

## Suspension of the operation of Sedition Provision

### Why in news?

The Supreme Court has suspended the operation of the sedition provision, Section 124A of the Indian Penal Code while allowing the government to reconsider the British-era law.

### What is the sedition law?

- Thomas Macaulay, who drafted the Indian Penal Code, had included the law on sedition, but it was not added in the code enacted in 1860.
- In 1890, sedition was included as an offence under section 124A IPC through the Special Act XVII.
- Under it, whoever brings or attempts to bring hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India shall be punished.
- The provision was extensively used to curb political dissent during the Independence movement.
- Several pre-independence cases involving Section 124A of the IPC includes Bal Gangadhar Tilak, Annie Besant, Shaukat and Mohammad Ali, Maulana Azad and Mahatma Gandhi.

### What are the legal challenges to IPC Section 124A?

- The Supreme Court in **Romesh Thapar v State of Madras** held that criticism of the government is not a justifying ground for restricting the freedom of expression and of the press, unless it undermines the security of or tend to overthrow the state.
- The Punjab and Haryana High Court in **Tara Singh Gopi Chand v. The State (1951)**, and the Allahabad High Court in **Ram Nandan v. State of Uttar Pradesh (1959)** declared the provision unconstitutional.
- However, the Supreme Court in **Kedarnath Singh v State of Bihar(1962)** upheld the constitutional validity of IPC Section 124A.
- It also attempted to restrict its scope for misuse.
- So, unless accompanied by an incitement or call for violence, criticism of the government cannot be labelled 'sedition'.
- Seven principles in the Kedar Nath Singh ruling specify situations in which the charge of sedition cannot be applied.
- The ruling in **Balwant Singh v. State of Punjab (1995)**, reiterated that the real intent of the speech must be taken into account before labelling it seditious.
- In **Dr. Vinayak Binayak Sen v. State of Chhattisgarh (2011)**, the court held that a person can be convicted for sedition if she is not the author of the seditious speech but has merely circulated it.
- In 2016, in **Arun Jaitley v State of Uttar Pradesh**, the Allahabad High Court held that criticism of the judiciary or a court ruling would not amount to sedition.
- In **Vinod Dua v Union of India**, the SC quashed FIRs with charges of sedition against the journalist for criticising Prime Minister's handling of the Covid-19 crisis and cautioned against unlawful application of the provision.

- The reports of the Law Commission of India and even the Supreme Court have underlined the rampant misuse of the sedition law.

*Countries such as the United Kingdom, Australia and Singapore have repealed their sedition law.*

## **What do the data on sedition cases reveal?**

- The National Crime Records Bureau (NCRB) has started compiling data on sedition since 2014 and 399 sedition cases have been filed across the country, including a high of 93 in 2019, and 73 in 2020.
- The conviction rate in cases filed under the sedition law has fluctuated between 3% and 33% over the years, and the pendency of such cases in court reached a high of 95% in 2020.
- The chargesheeting rate of police too has been low.
- As many as 23 cases were found to be false or a mistake of law and 58 were closed for lack of evidence.
- Pendency of cases with police rose from 72% in 2016 to 82% in 2020.
- In 2019, when the highest number of sedition cases were registered in the country, Karnataka had the most at 22, followed by Assam, J&K, Uttar Pradesh and Nagaland.

## **What does the current move of the Supreme Court signify?**

- The Union government has said that it has decided to re-examine and reconsider the provision as part of the Prime Minister's efforts to scrap outdated laws and compliance burdens.
- This has given hope for the Court to expect that government will refrain from registering any fresh case of sedition or any investigation.
- The Court's move has given liberty to the people to approach the courts if any fresh case is registered for sedition.
- Courts have pointed out that the police authorities are not heeding the limitation imposed by a 1962 Constitution Bench of the Supreme Court on what constitutes sedition.
- In practice, the police have been using the broad definition of sedition to book anyone who criticised the Government in strong language.
- Undertrials booked under Section 124A can now use the order to seek bail.
- The court's interim order balances security interests and integrity of the state on one hand, and the civil liberties of citizens on the other.

## **References**

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