

## GOVERNMENT OF NCT OF DELHI V. UNION OF INDIA

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### INTRODUCTION

[The Government of NCT \(National Capital Territory\) of Delhi v. Union of India](#) case has emerged as a significant legal battle in India's constitutional landscape. It revolves around the power struggle between the elected government of Delhi and the Union government, raising crucial questions regarding federalism and constitutional provisions. The case stemmed from a longstanding dispute over the distribution of powers and responsibilities between the Delhi government and the central government.

### BACKGROUND OF THE GOVERNMENT OF NCT OF DELHI V. UNION OF INDIA

In 1991, the Constitution of India was amended to introduce [Article 239AA](#), granting special status to the National Capital Territory of Delhi. This provision established a unique governance framework, with a legislative assembly and a council of ministers responsible for the administration of Delhi and the control over Police, Land and Public Order was given to the Central Government. However, the extent of power and authority wielded by the elected government in Delhi has been a subject of contention and interpretation.

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In 2015, the Ministry of Home Affairs issued a [notification](#), in which it was mentioned that the Lieutenant Governor ('LG') of NCTD shall exercise control "to the extent delegated to him from time to time by the President" over "services", in addition to "public order", "police", and "land." The LG may seek the views of the Chief Minister of NCTD at his "discretion". [Entry 41 of the List-II of the 7th schedule of the constitution of India mentions the term "Services"](#), in which state public services are covered, and this notification shunned the power of GNCTD over a subject of state list.

The case raises critical questions regarding the interpretation of constitutional provisions, particularly [Article 239AA](#). The constitutional framework provides the foundation for the governance structure and functioning of the National Capital Territory of Delhi. The interpretation and application of these provisions have far-reaching consequences for the

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powers and functions of the Delhi government, as well as the relationship between the Lieutenant Governor and the Chief Minister.

## ISSUE

The major contention of both parties in this case was who would have control over the Services in the union territory of Delhi - the government of NCT of Delhi or the Lieutenant governor of Delhi who is acting on the behalf of Union government?

## JUDGMENTS

In 2016, the High Court of Delhi gave a verdict in favour of the Union government, in an appeal to this in the Supreme Court of India, it was observed that a substantial question of law is involved here, it is about the interpretation of [Article 239AA](#), which deals with the special status of Delhi. In 2018, the constitution bench held that the NCT of Delhi is not like the other union territories and the executive and legislative power of NCTD extends to all subjects in Lists II and III, except those explicitly excluded. In 2019, a split verdict came and still there was no proper judgment regarding this issue.

But in the [recent judgement](#), given by the Supreme Court the bench held that [Article 239-AA\(3\)\(a\)](#) confers legislative power to NCTD, however, the court stated that the Legislative Assembly of NCTD does not possess exclusive legislative powers over all the subjects listed in the State List. Its legislative authority is limited to a specific constitutional domain. If the interpretation of the phrase "in so far as any such matter is applicable to Union Territories" excludes more subjects than those already excluded by Article 239-AA(3), it would undermine the purpose of granting a "special status" to NCTD. The court drew a distinction between the control of "services" by the NCTD and the Union in relation to the NCTD. It emphasized that Entry 41, which pertains to the NCTD, cannot be given the broadest interpretation. All entries in List II, including Entry 41, must be interpreted in harmony with the limitations outlined in Article 239AA(3)(a) regarding the legislative and executive power of the NCTD. This limitation excludes matters related to "public order," "police," and "land." Therefore, the legislative and executive power of the NCTD concerning [Entry 41](#) does not encompass services associated with "public order," "police," and "land."

However, the NCTD retains authority over services like the Indian Administrative Services or Joint Cadre services, which are crucial for implementing the NCTD's policies and vision in

terms of the day-to-day administration of the region. If services are excluded from the legislative and executive domain of the NCTD, it would mean that the ministers and executives responsible for formulating policies within the territory of NCTD would not have control over the civil service officers who are responsible for implementing those executive decisions. In other words, the authority and control over civil service officers would not be within the purview of the NCTD's government. Accordingly, the court held that references to the "State Government" in the applicable rules of All India Services or Joint Cadre Services, involving the NCTD or pertaining to the NCTD, shall refer to the Government of NCTD.

