally serious facets.
 1. One related to sexual harassment, a very serious charge.
 2. The other related to the victimisation of the complainant and her family “at the hands of the Chief Justice of India [CJI]”, as claimed by her.

Experts opine that it is this latter charge to which the nation needs to pay equal, if not greater, attention.

- The in-house committee of the Supreme Court spoke: “No substance in the allegations contained in the Complaint dated 19th April, 2019 of a former Employee of the Supreme Court.”
- In the absence of any known procedure, the non-observance of the principles of natural justice and the absence of effective representation of the victim, the report, even though not for the public, is non-est and void ab initio.

A Closer Look into Specifics:

- The charge on this count, as per her affidavit, involves the following: after the alleged incident on October 11, 2018, her transfer to the Centre for Research and Planning on October 22, 2018, change of position to “Admin, Material Section” on November 16, 2018, issuance of a memorandum on November 19, 2018, by Deepak Jain, Registrar, accusing the victim of violating conduct rules and seeking an explanation, her third transfer to the Library Division on November 22, 2018, the issuance of a memorandum on November 26, 2018 rejecting her explanation and proposing further action, her suspension on November 27, 2018 and the communication of December 18, 2018 from the Registrar that the charges against her stood proved.
- On December 21, 2018 she was dismissed from service.

- Meanwhile, according to her affidavit, on November 27, 2018 her husband, a head constable with the Delhi Police, Crime Branch Division, was transferred to the Third Battalion.
- On December 8, 2018 her husband, and the latter's brother, also a constable with the Delhi Police, were suspended over telephone, and the orders followed the next day.
- On January 2, 2019, an inquiry was initiated by a Deputy Commissioner of Police against her husband on the ground that "unsolicited calls were made to the Office of the Hon'ble Chief Justice amounting to official misconduct".
- On January 11, 2019, the victim and her husband were summoned to Delhi's Tilak Marg police station by Station House Officer (SHO) Naresh Solanki.
- In their presence, the SHO called the Registrar, Mr. Jain, to discuss ways to reach the residence of CJI Ranjan Gogoi.
- The SHO, the victim and the husband went there, and in the presence of Mr. Jain, the victim was forced to fall at the feet of the CJI's wife.
- Upon their return to the police station, the SHO had a long conversation with the victim and her husband.
- On January 14, 2019 the disabled brother-in-law of the victim, who had been appointed temporary Junior Court Attendant under the orders of the CJI himself on October 9, 2018, was removed from service.
- On March 3, 2019, an FIR was registered on a complaint by a person named Naveen Kumar at the Tilak Marg police station in respect of an alleged demand made by the victim in June 2017 for a bribe of ₹10 lakh for getting him a job in the Supreme Court and his payment of ₹50,000 as advance.
- Based on this FIR, the victim and her husband were arrested from their village in Rajasthan, hand-cuffed and subjected to cruel and inhuman treatment.
- The victim was remanded for a day on March 10, 2019. She was released on bail on March 12, 2019.
- The affidavit in support of the complaint appears truthful and honest.
- The details are heart-rending and extremely troubling, and reflect a deep malaise that appears to have set in in high offices.
- These incidents are all corroborated by official records.
- Experts opine that collectively, they establish beyond doubt the victimisation of the woman, her husband and other family members at the hands of the state machinery, including the Registry of the Supreme Court.

Violations of rights:

- Experts opine that each of these actions is either unconstitutional or illegal or criminal in nature.
- Clearly, they establish a well-designed conspiracy to victimise the victim beyond redemption so as to ensure that neither she nor her husband and her family members could raise their heads again to seek justice in respect of the complaint made against the CJI.
- Together, they constitute gross violations of the constitutional and fundamental rights of the victim and her family members, including those guaranteed under Articles 14 and 21.
- Clearly, the motive behind ensuring grossly inhuman, illegal, unconstitutional and disproportionate punishment to the victim and her family members seems to be to suppress her will and spirit so that she does not raise any charge about the incident of October 11, 2018.

The last straw:

- One thing is clear: **the complainant Naveen Kumar**, who alleged that the victim demanded a bribe and willingly offered, according to his own case, ₹50,000, **has made himself an accomplice to the alleged bribery** to secure public employment.
- He must therefore face the rigour of the law.
- The case on its own showing appears to be concocted and its timing raises serious questions about its authenticity.
- If the bribe was demanded in June 2017, it is a curious coincidence that the complainant from

Jhajjar, Haryana surfaces in March 2019 and that too in Tilak Marg police station to make the complaint.

