

1. Ninth Schedule

Prelims Syllabus: Rights Issues

Mains Syllabus: GS-II Welfare schemes for vulnerable sections of the population by the Centre and States and the performance of these schemes; Mechanisms, Laws, Institutions and Bodies constituted for the protection and betterment of these vulnerable sections.



Why in News?

- The Jharkhand Assembly has cleared two Bills, but these changes will come into force only after the Centre carries out amendments to include these in the Ninth Schedule of the Constitution.

What are these Bills?

- **Jharkhand Reservation of Vacancies in Posts and Services (Amendment) Bill, 2022:**
 - ✓ It raises reservations to 77%.
 - ✓ Within the reserved category, the Scheduled Castes will get a quota of 12 %, up from 10%; 27% for OBCs, up from 14%; 28% for Scheduled Tribes, a 2 % increase; and 10% for Economically Weaker Sections (EWS).

Jharkhand Local Persons Bill, 2022:

- It aims at granting local residents “certain rights, benefits, and preferential treatment” over their land; in their stake in local development of rivers, lakes, fisheries; in local traditional and cultural and commercial enterprises; in rights over agricultural indebtedness or availing agricultural loans; in maintenance and protection of land records; for their social security; in employment in private and public sector; and, for trade and commerce in the state.

Why is there need to Include in Ninth Schedule?

- The 77 % reservation breaches the 50 % ceiling set by the Supreme Court in the 1992 Indra Sawhney v Union of India verdict.
- However, placing a legislation in the Ninth Schedule shields it from judicial scrutiny.
- Previously, the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1993, reserved 69 % of the seats in colleges and jobs in the state government.

What is the Ninth Schedule?

- The Schedule contains a list of central and state laws which cannot be challenged in courts and was added by the Constitution (First Amendment) Act, 1951.
- The first Amendment added 13 laws to the Schedule. Subsequent amendments in various years have taken the number of protected laws to 284 currently.
- It was created by the new Article 31B, which along with Article 31A was brought in by the government to protect laws related to agrarian reform and for abolishing the Zamindari system.
- While Article 31A extends protection to ‘classes’ of laws, Article 31B shields specific laws or enactments.
- While most of the laws protected under the Schedule concern agriculture/land issues, the list includes other subjects.
- Article 31B also has a retrospective operation which means that if laws are inserted in the Ninth Schedule after they are declared unconstitutional, they are considered to have been in the Schedule since their commencement, and thus valid.
- Although Article 31B excludes judicial review, the apex court has said in the past that even laws under the Ninth Schedule would be open to scrutiny if they violated Fundamental Rights or the basic structure of the Constitution.

Are Laws in the Ninth Schedule completely Exempt from Judicial Scrutiny?

- **Keshavananda Bharati v. State of Kerala (1973):** The court upheld the judgement in Golaknath and introduced a new concept of “Basic structure of the Indian Constitution” and stated that, “all provisions of the constitution can be amended but those amendments which will abrogate or take away the essence or basic structure of constitution which included Fundamental Rights are fit to be struck down by the court”.

- **Waman Rao v. Union of India (1981):** In this important judgement, the SC ruled that, “those amendments which were made in the constitution before 24th April 1973 (date on which judgement in Keshavananda Bharati was delivered) are valid and constitutional but those which were made after the stated date are open to being challenged on the ground of constitutionality.
- **I R Coelho v. State of Tamil Nadu (2007):** It was held that every law must be tested under Article 14, 19 and 21 if it came into force after 24th April 1973.
- In addition, the court upheld its previous rulings and declared that any act can be challenged and is open to scrutiny by the judiciary if it is not in consonance with the basic structure of the constitution.
- In addition, it was held that if the constitutional validity of any law under the ninth schedule has been upheld before, in future it cannot be challenged again.

Way Forward:

- Although reservation is necessary, it should also be open to judicial scrutiny in order to ensure any abrupt or irrational policy initiative by the Executive or the Legislature.
- Any loophole or shortcomings in reservation policy must be addressed by involving various stakeholders. The need of the hour is not to go to extremes of either scrapping or shielding reservation policy, rather a rational framework on this contentious policy must be developed.

2. Eklavya Model Residential Schools

Prelims Syllabus: Schemes

Mains Syllabus: GS-II Issues relating to development and management of Social Sector or Services relating to Health, Education, Human Resources.