The court also clarified that the Lieutenant Governor (LG) can exercise discretion in two specific categories of matters. Firstly, in cases where the issue falls outside the legislative authority of the Legislative Assembly, the President has delegated powers and functions to the LG concerning that matter. Secondly, in situations where the law requires the Lieutenant Governor (LG) to exercise his own discretion or when he is carrying out judicial or quasi-judicial functions. In these limited circumstances, the LG is empowered to exercise his own judgment and decision-making authority but in other circumstances, LG is bound to act on the aid and advice of the council of ministers while discharging executive functions within the domain of the Government of NCT of Delhi.

### **FEDERALISM AND ARTICLE 239AA OF THE CONSTITUTION OF INDIA**

[Article 239AA of the Constitution of India](#) holds great significance in shaping the governance structure of the National Capital Territory of Delhi. It provides a unique framework for the administration of Delhi, distinguishing it from other states and union territories in the country. The recent judgment of the Supreme Court of India on the Delhi government v. Union of India case has shed further light on the interpretation and implementation of this crucial constitutional provision.

[Article 239AA](#) grants special status to Delhi by conferring it with a legislative assembly and a council of ministers. It empowers the elected government of Delhi with certain executive and legislative powers, making it distinct from other union territories. This provision was inserted into the [Constitution in 1991](#) with the aim of ensuring democratic governance in Delhi, which serves as the national capital and a significant administrative centre.

The interpretation and implementation of [Article 239AA](#) have been subjects of contention and legal disputes. The recent judgment by the Supreme Court clarified several aspects,

including the distribution of powers between the Lieutenant Governor and the elected government, the authority of the Lieutenant Governor in matters of administration, and the scope of the Delhi Legislative Assembly's legislative powers.

This judgment reaffirmed the principle of federalism in India's constitutional framework and emphasized the importance of cooperative federalism, where the central government and the state governments work together for the welfare of the people. It recognized the need for harmonious functioning between the Lieutenant Governor and the elected government, emphasizing that decisions should be taken in consultation and for the benefit of the people of Delhi.

Article 239AA of the Constitution of India underscores the significance of federalism in the country's governance structure. Federalism is a core principle of the Constitution of India, which divides power between the central government and the state governments. Article 239AA specifically addresses the unique status of the National Capital Territory of Delhi (NCTD). It establishes a legislative assembly with elected representatives and a council of ministers to govern Delhi. The article grants certain powers to the elected government while reserving specific areas like land, police, and public order for the Lieutenant Governor. This provision reflects the delicate balance between centralized authority and regional autonomy, ensuring effective governance and representation in the capital city. It highlights the need for a balanced distribution of powers and the cooperative functioning of various levels of government. The [recent judgment](#) of the Supreme Court provides clarity on the interpretation of Article 239AA, paving the way for a more effective and collaborative governance system in the National Capital Territory of Delhi.

## **INDIAN FEDERALISM**

Essentially, the Indian governance system is characterized by a dual government structure comprising the Central Government and various State governments. Federalism is considered a fundamental element of the Constitution's Basic Structure.

As emphasized by the Supreme Court in the [S.R. Bommai vs Union of India](#) case, States are not subordinate entities to the Union, and it is essential for the Central Government to protect and respect the powers of the States. The Court underscored the importance of preserving the autonomy and authority of the States, ensuring that their powers are not undermined or disregarded.

About specifying the nature of Indian Federalism [Dr B.R. Ambedkar in the constituent assembly](#) said “ The constitution of India is two in one framework of government, which can be both unitary as well as federal according to requirements of time and circumstances”, this feature of our constitution emancipates us from the rigidity of being unitary or federal. Indian federalism is a unique system that establishes a delicate balance of power between the central government and the state governments. As enshrined in the Constitution of India, federalism plays a crucial role in promoting unity within diversity by granting autonomy to the states while preserving the integrity of the nation. Under this framework, powers and responsibilities are divided between the central and state governments, allowing each level to govern in their respective domains. Indian federalism not only ensures efficient governance but also provides a platform for addressing regional aspirations, cultural diversity, and local needs.

