

US Executive Privilege - Robert Mueller's Report

Why in news?

The US White House invoked executive privilege to block the release of Special Counsel Robert Mueller's report.

What is executive privilege?

- Executive privilege is a legal principle that allows the president to refuse to comply with demands for information.
- E.g. congressional subpoenas (a writ ordering a person to attend a court)
- Executive privilege is not explicitly mentioned anywhere in the Constitution.
- But the Supreme Court has said that it is "fundamental to the operation of government and inextricably rooted in the separation of powers under the Constitution."
- It is generally used to keep private the nature of conversations the president has with advisers, or internal discussions among executive branch officials.
- The idea is that the White House operates more effectively if the president and his aides can have private, confidential conversations.
- The Court had held that president's right to privacy in his communications must be balanced against Congress' need to investigate and oversee the executive branch.
- But it is also widely understood that executive privilege cannot be used to cover up wrongdoing.

How effective can its use be?

- An executive privilege claim is particularly weak when Congress has invoked its power to remove a president through impeachment.
- In the impeachment context, virtually no part of a president's duties or behaviour is exempt from scrutiny.
- If the requisite documents are not produced, Congress can vote to hold administration officials "in contempt of Congress".
- It can then go to court and ask a judge to issue an order forcing them to comply.
- The judge would then decide the merits of an executive privilege claim.

What is the current dispute?

- The Special Counsel Robert Mueller's report relates to investigations into Russian interference in the 2016 presidential election.
- The report concluded that Russia interfered in the elections, favouring Mr. Trump.
- Recently, the US's House judiciary committee voted along party lines to hold the US attorney general Mr Barr in contempt of Congress.
- This was after he failed to hand over a more complete version of the Mueller's report as well as the underlying documents.
- The move escalated a constitutional clash between the Democratic-controlled House of Representatives and Republican President Trump.
- There were differences over the House's powers to investigate the President, his administration, his family and his business interests.

What is Trump's stance?

- Trump is obstructing the Congress on multiple probes, criticising the investigations as “presidential harassment.”
- In an unusual move, he is even suing to stop the release of some materials that lawmakers want.
- The executive privilege is a tool which Trump could use as investigations close in on him.
- It is hard to be certain if Trump can withhold the report and underlying evidence through this.
- To prevail in court the White House will need to be more specific about which documents are protected by executive privilege.

Source: Indian Express

