

## **2. SC on Article 142**

**Prelims Syllabus:** Constitutional Bodies, Regulatory Bodies

**Mains Syllabus:** GS-II Structure, organization and functioning of the Executive and the Judiciary  
Ministries and Departments of the Government; pressure groups and formal/informal associations  
and their role in the Polity.



### **Why in News?**

- Recently, the Supreme Court (SC) under Article 142 ruled that the lawyers and professionals with 10 years of experience will be eligible for appointment as President and member of the state consumer commission and district forums.

### **About the News:**

- The SC upheld the Bombay High Court judgement quashing the provisions of Consumer Protection Rules, 2020, under section 101 of Consumer Protection Act 2019, which prescribe a minimum professional experience of 20 years and 15 years for adjudicating members to the State consumer commissions and District forums respectively.

### **What is the Court's Ruling?**

- The Central government and the state governments concerned have to come up with an amendment in the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of President and Members of State Commission and District Commission) Rules, 2020 to provide for 10 years' experience to become eligible for appointment as President and member of the state commission and district forums instead of 20 years and 15 years respectively.

- Till suitable amendments are made, the Lawyers and professionals with a bachelor's degree who has 10 years of experience in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine will be eligible for appointment as President and member of the state consumer commission and district forums.
- It also introduced written exams and viva voce to check the candidates' performance.

### **What is Article 142?**

- Article 142 provides discretionary power to the Supreme Court as it states that the SC in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it.

### **Constructive Application:**

- In the early years of the evolution of Article 142, the general public and the lawyers both lauded the SC for its efforts to bring complete justice to various deprived sections of society or to protect the environment.
- The Cleansing of Taj Mahal and justice to many undertrials is a result of the invocation of this article only.

### **Cases of Judicial Overreach:**

- In recent years, there have been several judgments of the Supreme Court wherein it has been foraying into areas which had long been forbidden to the judiciary by reason of the doctrine of 'separation of powers', which is part of the basic structure of the Constitution. One such example is:
- The ban on the sale of alcohol along national and state highways: While the notification by the central government prohibited liquor stores along National Highways only, the Supreme Court put in place a ban on a distance of 500 metres by invoking Article 142.
- Additionally, and in the absence of any similar notification by any of the State governments, the court extended the ban to State highways as well.
- Such judgments have created uncertainty about the discretion vested in the court to invoke Article 142 where even fundamental rights of individuals are being ignored.