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POLITY & GOVERNANCE

JJP offers to back Congress against Haryana BJP govt.

CONTEXT: Jannayak Janta Party leader and former Deputy Chief Minister of Haryana Dushyant Chautala offered to “consider” outside support to the Congress.

JJP, a partner in the BJP-led alliance government in Haryana for more than four years parted ways in March due to differences over seat-sharing for the Lok Sabha election.

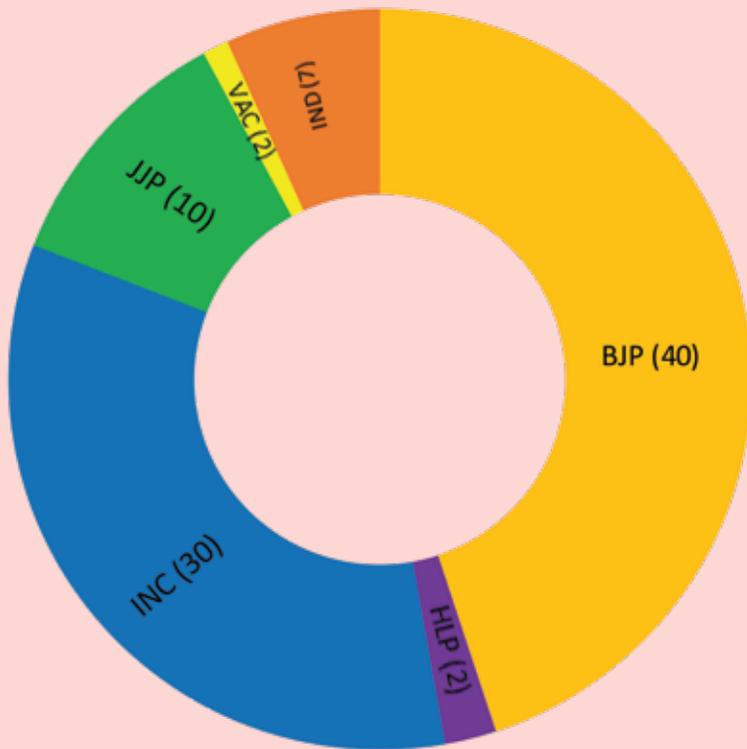


FIGURE: Pie chart representation of seats won by political parties to the Haryana State Legislative Assembly.

POLITY & GOVERNANCE

Centre says it sanctions CBI probes in other States

CONTEXT: The Supreme Court hearing an original suit filed by the State of West Bengal under Article 131 of the Constitution, accusing the Union government of “interfering” in cases originating within the State’s jurisdiction by unilaterally authorising the CBI to probe them refused to accept at face value the Centre’s claim that it has no control over the Central Bureau of Investigation (CBI).



West Bengal argued the Centre continues to employ the CBI regardless of the fact that the State had withdrawn its general consent to CBI investigations within its territory under Section 6 of the Delhi Special Police Establishment (DSPE) Act, 1946 way back in November 2018. The CBI has registered over 15 cases in West Bengal.

Section 5(1) authorises the Central government to “pass orders extending to any area (including Railway areas) in a State, not being a Union Territory, the powers and jurisdiction of members of the Delhi Special Police Establishment (CBI) or the investigation of any offences or classes of offences”.

Mr. Mehta had argued that the suit was not maintainable. West Bengal had wrongly made the Union the defendant in the suit. The petitioners were wrong to term the CBI as the “police force of the Union”. The Centre had no role in where and how the CBI conducted its investigation, he said.

Questioning this claim, Justice Mehta drew his attention to Section 5(1) of the DSPE Act, the statute which governs the premier investigating agency. Mr. Mehta further argued that the suit could not be amended to make CBI a defendant as it was not a ‘state’ under Article 131. He had submitted that original suits under Article 131 could only be filed for disputes involving the Centre and States. The court reserved its judgment on the maintainability of the original suit filed by West Bengal against the Union government.

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INTERNAL SECURITY

5,457 'illegal' migrants identified in Kamjong: Manipur CM

CONTEXT: Manipur Chief Minister N. Biren Singh noted that his government had detected 5,457 illegal immigrants in Kamjong district as of May 7, out of which biometric data has been collected for 5,173.

