

## 'SC has power to review laws'

The judiciary has no power of the “sword or the purse,” but it has the power to ensure that both the government and Parliament function within their limits, the Supreme Court reinforced its authority to judicially review government policies and parliamentary laws.

The judgment from a five-judge Constitution Bench led by Chief Justice of India Dipak Misra comes amidst constant attacks aimed at the highest court for judicial activism, interference in governmental actions and even its quashing of the NJAC law.

The observations form part of three concurrent judgments authored by Chief Justice Misra, Justices D.Y. Chandrachud and Ashok Bhushan for the Constitution Bench which also comprised Justices A.M. Khanwilkar and Ashok Bhushan. The question of law before the Bench was whether the Supreme Court can use parliamentary committee reports as evidence.

The government had countered that a judicial review of parliamentary panel reports would be a breach of parliamentary privilege and a violation of the doctrine of separation of powers, which fundamentally mandates that the three arms of governance — the legislature, the executive and the judiciary — do not encroach into each other's turfs. The Chief Justice wrote that 'separation of powers' does not mean mere division of labour among the three branches. “There can really be no strait-jacket approach in the sphere of separation of powers when issues involve democracy, the essential morality that flows from the Constitution, interest of the citizens in certain spheres like environment, sustenance of social interest, etc. and empowering the populace with the right to information or right to know in matters relating to candidates contesting election.”

Justice Chandrachud interpreted that the “doctrine of separation of powers also seeks to incorporate mutual supervision, interdependence and coordination because the ultimate aim of the different branches of the government, through their distinct functions, is to ensure good governance ...”.

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