- It activates the entire police machinery against the victim and her family.
- This was the final nail in the coffin, as the proverb goes, pushing the victim and her family to the wall and igniting in them the courage to stand up against the CJI and make the complaint on April 19, 2019.

Dispelling doubts over the delay in the complaint:

- Those who have doubts about the so-called delay in the complaint must be prepared to put themselves in the shoes of the victim, a Class III employee pitted against the Chief Justice of India, one of the highest and the most powerful constitutional functionaries.
- Her approaching lawyers who are widely respected as human rights activists was natural and cannot be viewed with suspicion under any circumstances.

Some legal precedents:

- The Constitution Bench of the Supreme Court in **Olga Tellis v. Bombay Municipal Corporation** recognised procedural safeguards as necessary and said they have “historical origins in the notion that conditions of personal freedom can be preserved only when there is some institutional check on arbitrary action on the part of public authorities”.
- In **Uma Shankar Sistani v. Commissioner of Police, Delhi (1996)**, the Supreme Court ordered the Central Bureau of Investigation to investigate the circumstances under which a false complaint was registered against the petitioner, leading to his arrest.
- The FIR against the victim in this case needs the same treatment.
- Equally, the punishment of dismissal imposed on her is grossly disproportionate, even assuming that the charges against her were proved.
- The Supreme Court has consistently frowned upon such punishments.
- In **Ranjit Thakur v. UOI (1987)**, the court interpreted the **doctrine of proportionality** “as part of the concept of judicial review” to ensure that if the sentence is an outrageous defiance of logic, then it can be corrected.

Grounds for judicial review?

- Irrationality and perversity are recognised grounds of judicial review.
- The court has held that if the punishment is outrageously disproportionate and the court considers it arbitrary in that it is wholly irrational or “a punishment is so excessive or disproportionate to the offence as to shock the conscience of the Court the same can be interfered with”.
- Experts opine that on each one of these counts the punishment of dismissal imposed upon the victim is completely arbitrary and perverse. It must go.

There are important questions which arise:

- Where can she and her family members get justice if the police at the highest level is pitted against them?
- Will they ever get a fair investigation and fair reports in the criminal cases? (This appears to be doubtful)
- Can she and her family get justice at all at the hands of the judiciary, considering the respondents would be the CJI and the Supreme Court? Only time will tell.
- But certainly for the present, the picture is dark for them.
- All these raise extremely troubling and discomfoting thoughts in the minds of many.

Editorial Analysis:

A Critical Perspective:

- Critics opine that in this particular case, the main question was whether the Supreme Court would live up to the standards of fairness it expects of all authorities while inquiring into a former woman employee's complaint of sexual harassment and victimisation against the Chief Justice of India, Ranjan Gogoi.
- An ad hoc committee, following an informal procedure, has concluded that the allegations have "no substance", however, the findings will not be made public.
- Moreover, the report cannot be reviewed judicially.
- No one else, not even the complainant, knows what evidence was examined and who else testified apart from herself.
- All that is known is that she was heard, and questioned, at two sittings.

The Power Imbalance:

- She later withdrew from the inquiry, saying she was denied the help of a lawyer or a representative, that **she found the questions from a panel of three sitting Supreme Court judges quite intimidating**, and that she was not clear how her testimony was being recorded.
- Critics opine that there is no doubt that the committee remained impervious to the power imbalance in the situation.
- Perhaps she ought not to have pulled out from the probe, despite these grievances.
- The panel's conclusion would have been even starker had she been present to hear how Justice Gogoi defended himself; and who among the court officials, if any, answered her specific and documented charges about the administrative harassment she was put through following the alleged incident of sexual harassment.
- The most relevant parts of the complaint were the transfer orders and disciplinary inquiry against her, the role of the court administration in dismissing her, and that of the Delhi Police in arresting her on a complaint of alleged bribery and initiating disciplinary action against her husband and his brother, both police personnel. It is not known if any of these officials were examined.

Dealings of the Court: Less than fair?

