

Companies Act vs. Judiciary

What is the issue?

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The domain conflict between the provisions of the Companies Act and the higher judiciary has been brought to the fore by the 'Unitech Case'.

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What are the provisions of the companies Act, 2013?

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- The act is to amend and consolidate laws relating to companies.
- It notably includes preventing mismanagement of companies through the 'National Company Law Tribunal' (NCLT).
- Any company member or the larger public can apply to the tribunal against the alleged harmful conduct of the company.
- The Union government too can apply to the NCLT and seek orders, if it feels there has been some serious misconduct.

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What is the Unitech Case?

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- Unitech is a real-estate Company that allegedly violated multiple provisions of the Companies Act.
- It had taken large amounts as advances from 19000 persons who were keen to get a home but construction wasn't even commenced.
- It was apparently clear that its affairs were being conducted in a manner prejudicial to everyone apart from the promoters.

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- Consequently, the Economic Offences Wing of the Delhi Police arrested the promoter and the case reached the Supreme Court.
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- In order to save home buyers and depositors, the SC ordered Unitech to deposit some levy at regular intervals.
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What are the recent developments?

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- While the case is pending in the Supreme Court, the Centre approached the NCLT and requested that all the directors of the company be removed.
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- While the Tribunal obliged the government's request and passed an order accordingly, Unitech approached the SC.
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- The SC expressed its displeasure over the NCLT's move as it was already handling the case and stayed the tribunal's initial order.
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- This implies that provisions of the companies act for reigning in mismanagement would be effective only if the higher courts aren't involved.
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- This could happen only when the aggrieved party isn't inclined to approach the courts or doesn't have the resources for the same - both of which are rare.
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Source: Business Line

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