Since the military coup in Myanmar and the subsequent actions of the junta, many Myanmar people living near the border have crossed over into Mizoram and Manipur due to their shared ethnic ties with the people of these States.

In March this year, Mr. Singh had announced that India had started deporting the first batch of such immigrants who had crossed over. The latest remark comes even as the ethnic conflict between the Valley-based majority Meitei people and the Hills-based Scheduled Tribes' Kuki-Zo people has continued unabated for a year now, Mr. Singh has maintained that the conflict was sparked by vested interests due to his government's action against poppy cultivation and illegal immigration. The conflict has so far killed over 221 people.

Mr. Singh has consistently blamed "illegal immigrants from Myanmar" for sparking the current conflict, alluding to the Kuki-Zo people who are among those who share ethnic ties with Chin-Kuki communities of Myanmar. The Chief Minister has claimed that the number of Kuki-Zo villages had increased "unnaturally" since 1961.

ECOLOGY AND ENVIRONMENT

India is now third largest producer of solar power

CONTEXT: In 2023, India overtook Japan to become the world's third-highest producer of solar power. India generated 113 billion units (BU) of solar power in 2023 compared to Japan's 110 BU.

In terms of installed power capacity, which includes sources of renewable and non-renewable energy, India at 73 gigawatt (1 GW is one billion watts) ranks fifth in the world while Japan is at third place (83 GW), according to data computed by Ember. While reflective of the rising share of solar power in India's energy mix, the power produced per year can vary due to fluctuations in a country's power demand and local circumstances which lead to a gap between the installed capacity and actual power produced.

Large gap

As of May 2024, solar power while making up 18% of India's total installed electricity of 442 GW, made up only 6.66 % of the power actually produced – reflecting the gap between potential and actuals. Power demand in Japan decreased by 2% (2 BU) in 2023 after rising in 2021 and 2022, thus allowing India to overtake Japan. While it is unclear if this trend will sustain next year, as surpassing the next country – the United States which is in the second spot – will require India to more than double its current solar production and exceed 228 BU.

The leading producer of solar power in the world is China which produced 584 BU of solar power in 2024 – more than the next four countries combined — the United States, Japan, Germany and India.

'Future has arrived'

Globally however, renewable sources of energy made up 30% of global electricity produced. Renewables have expanded from 19% of global electricity in 2000, driven by an increase in solar and wind power, to 30% in 2023. China was the main contributor in 2023, accounting for 51% of the additional global solar generation and 60% of new global wind generation. Combined with nuclear, the world generated almost 40% of its electricity from low-carbon sources in 2023.

POLITY AND GOVERNANCE

A chance to settle a constitutional clash

CONTEXT: Two questions of seminal importance are at stake in Property Owners Association vs State of Maharashtra, in which hearings recently concluded before a nine-judge Bench of the Supreme Court of India.

First, what does the term "material resources of the community" used in Article 39(b) of the Constitution denote? Second, are laws made in furtherance of the goal stipulated in Article 39(b) — that is, legislation aimed at securing ownership of resources and distributing them to best subserve the common good — immunised from challenges premised on the fundamental rights to equality and freedom?

The second of these questions brings to sharp focus a clash between Part III of the Constitution, which delineates fundamental rights, and Part IV, which enumerates a set of "Directive Principles of State Policy" (DPSP). The Constitution expressly makes fundamental rights enforceable, while DPSPs are regarded as goals that the state is expected to work towards. The tension between these parts has simmered through India's history, reaching boiling point in the 1970s when the Constitution was routinely amended, primarily to make certain kinds of legislation exempt from judicial review.

The Supreme Court has from time to time attempted to clarify where the law stands, starting with the verdict of its 13-judge Bench in Kesavananda Bharati vs State of Kerala (1973). But the conflict has never really gone away. The uneasy relationship between the two parts has now reared its head again. How the Bench in Property Owners answers the reference made to it will have a deep bearing on the Constitution's future course.

