

EXECUTIVE BEST SUITED TO DECIDE ON POLICY, SAYS SC

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

Banking on judges to resolve questions of “pure policy” diminishes the role of other political organs, the Supreme Court said in a judgment upholding the Centre’s one rank, one pension (OROP) scheme on Wednesday.

Noting that there is an increasing trend of challenging issues of policy in courts, a Bench led by Justice D.Y. Chandrachud said unhappiness over government policies in a democracy were better resolved through democratic dialogue rather than adjudication.

“Increased reliance on judges to solve matters of pure policy diminishes the role of other political organs in resolving contested issues of social or political policy which require democratic dialogue,” Justice Chandrachud said. Courts are more suitable to answer “either, or” problems. “Most questions of policy involves complex considerations of technical and economic factors. They involve balancing competing interests for which democratic reconciliation, rather than adjudication, is the best remedy,” the court observed.

Cases of exception

The court referred to how petitioners have challenged the OROP scheme through public interest litigation (PIL) in court when the issue pertained to a domain reserved for executive policy.

Decisions on policy matters are more suitably addressed by elected representatives as they require negotiations, trade-offs and a consensus-driven decision-making process, the court said.

However, the court said, the judiciary cannot refuse to intervene if a government policy impinges on constitutional rights.

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