Why in News?

- The government is pushing to set up 740 Eklavya Model Residential Schools (EMRS) for Scheduled Tribe (ST) students.

What are EMRS?

- EMRS is a scheme for making model residential schools for STs across India.
 - ✓ It started in the year 1997-98.
 - ✓ Its nodal ministry is Ministry of Tribal Affairs.
 - ✓ The aim of the scheme to build schools at par with the Jawahar Navodaya Vidyalayas and Kendriya Vidyalayas with focus on special state-of-the-art facilities for preserving local art and culture besides providing training in sports and skill development.
 - ✓ The EMR School follows the CBSE curriculum.
- In 2018-19, revamping of the EMRS scheme was approved by the Cabinet.
 - ✓ Since the new guidelines have been put into place, the Ministry of Tribal Affairs sanctioned 332 of the targeted 452 schools till 2021-22.
 - ✓ As of November 2022, a total of 688 schools have been sanctioned, of which 392 are functional.
 - ✓ Of the 688, 230 have completed construction and 234 are under construction, with 32 schools still stuck due to land acquisition issues.

What were the Old Guidelines?

- Although the Union government had sanctioned a certain number of preliminary EMRS, the States and Union Territories were responsible for seeking sanction of new schools as and when they needed it.
- The funds for these schools were to come from the grants under Article 275(1) and the guidelines mandated that unless States finished constructing the schools sanctioned by the Centre, they would not be entitled to funds for new ones.
- Apart from the infrastructural requirements of 20-acre plots for each EMRS, the guidelines did not have any criteria of where the EMRS could be set up, leaving it to the discretion of State governments.

What are the New Guidelines?

- The new guidelines in 2018-19 gave the Union government more power to sanction schools and manage them.

- A National Education Society for Tribal Students (NESTS) was set up and entrusted with the management of the State Education Society for Tribal Students (SESTS), which would run the EMRS on the ground.
- The new guidelines set a target of setting up an EMRS in every tribal sub-district and introduced a “population criteria” for setting them up.
- One EMRS will be set-up per sub-district that has at least a 20,000-odd Scheduled Tribe (ST) population, which must be 50% of the total population in that area.
- The minimum land requirement for setting up an EMRS was reduced from 20 acres to 15 acres.

What are the Challenges?

- **Requirement of 15-acre Area:**
 - ✓ As per the Standing Committee Report, requirement of 15-acre area is making the identification and acquisition of land troublesome, especially in hilly areas, leftwing extremism-affected areas and the northeast.
- **Population Criteria:**
 - ✓ The Standing Committee noted that the population criteria is depriving a scattered tribal population of the benefit of EMRS. Sometimes, when the population criteria are fulfilled, 15-acre plots are not available.
- **Shortage of Teachers:**
 - ✓ Despite the setting up of the NESTS, there was a shortage of teachers.
 - ✓ Though the new guidelines allowed NESTS to suggest measures for teacher recruitment, they never made them mandatory for the States to follow.
 - ✓ This led to non-uniformity in the quality of teachers, not enough recruitment in reserved positions, and a large number of schools recruiting teachers contractually, in a bid to save on salary expenses.
 - ✓ As of July 2022, all functional EMRS had a teaching strength of just under 4,000 against the 11,340 recommended by NESTS.

Way Forward:

- Guidelines regarding area of land and population criteria should be relaxed so that the less dense tribal populations can also reap the benefit of EMRS scheme.
- More control of school management should be given to NESTS to overcome the shortage of teachers.
- Also, mandatory guidelines about teacher recruitment must be issued for the States.

3. The significance of the Bali G-20 summit

Prelims Syllabus: International Relations

Mains Syllabus: GS-II International Relations | Important International Institutions, International Institutions



Why in News?

- Seventeenth G20 summit will be held in Bali.

Highlight:

- The leaders of G-20 countries will gather at the Nusa Dua resort of Bali for the 17th summit. However, the Russian President will not participate in the summit and Russia will be represented by Foreign Minister Sergey Lavrov.
- The summit will focus on post-pandemic recovery and tackling food and energy security that have been severely impacted by the Russian war in Ukraine.

