

1. The limits to free speech in Parliament

Prelims Syllabus: Rights Issues

Mains Syllabus: GS-II Indian Constitution- historical underpinnings, evolution, features, amendments, significant provisions and basic structure.



Why in News?

- Some opposition leaders are protesting the removal of parts of their speech on the motion of thanks on the President's address during the current session of Parliament.

What are the Highlights of Recent Judgement given for Civil Servants?

- A five-judge Constitution bench reserved its verdict on whether restrictions can be imposed on a public functionary's right to freedom of speech and expression.
- The court observed there is always a civil remedy available to citizens on account of a public functionary making a speech that affects someone.
- The court noted that irrespective of what Article 19(2) may say, there is a constitutional culture in the country where there is an inherent limitation or a restriction on what people holding responsible positions say.
- Article 19 (2) relates to the powers of the State to make laws imposing reasonable restrictions on the exercise of the right to freedom of speech and expression in the interest of sovereignty and integrity of the country, public order, decency, morality etc.

What was the Earlier Judgement?

- In 2017, a three-judge bench had referred to the Constitution bench various issues for adjudication, including whether a public functionary or a minister can claim freedom of speech while expressing views on sensitive matters.
- The need for an authoritative pronouncement on the issue arose as there were arguments that a minister cannot take a personal view and his statements have to be in sync with government policy.
- The court earlier said that it will consider whether the Fundamental Right of Speech and Expression would be governed under reasonable restriction of decency or morality or other preferred fundamental rights would also have an impact on it.

What is the Code of Conduct?

- A code of conduct is a set of rules, standards of behaviour or practices for an individual or organization that guide the decisions, procedures and systems of an organization in a way that contributes to the welfare of its stakeholders.
- For example, the Election Commission of India's Model Code of Conduct is a set of guidelines issued by the Election Commission of India for conduct of political parties and candidates during elections mainly with respect to speeches, polling day, polling booths, portfolios, election manifestos, processions and general conduct.
- Similarly, a set of codes of rules are prescribed for civil servants with regard to their conduct in performing their duties.

What are the concerns?

- A disconnect between the speeches in the parliamentary record and the publicly available version online.
- It also means that every individual (including MPs) who shared the speech as was delivered by an MP on the floor of the House is in breach of the privilege of Parliament.

What are the Seven Principles of the Code of Conduct for Civil Servants?

- **Selflessness:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

- **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership:** Holders of public office should promote and support these principles by leadership and example.

Way Forward:

- Some of the conclusions have general application across the entire public service which can be added on over and above the seven principles of public service.
- **Codes of Conduct:** All public bodies should draw up Codes of Conduct incorporating these principles.
- **Independent Scrutiny:** Internal systems for maintaining standards should be supported by independent scrutiny.
- **Education:** More needs to be done to promote and reinforce standards of conduct in public bodies, in particular through guidance and training, including induction training.