At its inception, the Constitution's bare text was clear enough. Article 13 declared that any law made in breach of a fundamental right would be void. Article 37, on the other hand, declared that DPSPs will not be "enforceable in any court". Yet, it said that its precepts would be treated as fundamental in the country's governance and the State would be obliged to apply them in making laws.

The Court in some of its earliest judgments described the hierarchy. Part III, wrote Chief Justice S.R. Das, in Mohd. Hanif Quareishi vs State of Bihar (1958), cannot be reduced to "a mere rope of sand". He said, "the State should certainly implement the directive principles, but it must do so in such a way that its laws do not take away or abridge the fundamental rights".

The introduction of Article 31C

This balance came unstuck when the Constitution was

amended in 1971. Through the 25th amendment, Parliament, in a bid to place some of its laws beyond judicial review, introduced a new provision, Article 31C. This provision stipulated that a law giving effect to clauses (b) and (c) of Article 39 — which respectively entreated the state to make legislation towards securing the material resources of the community and towards implementing an economic system that does not result in concentration of wealth — could not be declared void on the ground that it violated the rights conferred by Articles 14 or 19. This meant that the laws so made were exempt from any challenge on grounds that they contravened the right to equality under Article 14 or one of the other of the bundle of freedoms contained in Article 19, including the rights to freedom of expression, and to profession, business, and trade.

Consider the consequences: Parliament might believe that the printing press is a material resource of the community. It might then proceed to nationalise the media. The measure, it might say, is made with a view to securing the common good under Article 39(b). As an upshot of the 25th amendment, this law could neither be challenged on the ground that it did not subserve the common good nor could it be found void on the ground that it infringed our right to free speech.

Kesavananda alleviated some of these potentially drastic results. Through a narrow majority of seven to six, with Justice H.R. Khanna's controlling opinion tipping the balance, the Court found that an amendment which offended the Constitution's basic structure would be void. Justice Khanna further found that the 25th amendment partially fell afoul of this theory. He held that to the extent that it forbade any examination on whether a law made was in furtherance of Articles 39(b) and (c) it transgressed the principle of judicial review. But he upheld the amendment insofar as it protected such laws from challenges grounded on Articles 14 and 19. Oddly though, the six judges who otherwise formed part of the minority, by holding that Parliament had unlimited power to amend the Constitution, did not engage in any independent analysis on the 25th amendment. This meant that while a majority found a part of Article 31C void, Kesavananda offers no clear verdict on whether the amendment — insofar as it exempts certain laws from fundamental rights challenges — otherwise breaches the Constitution's basic features.

More changes

Despite this, in 1976, through the 42nd amendment, Parliament made further changes to Article 31C. These were even more far-reaching. They stipulated that a law made in furtherance of any DPSP — and not merely a law made in furtherance of Articles 39(b) and (c) — would enjoy safe harbour.

In *Minerva Mills vs Union of India* (1980), a five-judge Bench declared the amendment unconstitutional. The Court found that while DPSPs provided the ends of governance, fundamental rights constituted the means to such ends. Articles 14, 19 and 21, wrote Chief Justice Y.V. Chandrachud stood between the “heaven of freedom into which Tagore wanted his country to awake and the abyss of unrestricted power”. This amendment, he added, “removed two sides of that golden triangle”.

But what is the precise consequence of this ruling? Does Article 31C now go back to its original form, as contained in the 25th amendment, sans the portions that were struck down by the majority in *Kesavananda*? Or is it in a state of suspended reality, where its validity remains in the balance?

The issue is complicated by another judgment delivered by

Justice Y.V. Chandrachud, on behalf of a five-judge Bench in *Waman Rao vs Union of India*. Here, somewhat at odds with his own opinion in *Minerva Mills*, he held that the unamended Article 31C was valid, because it was impossible to conceive how a law made in furtherance of Articles 39(b) and (c) could at all infringe the rights under Articles 14 and 19. This finding is clearly incorrect. As we saw, a law made to purportedly subserve the common good — for example, a nationalising of the printing press — can have grave consequences on our liberty.

