

Striking Down of Beggary Act

Why in news?

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- Delhi High Court has struck down as unconstitutional, certain sections of Bombay Prevention of Beggary Act, 1959, as extended to Delhi.

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- It, thereby, has decriminalised beggary.

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What is the Act about?

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- There is no any central Act in India on beggary.

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- Hence many states and Union Territories have used the Bombay Prevention of Beggary Act, 1959 as the basis for their own laws.

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- The objective was to keep the streets of then Bombay clear of the destitute, leprosy patients or the mentally ill.

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- It was formulated with the hope that they could be sent into institutions.

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What are the contentious provisions?

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- The Act, essentially, criminalises begging.

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- It gives police the power to arrest individuals without a warrant.

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- It gives magistrates the power to commit them to a “certified institution” (a detention centre).

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- Detention could be up to 3 years on the commission of the first “offence”, and up to 10 years upon the second “offence”.
- Their privacy and dignity is ignored by compelling them to allow themselves to be fingerprinted.
- It authorises the detention of people “dependant” upon the “beggar” (read as family) and separation of children over the age of 5.
- Certified institutions have absolute power over detainees.
- This includes the power of punishment, and the power to exact “manual work”.
- Disobeying the rules of the institution can land an individual in jail.

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- There were concerns that the Act was violating the fundamental rights of the citizen.
- The Delhi HC order is the first in the country to strike down provisions of the 1959 Act.

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What is the Court's order and observations?

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- Among the 25 provisions struck down are those:

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- permitting the arrest, without a warrant, any person found begging
- taking the person to court
- conducting a summary inquiry
- detaining the person for up to 10 years

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- The court has not struck down provisions that do not treat beggary per se as an offence.

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- It has also not struck down a Section that deals with penalty for employing or causing persons to beg.

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- This addresses forced begging or “begging rackets”, which are used to justify retaining the Act.

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- Activists advocating repeal of the Act, however, say that these can be dealt with existing provisions in the Indian Penal Code.

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- **Observations** - The Bench held that the Begging Act violated Article 14 and Article 21 of the Constitution.

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- The government argued that it did not intend to criminalise “involuntary” begging.

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- Court, however, noted that the definition of begging under the Act made no such distinction and therefore entirely arbitrary.

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- It also held that under Art 21, it was the State’s responsibility to provide the basic necessities for survival to all its citizens.

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- It stressed that poverty was the result of the state’s inability or unwillingness to discharge these obligations.

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- Therefore, the state could not criminalise the most visible and public manifestation of its own failures.

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What are the alternatives?

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- **Bill** - The Centre made an attempt at repealing the Act through the Persons in Destitution (Protection, Care and Rehabilitation) Model Bill, 2016.

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- It had provisions including doing away with the Beggary Act and some provisions also allowed detention.

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- It also proposes rehabilitation centres for the destitute in each district.
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- But the discussion on the Bill was halted in 2016.
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- **Bihar model** - Bihar government has the Mukhyamantri Bhikshavriti Nivaran Yojana in place.
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- Under this, instead of detaining persons under the Act, open homes were set up.
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- Through this, community outreach for destitute persons was put in place.
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- Now, rehabilitation centres have been set up, with facilities for treatment, family reintegration and vocational training.
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Source: Indian Express

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