

## 22nd Law Commission's recommendation on Sedition

### Why in news?

The 279th report of the Law Commission of India recommending the *retention of the sedition law*, has brought the 153-year-old colonial law to the centre stage yet again.

### What is Section 124A of IPC?

- Section 124A of the Indian Penal Code (IPC) incorporated in 1870, describes the Law of Sedition.
- The colonial law was derived from the British Sedition Act of 1661.
- It seeks to punish speech or writing that brings or tries to bring into hatred or contempt, or excites or tries to excite disaffection towards, the government established by law.

### Landmark Cases on Sedition

- **Queen Empress Vs Bal Gangadhar Tilak (1897)**, Bombay Court - Defines sedition as disaffection which was interpreted as 'political hatred of government'.
- **Niharendu Dutt Majumdar and Ors. Vs Emperor (1942)**, Federal Court - The offence of sedition is committed only when there is incitement to violence or disorder.
  - The Privy Council upheld Tilak's case and thus, sedition meant exciting or attempting to excite bad feelings towards the government.
- **Kedarnath vs State of Bihar (1962)**, Constitution Bench of the Supreme Court - Decided the constitutionality of sedition.
  - The Court held that it is constitutionally valid for two reasons.
    - Sedition though an offence against the government, is against the state because the government is a visible symbol of state.
    - Article 19(2) imposes restrictions in the interest of the security of the state which has wider amplitude and includes the law on sedition.
- **S.G. Vombatkere vs Union of India (2022)** - The case challenged the constitutionality of the law of sedition.
  - The Supreme Court had ordered a stay on all existing proceedings and also on the registration of fresh cases under sedition upon the Union Government.
  - It assured the Court of a [review of the sedition law](#).
  - The [Court's stay order](#) was in consideration of the fact that this law was widely misused by the law enforcement authorities.

### What are the recommendations of the 22<sup>nd</sup> Law Commission?

- The law commission report has recommended the retention of the highly debated Sedition law, which is under Section 124A of the Indian Penal Code.
- It broadly recommended three things:

- Widening the scope of sedition.
- Adding a higher quantum of punishment.
- Incorporating 'procedural safeguards' to prevent misuse.
- While Section 124A provides for a minimum imprisonment of 3 years, the commission recommends a minimum of 7 years in the name of national security.
- The Law Commission has suggested that the tendency to incite disorder should be incorporated in Section 124A.
- It clarified that in democratic India sedition laws would only be used against the 'tendency to incite violence or cause public disorder'.
- The commission defines tendency as a slight inclination and is decided by a policeman.
- Any alleged misuse of Section 124A of IPC should not be a reason to repeal the law and it should be reined in by laying down adequate procedural safeguards

### **Why there is an uproar against the recommendation?**

- The Commission recommends for the enhancement of punishment when there is a universal demand for the scrapping of this law.
- It attempts to bring sedition within the framework of reasonable restriction under Article 19(2).
- The law of sedition in Section 124A of the IPC is considered a colonial vestige and unconstitutional in a democratic country.
- The disaffection towards a government should not be an offence in a democratic republic where the people have the freedom to change a bad government.

### **References**

1. [The Hindu | Sedition: Illogical equation of government with state](#)
2. [The Hindu | Law Commission's recommendation on sedition](#)
3. [Supreme Court Observer | 279th Law Commission Report](#)