In *Property Owners*, the Court will decide on the validity of a law that allows a State government board to acquire complete control over dilapidated buildings, if done with the consent of at least 70% of residents. To resolve this, it will examine whether the law furthers Article 39(b) under which it is purportedly made. But even assuming it answers this in the affirmative, the question still remains: can the statute also be tested on the touchstone of Articles 14 and 19?

An opportunity

Regardless of the judgments in *Waman Rao* and *Sanjeev Coke vs Bharat Coking Coal* (1982), which followed it, to date there is no conclusive analysis from the Supreme Court on Article 31C, in the form introduced by the 25th amendment, and its adherence to the Constitution's basic structure. This has meant that fundamental rights and DPSPs have been in perennial conflict. The Court has a chance in *Property Owners* to resolve this clash and, in the process, provide a fillip to the Constitution's most cherished guarantees.

ECONOMICS AND DEVELOPMENT

A sob story

CONTEXT: Nearly six months after the Centre prohibited onion exports citing runaway prices and supply concerns, it put them back in the ‘free’ category last Saturday, with the caveat of a minimum export price of \$550 a tonne, and a 40% levy on top. This marked the second significant policy change on onion exports over a span of 10 days.

On April 25, 2,000 tonnes of white onion exports were permitted, if certified by the Gujarat Horticulture Commissioner. Coming days before Gujarat's Lok Sabha vote this Tuesday, the move triggered an outcry about preferential treatment from the neighbouring State's farmers. In a press release, the Centre explained that “purely export oriented” white onions entail higher production costs, and nearly one lakh tonne of onion exports had also been allowed that would help Maharashtra, the country's largest onion producer. This did not cut much ice — only a few thousand tonnes of onions had actually been shipped under that export window.

The conditional freeing up of exports comes just before Maharashtra's onion farming hubs vote on May 20. Justifying the move, the Centre pointed to mandi prices stabilising at ₹15 a kilo since April, a fresh assessment that supplies are, in fact, adequate, and an assertion that the politically charged vegetable is perishable. State BJP leaders proclaimed this will ensure farmers get better prices and income. It is unclear if that will fructify — the floor price plus export duty formulation means exports are viable only at or over an estimated ₹64 a kilo. International onion prices have been easing after Egypt and Pakistan recently lifted their export curbs, much before India.

With the latest norms expected to last at least till the next government takes charge, onion farmers will effectively face export curbs for almost a year, starting from last August when a 40% export duty was levied. Straddling the 'consumer versus farmer' dilemma is tricky, but some longer-term context can guide policymaking towards a nuanced rather than a knee-jerk approach. Before food inflation spiked in the second half of 2023, onion prices had been falling for as many as 21 months till May. They rose about 30% through 2023-24, but from a 21% decline in the previous year. A Centre for Civil Society study reckoned that the average farmer lost 21% of annual income due to onion export bans between January 2015 and March 2020. If anything, the current streak of curbs after nearly two years of falling prices, does not send out a positive sowing signal for farmers. And that is neither good for curbing inflation nor meeting India's aspirations to be the world's food supplier.

ECONOMICS AND DEVELOPMENT

'Veg. meal costs climbed 8% in April'

CONTEXT: The cost of a home-cooked vegetarian meal surged 8% year-on-year in April, accelerating from 7% increases in February and March, while expenditure on a non-vegetarian meal hit a four-month high of ₹56.3, as per Crisil's monthly tracker of thali costs.

Food inflation pointer

The acceleration in the pace of increase in a vegetarian thali's cost points to continued pressure on food price inflation

- Crisil's monthly tracker shows rice and pulses inflation also stayed firm YoY at 14% and 20%, respectively
- Lower crop arrivals for rice and pulses played a role, as was the case with onions: Crisil
- Declines in prices of cumin, chilli and vegetable oil tempered the rise in a veg thali's cost



Price gains in onions, tomatoes and potatoes speeded up last month, to 41%, 40% and 38%, respectively, while rice and pulses inflation also stayed firm at 14% and 20% when compared with the YoY trends in March, when they were up 14% and 22%, respectively. Lower crop arrivals for rice and pulses played a role, as was the case with onions, Crisil Market Intelligence & Analytics pointed out in its 'Roti Rice Rate' report for April.

