

DELHI UNDERMINED: THE HINDU EDITORIAL ON CENTRE'S BID TO RUN THE NATIONAL CAPITAL TERRITORY

Relevant for: Indian Polity | Topic: Issues and Challenges Pertaining to the Federal Structure, Dispute Redressal Mechanisms, and the Centre-State Relations

The Centre's [Bill seeking to amend the law relating to the running of the National Capital Territory of Delhi](#) claims that it is aimed at giving effect to the interpretation given by the Supreme Court judgments on Delhi's governance structure. The proposed changes are the very antithesis of what the Court has said. The Bill, if it becomes law, will wholly undermine the Court's efforts to strengthen the elected government *vis-à-vis* the appointed Lieutenant Governor. The Constitution Bench verdict of July 4, 2018, said: "The Lieutenant Governor has not been entrusted with any independent decision-making power. He has to either act on the 'aid and advice' of the Council of Ministers, or he is bound to implement the decision taken by the President on a reference being made by him." The 'aid and advice' clause pertains only to matters on which the elected Assembly has powers under the State and Concurrent Lists, but with the exception of public order, police and land, and, wherever there are differences between the L-G and the elected government, the former should refer the question to the President. The Court was at pains to clarify that the power to refer "any matter" to the President did not mean that "every matter" should be referred thus. The guiding principle was that the elected government should not be undermined by the unelected administrator. The Bill introduced in the Lok Sabha does violence to this interpretation.

The Bill seeks to declare that in the context of legislation passed by the Delhi Assembly, all references to the 'government' would mean the "Lieutenant Governor". Indeed, Delhi is a Union Territory; but it is somewhat incongruous for a territory with an elected House to be declared the sole domain of the L-G. The apex court had rightly concluded that the scheme set out in the Constitution and the Government of National Capital Territory of Delhi Act, 1991, envisages a collaborative structure that can be worked only through constitutional trust. The proviso to Article 239AA, which empowers the L-G to refer a difference of opinion with the Council of Ministers to the President, does not mean that the administrator is given an opportunity to come up with a different opinion on every decision made by the Ministry. Yet, it is precisely what the Bill proposes to do. And it is quite incongruous that instead of Parliament identifying the matters on which the L-G's opinion should be sought, the Bill proposes that the L-G himself would specify such matters. The clause that declares void any rule that empowers the Assembly or its Committees to discuss any matter of day-to-day administration or conduct enquiries amounts to a rollback of representative government. The 'Union Territory' concept is one of the many ways in which India regulates relations between the Centre and its units. It should not be used to subvert the basis of electoral democracy.

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