

3. Citizenship Amendment Act, 2019: Centre – State Rights

Prelims Level: Polity & Governance

Mains Level: GS-II Functions and responsibilities of the Union and the States, Issues and Challenges Pertaining to the Federal Structure, Devolution of powers and finances up to local levels and Challenges Therein.

Context:

- Some of the opposition-ruled states have declared - they will not implement the changes in the Citizenship Act. Kerala, Punjab, West Bengal and Chhattisgarh have claimed that they will block implementation of the CAA in their states.

Citizenship Amendment Act, 2019:

- The Act seeks to provide Indian citizenship to religiously **persecuted Hindu, Parsi, Christian, Buddhist, Jain and Sikh** immigrants from **Pakistan, Bangladesh and Afghanistan**, with a cut-off date of their entry into India on **December 31, 2014**.
- The **Act does not apply to** tribal areas of Tripura, Mizoram, Assam and Meghalaya because of being included in the **6th Schedule** of the Constitution.
- Also, the areas that fall under the **Inner Limit** notified under the **Bengal Eastern Frontier Regulation, 1873**, will also be outside the Act's purview

The Centre – State Rights:

- While Kerala, Punjab and West Bengal had reserved their apprehension to this amendment, the Chief Minister of Madhya Pradesh indicated that his government is against the law.
- The Maharashtra government cited that it will take its decision on the implementation of the Citizenship Amendment Act only after the Supreme Court hears a bunch of petitions challenging the legislation.
 - ✓ Meanwhile, the Defence minister had announced that the threat by some states not to implement the Citizenship Amendment Act (CAA) is a challenge to India's federal structure as the legislation has been passed by Parliament and is binding on all states after the presidential assent.

Important questions that are arising from the Issue are -

- What is the extent of a state government's role in implementing the Citizenship Act?
- Can the Centre implement the law without the help of the state government?

What is the extent of a state government's role in implementing the Citizenship Act?

- Any law requires rules to implement it. Such rules are termed as subordinate legislation in legal parlance and are framed by the respective governments through powers provided in the parent Act.
- Under **Section 11 the Citizenship Rules, 2009**, the authority for processing applications for citizenship, both through registration and naturalisation, is the **District Collector**. The District collector function under the authority of the state government.
- As per **Section 12 (2) of the Citizenship Rules**, the **state government** shall forward the application along with its recommendation and the report of the collector to the Central Government.
- A maximum of 90 days is fixed both for the collector and the state government to complete the process, although the Citizenship Rules allow for a delay on account of special reasons.
- It is here where the state governments could stall the process. They could simply stop processing applications under the Citizenship Amendment Act, 2019.
 - ✓ As per the existing rules, if the application is not forwarded by the state government within 90 days, the applicant may make a representation to the Ministry of Home Affairs by enclosing a copy of the acknowledgement issued by the collector. However, **the Union Home Ministry cannot do more than urging the state government to expedite the process.**

Can the Centre implement the law without the help of the state government?

- The Citizenship Amendment Act, 2019 has inserted **Section 6B** into the principal Act.

- According to the Section 6B, the Central Government or an authority specified by it in this behalf may, grant a certificate of registration or certificate of naturalisation to a person.
- Citizenship Amendment Act, 2019 also inserted a specific clause under Section 18 to ensure the **Central government can change the rules** governing the new clauses for persecuted minorities from the three countries.
- This reinforces the Central government's powers to amend the Citizenship Rules and **declare someone other than the District Collector as the authority** to deal with the citizenship applications.

Can the Centre's powers be Questioned?

- Under the Citizenship Act, it is mandatory for the Centre to place any amendments made to the rules before Parliament.
- Within 30 days of the tabling of amendments, **any member of Parliament can demand a discussion and a vote to modify or scrap the changes made to the rules.**
- However, PRS Legislative Research data shows that, these rules are rarely scrutinised by Parliament.
- No discussion on specific rules has taken place in Parliament in the 14th and 15th Lok Sabha [between 2004-2010].

The Centre-State Tussle:

- On **disputes between states and Centre**, there is always the provision of going to the Supreme Court (under original jurisdiction).
- However, when the implementation is under concern, the **states really have no role** because **the Grant of citizenship is an act by the Centre.**
 - ✓ In case of **the movement of refugees**, a state subject, which comes under **law and order**, state may act against the Centre's moves. For example, the state government can choose not to round up refugees and move them to a detention centre.

What happens when a state refuses to carry out the Centre's orders?

- In such a case, the **Centre can invoke Article 256** of the Constitution to issue directions to the state.
- According to the Article 256, which defines the **obligation of states and the Union**, the executive power of the Union extends to giving of any such directions to a State, as may appear to the Government of India to be necessary for any purpose.
 - ✓ Though many of the provisions in the Citizenship Amendment Act were considered to be against the fundamental ideas enshrined in the Constitution, the fate of the law lies with the Guardian of the Constitution, the Supreme Court.