The report serves as an indicator of food inflation trends ahead of April's official retail inflation data, which is expected on May 14. Over February and March, while food plate costs rose 7%, India's retail food inflation remained high at 8.7% and 8.5%, respectively.

Onion supplies were hit by a significant drop in rabi acreage, while damage to the potato crop in West Bengal contributed to the price increases, Crisil said, adding that the low base effects from last

year had also played a role in the high inflation rates for onions, tomatoes and potatoes.

However, declines in the prices of cumin, chilli and vegetable oil, which contracted YoY by 40%, 31% and 10% respectively, had helped temper the pace of price gains in vegetarian thali costs.

While a non-vegetarian thali's cost dropped 4% YoY in April, as broiler prices fell by about 12% from last year's high base, there was a 3% rise in the food plate's cost compared with the ₹54.9 level estimated in March. Broiler prices, which constitute about half of a non-vegetarian meal's cost, rose 4% from March due to higher demand and input costs.

INTERNATIONAL RELATIONS

India's sugarcane subsidy broke WTO norms: U.S., Australia

CONTEXT: The U.S. and Australia have contended India gave sugarcane subsidy beyond the limits set in the WTO's Agreement on Agriculture (AoA), which may have distorted global trade.

In a recent paper submitted to the WTO's Committee on Agriculture, based on compilation of data on India's market price support for sugarcane over a four-year period (2018-19 to 2021-22), both the countries argued that during all the four years India's sugar subsidies crossed 90% of the value of production against the permissible 10%.

FRP, SAPs

However, for calculating subsidy levels, the report referred to the methodology recommended by a WTO panel that had ruled against Indian sugar subsidies in 2021 (for the period 2014-15 to 2018-19), which was subsequently rejected by New Delhi in its appeal against the ruling.

Each sugar season, India sets the Fair and Remunerative Price (FRP) for sugarcane. The FRP is an administered price that effectively acts as a floor price for sugar mills to pay farmers for sugarcane. In addition, farmers are paid premiums for increased production efficiency, and farmers in some States are eligible for additional payments by sugar mills under specific State-level support, known as State-Advised Prices (SAPs). This paper implements the approach to calculating India's market price support and AMS for sugarcane as discussed by the WTO panel in its report on the India – Sugar and Sugarcane dispute," the U.S.-Australia paper pointed out.

'Error' pointed out

Significantly, in its appeal against the WTO panel report in January 2022, India argued the panel had erred in finding the country's FRP and SAP constituted market price support under the AoA.

The U.S.-Australia report said India's appeal, prevented the panel report from being adopted by the WTO Dispute Settlement Body.

Quoting publicly- available information, the paper said India's Market Price Support in 2018-19, 2019-20, 2020-21 and 2021-22 was \$15.9 billion, \$14.6 billion, \$16.5 billion and \$17.6 billion respectively. This was over 90% of the annual production value against the permitted 10%.

ECONOMICS AND DEVELOPMENT

U.S. dollar regains momentum as Japanese yen loses ground

CONTEXT: The dollar was back on the front foot on Wednesday, making modest gains after earlier losses from renewed bets on Federal Reserve rate cuts this year, while the yen weakened past 155 per dollar and kept intervention risks from Tokyo high.



The yen fell 0.3% to 155.16 per dollar, edging away from its peak of 151.86 hit last week on the back of suspected intervention from Japanese authorities to prop up the sliding currency.

Temporary respite

Analysts have said that any intervention from Tokyo would only serve as a temporary respite for the yen, given stark interest rate differentials between the U.S. and Japan remain.

Bank of Japan Governor Kazuo Ueda said on Wednesday the central bank may take monetary policy action if yen declines affect prices significantly, while the country's Finance Minister Shunichi Suzuki repeated a warning that authorities were ready to respond to excessively-volatile moves in the currency market.

Investors are focussed on the pace and timing of Fed rate cuts that will likely drive currency moves, with the latest weaker-than-expected U.S. jobs data and an easing bias from the U.S. central bank cementing expectations that rates will likely be lower by the end of the year.



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