

Statehood For Delhi [UPSC Notes for GS II]

Statehood For Delhi

Topic: Functions and responsibilities of the Union and the States, issues and challenges pertaining to the federal structure, devolution of powers and finances up to local levels and challenges therein.

There has been considerable debate over the statehood issue of Delhi.

SPECIAL PROVISIONS FOR DELHI - Article 239AA

- The 69th Constitutional Amendment Act of 1991 conferred the UT of Delhi with a special status, and redesignated it the National Capital Territory of Delhi and designated the Delhi's administrator as the Lieutenant Governor (LG).
- The Act created a legislative assembly and a council of ministers for Delhi.
- The Assembly is empowered to make laws on all the matters of the State List (except public order, police and land) and the Concurrent List. However, the laws of Parliament prevail over those made by the Delhi Assembly.
- The council of ministers headed by the Delhi Chief Minister assist and advise the LG in the exercise of his or her functions except in the cases the LG has to act in his/her own discretion. If there is a difference of opinion between the ministers and the LG, the latter should refer the matter to the President of the country for a decision and act in accordance with that.
- The LG is authorised to promulgate ordinances during recess of the legislative assembly. An ordinance has the same force as an act of the assembly. Each such ordinance should be approved by the legislative assembly within 6 weeks from its reassembly. The LG may also withdraw an ordinance at any time. But, he or she cannot promulgate an ordinance when the assembly is dissolved or suspended. In addition, no such ordinance can be promulgated or withdrawn without the prior permission of the Indian President.

Background:

When did the demand for Delhi's statehood first emerge?

- The demand for statehood arose as a consequence of the Committee on Reorganisation of Delhi Set-Up or the Balakrishnan Committee's report in the year 1987. The committee suggested setting up a legislative system and studied overlapping of authorities in matters of municipal governance. It agreed to give the national capital a special status and the UT to have a legislative assembly that would be provided powers to form laws on matters under the state list except in matters related to police, land and public order.
- Not long after the AAP government registered a victory of 67 on 70 seats in Delhi Assembly election of 2015, the Ministry of Home Affairs pulled back the services of Anti Corruption Bureau (ACB) from the Delhi government. This move removed the right of the government of Delhi to take any kind of disciplinary or removal action against officers who involve in corrupt practices.

Why is there a demand for complete statehood?

- Statehood will make the control of administration completely under the state government. This set-up would prevent multiplicity of authorities and the resultant confusion.
- The government of Delhi claims that its lack of control over police, public order and land obstructs its ability to efficiently plan the development of the city.
- The pitfalls of not having full statehood status have been experienced by many elected regimes in

Delhi. But the extent of bitterness has been most severe at present.

- There have been spars in the political and judicial arenas over whether a subject falls under the Delhi government or under the exclusive domain of the Central government.

Should Delhi be given complete statehood? What are the arguments for and against this?

Arguments in Favour

- So far as granting statehood to Delhi is concerned, it is important to note that whichever party has come to power, every party while in power has said that Delhi should be granted statehood. But we need to look at the background of the issue.
- Delhi which has a growing population of 2.7 crore people, as of today, is no longer just a Union Territory. In Delhi, issues such as housing, water, electricity, transport, etc.
- The government also has no say in the issues pertaining to recruitment and conditions of service of officials of IAS, clerks etc. Also, present Delhi government has accused the centre to be meddling in its work and putting barricade through LG.
- Delhi Development Authority (DDA): The Delhi government has no say over the affairs of DDA. This hinders the effective allocation, use of land and implementing welfare schemes.
- Police: Due to the absence of control over the police force, the Delhi government faces problem in proper maintenance of law and order in the state.
- Municipal Corporation of Delhi: Government of Delhi has no control over the MCD. The government is of the opinion that it hinders in implementing development measures.
- Role of LG: The role and power of LG and Delhi government's Council of Ministers has always been an area of contestation. The LG has often been accused of delays and disruptions in the work of the elected government.
- Statehood will bring control of administration under one umbrella – the state government, led by the CM and his Council of Ministers and avoid multiplicity of authorities.

Arguments against

- When Delhi was declared the National Capital Territory (NCT) in the year 1991, by a Constitutional Amendment, the concept was pretty clear, and that is that when Delhi is the seat of the Union Government, there can't be 2 authorities. Also, when we look at examples from the world over, the practice is the same. Example: Washington DC. In Washington, there is only a mayor. There isn't an elected government there.
- Being the national capital, Delhi hosts various critical infrastructures such as parliament, presidential estates, and embassies. Maintenance of these is extremely important and cannot be handed over to a different entity.
- Granting statehood might lead to various administrative problems especially in law and order which would be detrimental for the national capital.
- Quality of governance might decline due to the impact on finances.
- Security concerns: Security of embassies, parliaments. Further, there is the issue of safety and security of visiting dignitaries from different countries and also head of states. The responsibility of ensuring security to them lies on Centre and state cannot be entrusted with it.
- Control over land is required especially in areas with central government institutions, embassies.

A Constitution Bench ruling provided a framework to resolve issues between Central Government and Government of Delhi.

- It held that the LG should act either on the aid and advice of the COM, or accept the decision of the Indian President on a reference made by him.
- The power to refer to "any matter" to the President did not mean "every matter" should go that way.
- The Bench upheld the Delhi government's authority to appoint prosecutors, impose and revise stamp

duty on property transactions and also issue notifications under the Delhi Electricity Reform Act.

Way forward:

- Experiment Like how Washington D.C. has been carved out of the state of Virginia, a similar kind of an example can be created here also. One can possibly carve out the New Delhi area as the seat of the Central Government and administered by the central government directly, and the rest of it can be made a state.
- The elected government in Delhi should be provided a decisive say in the municipal body for a cohesive approach, and proper urban planning.
- The state government should also be given more authority on the police and made accountable in controlling crime.
- Coordinated efforts by the Centre and the Delhi government for effective governance and to uphold public interest.
- The dispute over the powers of L-G of Delhi and elected government of Delhi should be resolved.

The need is to find a way out of the complexities and problems thrown up by the multiple forms of federalism and power-sharing arrangements through which relations between the Centre and its constituent units are regulated.