- Critics opine that the manner in which the court dealt with the complaint on the administrative side has been less than fair.
- It is true that the in-house procedure devised in 1999 envisages only a committee of three judges to deal with allegations against serving Supreme Court judges.
- The fact that a special law to deal with sexual harassment at the workplace is in force since 2013 appears to have made no difference.
- Unfortunately, the court could not bring itself, even in the interest of appearing fair, to adopt a formal procedure or allow the complainant to have legal representation.
- Critics opine that for all its judicial homilies on fairness, when it comes to dealing with its own the Supreme Court has come across as a prisoner of procedure and displayed an alarming propensity to mix up its institutional reputation with an individual's interest.

Concluding Remarks:

- "The abuse of greatness is when it disjoins remorse from power," wrote Shakespeare. The decision by the 'in-house committee' is an egregious instance of a hallowed institution abusing its own greatness by letting its power speak, and not the compassion for which it is renowned.
- Is it the Supreme Court as an institution that is responsible for what has happened, or is it the CJI?
- The dichotomy will emerge only when other Justices act independently, uphold the majesty of the

law and steer the institution out of troubled waters.

- If they fail, the institution is doomed to serious loss of face and credibility.
- It is time the collective conscience of the Justices prevails.

Category: INTERNATIONAL RELATIONS

1. Belt and Road 2.0

Larger Background:

- Experts opine that six years after it was unveiled, China's Belt and Road Initiative (BRI) assumes another avatar.
- In its initial form, the BRI was all things to all people, a catch-all for China's international engagement.
- However, experts opine that the BRI in fact it had multiple, layered objectives.

Editorial Analysis:

The multiple, layered objectives of the BRI:

- It is important to note that one of the first objectives of the BRI concerned domestic economics, i.e.,
a) exporting surplus industrial capacity and cash reserves overseas to keep China's economy humming, its industrial output flowing, and
b) its employment levels high.
- The second concerned domestic politics: a signature foreign initiative to associate with Chinese President Xi Jinping.
- The third concerned security: stabilising Western provinces and the Eurasian hinterland.
- And the fourth concerned strategy: leveraging China's new-found economic heft for political objectives in Asia, Africa, Europe, and the Indian and Pacific Oceans, and creating new standards and institutions in a bid to challenge U.S. leadership.

Has China moved too quickly?

- Some experts opine that Beijing may have moved too soon and too quickly.
- These experts assert that as the second Belt and Road Forum (BRF) concludes, a paradox has become apparent at the heart of its ambitious initiative.

A Paradox that has emerged:

- On the one hand, there has been a strong backlash.
- The economic viability of Chinese projects is now viewed with considerable scrutiny.
- In capitals around the world, the port of Hambantota in Sri Lanka is being described as a warning sign.
- The BRI's sustainability is called further into question as Chinese debt, especially that held by state-owned enterprises, mounts.
- Further, security concerns have begun to predominate as far afield as in the European Union, the South Pacific and Canada.
- Next, the role of China's state in its business dealings is being deliberated openly.
- China's military base at Djibouti has injected an overtly military element to its external engagement. And political pushback to Beijing is also discernible, whether in Zambia, the Maldives or Brazil.

The allure of the BRI still remaining strong:

- Experts opine that despite these obvious deficiencies, the allure of the BRI remains strong.
- Many countries still see China as an attractive alternative to slow-moving democratic bureaucracies and tedious lending institutions.
- There are also political motivations at play: a minor agreement on the BRI is a useful tool for Italy's Eurosceptic government to send a strong political message to the EU.
- Beijing has also become more flexible, the tone of this year's BRF less triumphalist.
- Chinese overseas financial flows have slowed since 2017, and the focus has shifted away from massive infrastructure projects to realms such as digital technology.

Concluding Remarks:

- Given these contrasting trends, the future of the BRI is more uncertain than ever.
- For India, which boycotted the BRF for the second time on grounds of both sovereignty (the China-Pakistan Economic Corridor traverses Pakistan-occupied Kashmir) and unsustainability (particularly in the Indian Ocean), **it means continuing to monitor China's international engagement closely.**

2. Surveillance wars in space

Editorial Analysis:

- Experts opine that the dust and furore kicked up by India's Anti-Satellite Missile (ASAT) test on March 27, 2019 is yet to settle.
- Critics have not stopped worrying about the potential harm that floating debris may cause to other satellites around that band in the sky.
- Years after Russia, the U.S., and China made a mark in this area, India too has shown that it can hit back at enemies attacking from space.
- Military experts say that possessing the highly difficult capability to conduct such a test is important and essential for ensuring national security in space.
- Mission Shakti, as it is called, has earned India a place in an exclusive club of 'space defenders'.

