

L-G should not be an obstructionist: SC

Big day: Delhi Chief Minister Arvind Kejriwal with Deputy CM Manish Sisodia in New Delhi .PTI

The Lieutenant-Governor should act as a “facilitator” for good governance in the national capital and not as an “obstructionist”, a five-judge Constitution Bench of the Supreme Court unanimously held on Wednesday.

It trimmed the Lieutenant-Governor’s authority, saying he cannot exercise his discretion in “each and every matter” of daily governance. His discretionary powers are in fact limited to only matters in the State List — public order, police and land — over which the legislative power of the Delhi Legislative Assembly stand excluded under Article 239AA.

Moreover, the NCT government need only to inform the L-G of its “well-deliberated” decisions. The government need not obtain his “concurrence” on every issue of day-to-day governance. The court said its nine-judge Bench judgment in the *NDMC versus State of Punjab* of 1996 makes it “clear as noon” that Delhi was not a “State”. In fact, the Union still has the power to make laws on issues coming within the legislative domain of the Delhi Assembly.

And for this reason again, the court said, the L-G cannot be given the status of a “State Governor”. In fact, he is nothing but an ‘Administrator’, that too, in a limited sense. “The status of NCT of Delhi is *sui generis*, a class apart,” Chief Justice Misra observed.

The court held that the elected government could make policies on laws enacted by its own Assembly. The executive power of the NCT government was co-extensive with its legislative powers, Chief Justice Misra clarified.

“The exercise of establishing a democratic and representative form of government for the NCT of Delhi would turn futile if the government of Delhi, that enjoys the confidence of the people of Delhi, is not able to usher in policies and laws over which the Delhi Legislative Assembly has power to legislate,” he wrote.

Prolonged spat

Referring to the prolonged spat between the L-G and the Arvind Kejriwal government on various issues, including a freeze on appointments of bureaucrats to mohalla clinic staff and schoolteachers, the Chief Justice said the spirit of collective responsibility in the Constitution should not be lost in drama. Constitutional discord should be avoided. There is a need for real discipline and wisdom, he said. A freeze on government decisions by the L-G negates the very concept of “collective responsibility”. The governance of the national capital demands a “meaningful orchestration of democracy” and a “collaborative federal architecture.”

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