The judiciary acts as a custodian of federalism, resolving disputes and upholding the constitutional principles of federal governance. [Article 131 of the Constitution](#) of India holds significant importance in this regard, this article provides for the exclusive jurisdiction of the Supreme Court in adjudicating disputes between the central government and one or more states, or between states themselves. It serves as a safeguard, reinforcing the principles of federalism and maintaining the unity of the nation. Article 131 acts as a constitutional mechanism to resolve conflicts that may arise due to overlapping jurisdiction, disputes over powers, or disagreements regarding constitutional interpretation between the centre and the states. It upholds the federal structure by providing a legal avenue for state governments to seek redressal against any perceived infringement on their rights or encroachment on their spheres of authority.

Over the years, the Supreme Court has played a vital role in interpreting and applying Article 131, ensuring that the federal principles enshrined in the Constitution are upheld. It has delivered landmark judgments, settling disputes and clarifying the contours of federalism in India. The court's interventions have fostered cooperative federalism, promoting collaboration and consensus-building between the central government and the states. In the case of [Ganga Ram Moolchandani v. State of Rajasthan](#), the Supreme Court restated a fundamental principle: the Indian Constitution is fundamentally federal in its form and exhibits the traditional characteristics of a federal system. These characteristics include the

supremacy of the Constitution, the division of power between the Union and the States, and the presence of an independent judiciary.

By emphasizing the federal nature of the Indian Constitution, the Supreme Court affirmed the significance of the principles that underpin federalism. The supremacy of the Constitution ensures that all levels of government operate within the boundaries set by the Constitution, safeguarding the rights and principles enshrined within it. The division of power between the Union and the States is a critical aspect of federalism, granting each level of government specific areas of authority. This division ensures that power is not concentrated solely in the central government, but is distributed among the states as well, allowing for local governance and addressing regional needs effectively. The existence of an independent judiciary further reinforces the federal structure by providing a check on the powers of both the Union and the States. The judiciary acts as an impartial arbiter, ensuring that the principles and provisions of the Constitution are upheld and that any disputes between the different levels of government are resolved in a fair and just manner.

Maintaining federalism in India requires a concerted effort from all stakeholders. By prioritizing cooperative federalism, empowering state governments, clarifying roles, and respecting regional aspirations, India can preserve its unity while embracing the rich diversity of its states. With a strong commitment to the principles of federalism, India can forge ahead on a path of inclusive and sustainable development for all its citizens.

## CONCLUSION

In conclusion, the recent Supreme Court judgment on Delhi Government vs. Union of India has provided significant insights into the principles of federalism and the constitutional provisions of Article 293AA. The case has underscored the importance of maintaining a balance between the centre and states in India's federal structure.

The analysis of the judgment has shed light on the evolving nature of federalism in India and the role of state governments in the decision-making process. The Supreme Court's interpretation and application of Article 293AA have clarified the powers and autonomy of the Delhi government, setting a precedent for other states.

Furthermore, the judgment cannot be viewed in isolation but should be understood within the context of landmark judgments on federalism in India. These past rulings have played a

crucial role in shaping the understanding and implementation of federal principles. The implications of the judgment extend beyond the immediate case, impacting the relationship between the central and state governments. It highlights the need for a cooperative and harmonious approach to the functioning of the federal structure, respecting the rights and powers of both levels of government. Looking ahead, the judgment opens the door to potential future implications and considerations. It calls for a continuous evaluation and refinement of the federal framework, ensuring a dynamic and adaptable system that addresses the changing needs and aspirations of the Indian population.

In conclusion, the recent Supreme Court judgment in *GNCTD vs. Union of India* reaffirms the significance of federalism in India's constitutional fabric. It emphasizes the importance of a balanced federal structure that upholds the principles of democracy, decentralization, and effective governance at both the centre and state levels.