The emergence of counter-space: A new frontier?

- However, a peek into counter-space, the world where such dangerous space activities are practised covertly by Russia, the U.S., and China, shows that while Mission Shakti is a giant leap for India, it is only a small step in that world.
- The new measure of space supremacy lurks in counter-space now, and not so much in planetary excursions and astronauts' outings.
- This is why Russia, the U.S., and China have been relentlessly pursuing for decades activities that enable them to rule space militarily, for offence or defence purposes.

Counter-space capabilities and Space espionage:

- According to academic reports, policymakers and those tracking the military space, for several years now, the space between 600 km and 36,000 km above the earth has been the playground for such secret activities. Most people have no idea about what is happening up there.
- Around the time Mission Shakti took place, the Center for Strategic and International Studies based in Washington, D.C. and the Secure World Foundation came out with reports detailing counter-space capabilities that different countries have today and their sense of threat to space assets.
- These reports document that satellites have been launched to move closer up to other satellites in the same orbit.
- **Satellites with robotic arms or handles have touched or nudged their siblings in orbit.** Mother

(or nesting) spacecraft have gone up to 'deliver' baby spy satellites in orbit.

- Satellites have sneaked up to high perches to see, overhear and sense all that happens in space and on the ground. The intent of being in counter-space is thus surveillance and espionage.
- In times of war, the intent could even be to capture or disable a rival's space assets in orbit.
- Some say that the U.S. and Russia have always had some counter-space capabilities in their over 60-year-old space race.
- However, this century, they have reportedly developed deadly armouries that can be either unleashed into or from space.
- Loud concerns have been raised over rendezvous and proximity operations (RPO) in space.
- The actor countries neither acknowledge nor discuss such activities and give them other names.
- In an RPO event, one country sends a satellite that clandestinely sits next to one of its own (or another country's) orbiting satellites.
- **The motive could be to inspect and assess the target's nature, eavesdrop on it, or even subvert its functions.** The fear is that in extreme cases, the target may even be 'abducted' or taken control of. Fortunately India is not there — for now.

The Risk of a Space Pearl Harbour:

- Satellites of each of the countries such as Russia, the U.S., and China have been caught loitering in orbit at different times, and the victims have cried foul.
- In September 2018, French Defence Minister Florence Parly was reported to have charged that Russian satellite Luch-Olymp was lurking too close to — and spying on — a Franco-Italian military communications satellite, Athena-Fidus, in 2017, that is, the previous year.
- The U.S. has reportedly had its share of RPOs and other acts.
- In the foreword to the CSIS report, U.S. policymaker Jim Cooper says, "Every nation's satellites face increasing threats... The risk of a space Pearl Harbour is growing every day."
- He cautions that today countries depend so much on their satellites that "cripple our satellites and you cripple us".

Concluding Remarks:

- Countries are also honing non-kinetic, electronics and cyber-based methods to prevent satellites of other countries from spying on their regions.
- It is important to note that cyber-attacks can destroy, steal or distort other satellites or ground stations. The attacker gains control of the space asset.
- It is important to note that "No one will declare that they are pursuing these kinds of technologies but all are doing it, all have to do it, especially major players".
- In times of war no one is spared, and a country must be ready with its counter-security tactics.

Category: ECONOMY

1. Points of law in the PepsiCo-potato case

Note to the Students:

- This article is taken from the Hindu BusinessLine, published on the 8th of May, 2019.
- This is an important issue that has assumed importance recently. Here we have combined the essential points covered in the article, "Points of law in the PepsiCo-potato case" published by the Hindu BusinessLine on the 8th of May, 2019, and "Chips at stake in the PepsiCo-farmers fight" published in the Hindu on the 5th of May, 2019.

What's in the news?

- Recently, in Gujarat, food and beverages giant PepsiCo dragging potato farmers to court for allegedly growing its registered potato variety used to make 'Lays' chips.
- Four small farmers from Sabarkantha district were sued ₹1.05 crore each, although they cite a law allowing them to grow and sell even registered plant varieties.
- Faced with growing social media outrage, boycott calls from farmers groups and condemnation from major political parties, the company finally agreed to withdraw cases after talks with the Gujarat government.

When was the variety introduced?