G-20:

- G-20 was established in 1999 as an acceptable medium between the elitist G-7 (G-8 earlier) and the Organisation for Economic Co-operation and Development (OECD).
- It was perceived to be a more unified group and over the years it has become a more representative and egalitarian organization. It has played a crucial role in the global economy, particularly after the global financial crisis and the banking collapse of 2008.
- G-20 countries comprise 85% of the global GDP, 75% of global trade, and 66% of the global population.
- It should also be noted that in the coming year the “Troika” of G-20 will be made up of emerging economies for the first time with India, Indonesia, and Brazil. This indicates a shift towards Global South in the global economic agenda.

Agenda of the Seventeenth G-20 summit:

- **The motto for the 17th G-20 summit is:** Recover Together, Recover Stronger.
- **The representatives of the member countries will engage in discussions over three sessions:**
 - ✓ Food and Energy Security
 - ✓ Health Partnership for Global Infrastructure and Investment
 - ✓ Digital Transformation
- Moreover, Indonesian President Mr. Joko Widodo will lead the guests to Taman Hutan Raya (Indonesian Mangrove), that were restored through a 30-year project covering around 700 acres.
- This is the first G-20 summit after the Russia-Ukraine conflict and consequent western sanctions. Efforts will be made to build a global consensus on the issue.
- This summit is significant for India as Indonesia will hand over the Presidency of G-20 for the upcoming year to India. India will assume Presidency on 1 December 2022.
- Indian Prime Minister Shri Narendra Modi will also spell out the agenda for the upcoming India's G-20 presidency. It is speculated that India will focus on the Global South and the problems it is facing due to geopolitical tensions like food and fuel shortages.
- Furthermore, this would be the second time that Chinese President Xi Jinping will travel abroad after the pandemic.

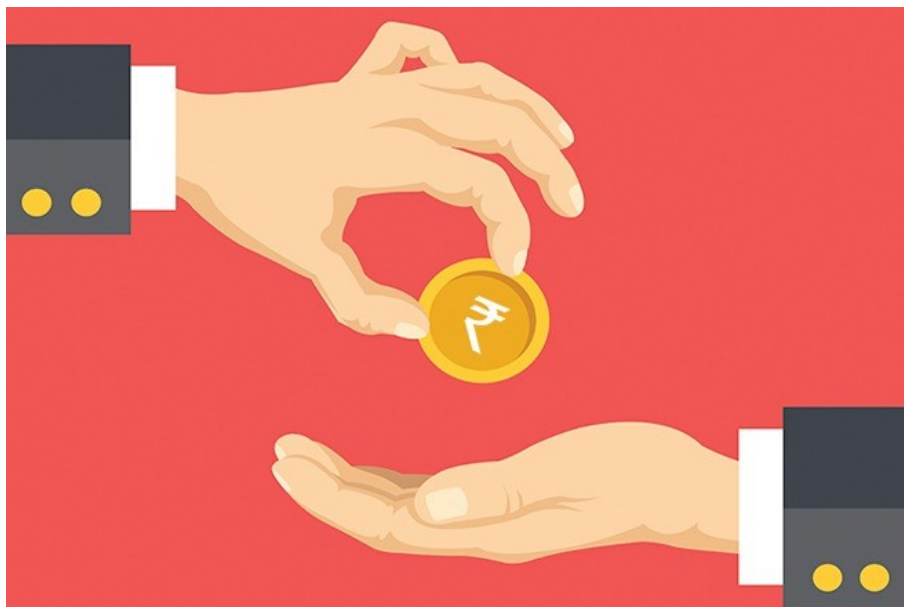
Attendees of the summit:

- The leaders of Argentina, Australia, Canada, China, the European Union, France, Germany, Italy, Japan, Saudi Arabia, South Africa, South Korea, Turkey, the U.K., and the U.S. will attend the summit in Bali, Indonesia.
- Spain is a permanent invitee. The special invitees of the summit are leaders of Cambodia, Fiji, the Netherlands, Rwanda, Senegal, Singapore, Suriname, and UAE. The Ukrainian President will attend the summit virtually.
- Additionally, heads of several international organizations like the UN, the IMF, ASEAN, and the African Union will attend the 2022 summit.
- The President of Russia and leaders of Mexico and Brazil (due to the transition in leadership) will not attend the summit.