- PepsiCo introduced, in 2009, the **FC5 variety of potato** that it uses to make its popular 'Lays' potato chips to India.
- The potato variety is grown by approximately 12,000 farmers who are a part of the company's collaborative farming programme, wherein the company sells seeds to farmers and has an exclusive contract to buy back their produce.
- In 2016, the company registered the variety under the Protection of Plant Varieties and Farmers' Rights Act, 2001 (PPV&FRA).
- Finding that farmers who were not part of its collaborative farming programme were also growing and selling potatoes of this variety in Gujarat, PepsiCo filed rights infringement cases under the Act against some farmers in Sabarkantha, Banaskantha and Aravalli districts in 2018 and 2019.
- Farmers allege that the company hired a private detective agency to pose as potential buyers, take secret video footage and collect samples from farmers' fields without disclosing its real intent.

What is the farmers' stand?

- The ₹4.2 crore lawsuit against four small farmers in Sabarkantha district was heard by an Ahmedabad commercial court on April 9, 2019 and an ex-parte injunction ordered against the farmers.
- However, farmers' rights groups across the country began a campaign against PepsiCo, requesting the Protection of Plant Varieties and Farmers' Rights Authority to intervene in the case and bear the farmers' legal costs using the National Gene Fund.
- At the April 26th, 2019 hearing, the company offered an out-of-court settlement to the farmers on the condition that they give an undertaking not to grow the registered variety and surrender existing stocks or to join its collaborative farming programme.
- Demanding an unconditional withdrawal of cases, farmers unions affiliated to the ruling Bharatiya Janata Party (BJP) as well as the Left parties joined in boycott calls against PepsiCo products and stoked outrage on social media as well.
- In the midst of an election season in which agricultural issues are in the spotlight, senior political leaders from the Congress and BJP added their criticism.
- On April 27, 2019, the Gujarat government announced that it would back the farmers and join the legal case on their behalf, although it later indicated it was working toward an out-of-court settlement.
- Finally, on May 2, 2019, PepsiCo agreed to withdraw all nine cases after discussions with the government.

What is the legal basis for the suit?

- Both PepsiCo and the farmers cite the same Act to support their opposing positions.
- The PPV&FRA was enacted in 2001 to comply with the World Trade Organisation's Agreement on Trade-Related Aspects of Intellectual Property Rights.
- PepsiCo based its suits on Section 64 of the Act dealing with infringements of the registered

breeder's rights and subsequent penalties.

- The farmers' legal case depended on Section 39 of the Act, which allows the cultivator to "save, use, sow, resow, exchange, share or sell his farm produce including seed of a variety protected under this Act" with the sole exception of branded seed. As this section begins with the words "Notwithstanding anything contained in this Act...", farmers claim their rights have precedence.
- Over the last decade, more than 3,600 plant varieties have been registered under the Act, with more than half of the registration certificates going to farmers themselves. This was the first case of infringement of rights under the Act, according to the central agency set up to implement the Act.

Who are the stakeholders and what are the stakes?

- The farmers claim that they bought potato seeds locally, and are within their rights to grow and sell any variety.
- Even PepsiCo supporters admit that they lost the perception battle by dragging small farmers to court for large sums in election season.
- PepsiCo says its collaborative farming programme and registered variety rights are under threat.
- While 'Lays' claims to be a leader in the country's ₹5,500 crore potato chips market, regional players are eating into the market share.
- Farmers rights groups such as the Alliance for Sustainable and Holistic Agriculture saw the issue as a test case on farmers rights in India under the WTO regime, and warned that **a bad precedent could hurt farmers of other crops and endanger the country's food sovereignty.**

What happens next?

- While farmers have claimed victory, they also demanded an apology from PepsiCo and plan to sue for compensation for "harassment" by the company.
- They are also wary of any future government-facilitated negotiations on seed protection and the rights of breeders.
- Pepsico's decision to withdraw the cases was "backed by an assurance from the government for a long term amicable settlement", according to sources familiar with the development, who added that **both the Gujarat government and the Centre were involved in that assurance for further talks.**

Editorial Analysis:

- **The Protection of Plant Varieties and Farmers' Rights Act (PPVFRA)**, which introduced intellectual property protection in Indian agriculture, faced its biggest test in its implementation phase of nearly a decade and a half, when PepsiCo India initiated legal proceedings against four farmers in Gujarat for "illegally" growing its potato variety registered under the PPVFRA.
- The company applied for the registration of two hybrid potato varieties FL 1867 and FL 2027 in February 2011.
- These varieties were registered under the PPVFRA in February 2016 for a period of 15 years. PepsiCo marketed the latter variety under the trademark FC-5, and now is claiming that the Gujarat farmers are illegally using this variety.
- After the bases of the cases were questioned, especially by farmers' organisations, the company withdrew its cases, not before trying to bind the farmers it had framed, into its contractual arrangements.

Many questions that prevail:

- PepsiCo may have withdrawn the cases against the farmers, but this unsavoury occurrence brought to the fore many questions that were asked when the PPVFRA was on the drawing board.
- These questions span from some of the contentious provisions of the Act, to the manner in which it is being implemented.

- If these issues are not dealt with in keeping the spirit of the law, and perhaps more importantly, their potential adverse implications on farming communities, farmer-breeder conflicts could become more frequent and this would only push the farmers into deeper crises.
- The PPVFRA was enacted in 2001 after engaging debates were held in the country for more than a decade as to how intellectual property rights should be introduced in Indian agriculture after the country joined the World Trade Organisation in 1995 and agreed to implement the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).
- The choice before India was to either enact a law that protected the interests of farming communities, or to accept the framework of plant breeders' rights given by the International Union for Protection of New Plant Varieties (better known by its French acronym, UPOV Convention).
- The latter option was rejected primarily because the current version of UPOV, which was adopted in 1991 (UPOV '91), denies the farmers the freedom to re-use farm saved seeds and to exchange them with their neighbours.

Indian version:

- Therefore, in the PPVFRA, India introduced a chapter on Farmers' Rights, which has three legs: one, farmers are recognised as plant breeders and they can register their varieties; two, farmers engaged in the conservation of genetic resources of land races and wild relatives of economic plants and their improvement through selection and preservation are recognised and rewarded; and, three, protecting the traditional practices of the farmers of saving seeds from one harvest and using the saved seeds either for sowing for their next harvest or sharing them with their farm neighbours.
- **Article 39(1)(iv)**, which sanctifies the last-mentioned rights, states that farmers are "entitled to save, use, sow, resow, exchange, share or sell his farm produce including seed of a variety protected under this Act in the same manner as he was entitled before the coming into force of this Act" (emphasis added).

Issues that PepsiCo's law suit raises:

- **PepsiCo's law suit against the farmers raised a number of critical issues, which the court appeared to have glossed over in its proceedings.**
- **The first issue is that planting a registered variety by the farmers is per se not an offence since the Act allows the farmers to re-use such varieties and to also share them with their neighbours, provided two conditions are met.**
- The first is that the farmers cannot sell "branded" seeds, which, according to PPVFRA, means "any seed put in a package or any other container and labelled in a manner indicating that such seed is of a variety protected" under the Act. The company claimed before the court that FC-5 was licensed to farmers "firstly (emphasis added) in Punjab to bring potatoes of the said variety on the buyback system".
- The FC-5 variety could have been made available and distributed anywhere, and without the law being violated.
- The second issue is that FC-5 has been registered as an "Extant Variety", which is also a "Variety of Common Knowledge".
- This, in other words, implies that the said variety of potato was already available in the country before it was registered and that there was "common knowledge" about this variety in the country. It may, therefore, be assumed that PepsiCo's variety would surely have been produced in the country before it was registered.
- Further, from the order of the judge on April 8, 2019, in PepsiCo India Holdings Pvt. Ltd. versus Bipin Patel, it can be gleaned that the company may have given incorrect information that FC-5 is a "new" variety instead of an "extant" variety.
- It is important to note that registration of extant varieties was allowed in the PPVFRA despite opposition from several experts, and the justification used was that farmers' varieties can be registered under this provision.

- The benefits that the farmers are deriving are not clear, but what can easily be understood is that companies like PepsiCo that got the opportunity to register their older varieties can now sue the farmers for using known plant varieties.

Private investigation

- A third issue that arises relates to the alleged modus operandi of PepsiCo.
- There are reports that the company employed a private intelligence agency to collect samples from the farmers' fields.
- This reported surveillance was the exact copy of the infamous 1998 case, in which Monsanto had sued a Canadian farmer, Percy Schmeiser, and claimed that the latter was illegally using its genetically modified canola.
- Monsanto had reportedly engaged private investigators to raid his field and to collect samples, an act that drew global condemnation. Percy became the icon of the global resistance by farmers against commercial plant breeders, because of which Monsanto was not able to secure damages from him.