4. Regulating the Election funding system

Prelims Syllabus: Governance

Mains Syllabus: GS-II Governance, Transparency & Accountability, Citizens Charters, Representation of People's Act



Why in News?

- Elections are to democracy what financial markets are to the economy. The absence of an omnibus law to regulate elections and political parties in India is a legislative gap waiting to be filled.

Significance of political parties in democracy:

- A political party is an organized group of citizens who hold common views on governance and act as a political unit that seeks to obtain control of government with a view to further the agenda and policy they profess.
- Political parties maintain a continuous connection between the people and those who represent them either in government or in the opposition.
- Political parties in India are extra-constitutional, but they are the breathing air of the political system.

Current procedure of recognizing and regulating the political parties In India

- **Registration of political parties:** The Representation of the People Act 1951 was amended in 1988 to add a new section IVA on “Registration of political parties” by which the Election Commission of India (ECI) exercises its mandate for superintendence, direction, and control of elections under Article 324 of the Constitution of India.

- **Recognition as national or state political party:** Association of citizens can apply to the ECI to be registered by submitting its Memorandum of Association and swearing allegiance to the Constitution. It requires fulfilment of performance criteria, including a minimum share of the electoral votes cast in the last election and the number of seats won to become a recognized national or a state party.
- **A regulatory gap in Municipal political parties:** Municipalities became the third level of government, three decades ago in 1992, through the 74th constitutional amendment. But a parallel recognition for political parties operating only at the municipal level is yet to be conceptualized.

Mechanism of Election funding:

- **Encouraging private corporates and individual investment:** Indian government does not directly fund election campaigns of parties or independents. However, it has made political parties exempt from income tax, to encourage private corporate and individual investment in building political parties.
- **Limit on election campaign expenditure:** The ECI set upper-end limits (January 2022) for election campaign expenditure in parliamentary seats at INR9.5 million and INR4 million in state legislature seats.
- Electoral bonds to end large cash payments in election finance.

Scheme of electoral bonds:

- A publicly owned commercial bank, with the largest network of branches is the only designated vendor. Bonds remain valid for 15 days within which they can be encashed through the bank account of the selected political party.
- The purchaser-donor enjoys tax credits on the purchased bonds as in any other donation to charities.
- **Association of democratic records:** The idea was to facilitate large donors, preferring anonymity whilst donating funds for elections, with an alternative to cash payments.

What is the cause of concerns over the electoral bonds?

- **Anonymity of the electoral bonds:** The anonymity afforded by the bonds is primarily versus citizens.
- **Bond vendor is a government owned bank:** SBI is a government-owned bank, which can be persuaded by the government into sharing data informally regarding the bond purchases and encashments by political parties

What can be done to ensure the security of the donor?

- **Bond Digitization:** Bonds should be digitized and the privacy of the transfer should be protected through encryption.
- **Authorized access:** Redemption is through banking the audit trail of the donor and the recipient would exist for authorized access.
- **Enhancing transparency with ECI:** Transparency should be enhanced whilst protecting anonymity by authorizing ECI to collect and publish de-personalized information.
- **Personal data should be accessed with the specific orders only:** Access for security and criminal investigation agencies to the personal data should come via a specific order of the ECI allowing such privileged access.

What are the suggestions for better governance of the political parties?

- **Strict Supervision of political parties:** Poor Intra-party governance is concentrated in the Registered Unrecognize Political Parties (RUPP). Most are in breach of their undertaking to fight an election within five years and remain active thereafter.
- **Strengthen the Regulatory compliance:** The benefit of income tax exemption should only be available after registered parties demonstrate a five-year record of compliance with the regulations.
- **Enforce inner-party democracy and avoiding conflict of interest:** Making party members occupying party positions, ineligible for holding executive positions in government. This is necessary to create a complete segregation of functions within the ruling party and the government
- **Empower ECI to regulate political parties:** The misuse of the fiscal privileges afforded to political parties can be minimized through targeted regulatory tweaks, within the existing construct of private financing and the inner functioning of parties improved through targeted regulation.

Conclusion:

- “Secrecy is a darkness where corruption gets nurtured”. Funding to the political parties need to be transparent. Transparent funding will pave the way for level playing field for all the political parties.