Concluding Remarks:

- PepsiCo realised that it had crossed the Rubicon and withdrew the cases, but not before the company had made offers to the farmers to settle the dispute by entering into an agreement to purchase seeds from it and to then produce and sell on its terms and conditions.
- This case has already become an example of how conglomerates exploit the laws to realise their objectives.
- The authorities need to ensure that the laws of the land are implemented in the true spirit in which they were enacted.

F. Tidbits

1. Kerala resumes elephant training programme

- The Kerala Forest Department has resumed the elephant training programme at the Muthanga elephant camp under the Wayanad Wildlife Sanctuary.
- The programme has been started after an interval of two decades.
- The six-month training programme mainly aims at strengthening the Kumki squad to mitigate the increasing man-animal conflict in the State.

G. Prelims Facts

1. Mantra Mangalya

- Mantra Mangalya is a green wedding, recommended by a Kannada writer – Kuvempu in 1966.
- Almost each one of his literary works carries a liberal message.
- Kuvempu was always against Traditional systems followed in Indian social ceremonies including especially the weddings resulting in a lot of expenditure.
- To break this social norm and to promote simple marriages with low cost and without any religious rituals he recommended 'Mantra Mangalya'.
- The 'Mantra Mangalya' recommends a union without rituals, hymns or lavish celebrations.

H. Practice Questions for UPSC Prelims Exam

Q1. Chandaka-Dampara Wildlife Sanctuary is in

- a. Karnataka
- b. Maharashtra
- c. Odisha
- d. Rajasthan

Answer: c

Explanation:

Chandaka- Dampara sanctuary is located in the south fringe of cuttack in the Indian state of Odisha. The park is known for successful conservation of elephants which is the principal species here. It is also a home to a number of threatened wild animals and birds. Chandaka landscape got a sanctuary status in 1982.

Q2. Consider the following statements:

1. Ease of doing business ranking of states of India reflects the level of business-conducive nature of the states.
2. The ranking of states is done on same criteria as ranking of nations.

Which of the given statement/s is/are correct?

- a. 1 only
- b. 2 only
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: d

Explanation:

- It is the annual ease of doing business index of states and union territories of India based on the completion percentage scores of action items points of annual Business Reforms Action Plan (BRAP) under the make in India initiative.
- This ranking of states has been done by World Bank since 2015 and facilitated by the Ministry of Personnel, Public Grievances and Pensions of Government of India based on the progress of states in completing annual reform action plan covering 8 key areas which has a number of points that vary every year.
- The World Bank ranks individual nations on the Ease of doing business index.
- The ranking of states is not done on same criteria as ranking of nations.
- Ranking of states does not reflect the level of business-conducive nature of the states, it reflects the willingness of states to reform and attract investments.

Q3. Consider the following statements:

1. Right to Information (RTI) is a part of the fundamental rights
2. OCIs and PIOs can also seek information under the RTI Act

Which of the given statement/s is/are correct?

- a. 1 only
- b. 2 only
- c. Both 1 and 2

d. Neither 1 nor 2

Answer: c

Explanation:

Article 19(1) of the Indian Constitution specifies that the Right to Information (RTI) is a part of the fundamental rights. Any citizen can ask for information under these laws. The Act extends to the whole of India except the State of Jammu and Kashmir. OCI's (Overseas Citizens of India) and PIO's (Persons of Indian Origin) card holders can also ask for information under the RTI Act. For citizens, OCI's and PIO's who are staying out of India, the RTI Application can be filed with the PIO of the local Indian Embassy/Consulate/High Commission and they will inform you regarding the amount of application fee in local currency as well as the mode of payment.

Q4. Consider the following statements:

1. Fall Armyworm (FAW) is an insect indigenous to the America
2. It is a nocturnal pest

Which of the given statement/s is/are correct?

- a. 1 only
- b. 2 only
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: c

Explanation:

Fall Armyworm (FAW) is an insect indigenous to the America. Being a nocturnal pest, the FAW hide under maize leaves in the day time and is difficult to be detected.

I. UPSC Mains Practice Questions

1. Justice Bobde Panel's report on allegations against CJI falls short on yardsticks of transparency and fairness. Discuss. (10 Marks, 150 Words)
2. The biodiversity report by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) is regarded as the first-of-its-kind comprehensive scientific evaluation. Discuss the findings of the report. (15 Marks, 250 Words)

