

The Vexed Question of Delhi's Dual Government: A Critique on Judicial Approach Towards Pragmatic Federalism

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Abstract

Article 239AA, inserted into the Constitution by the Sixty-Ninth Amendment Act, prescribes the structure and functioning of the Government of the NCT of Delhi. The National Capital exhibits a sui generis governance that is distinct from that of a State or a Union Territory. The proviso to clause (4) of the provision creates two parallel authorities, resulting in confusion and conflict between the Centre and the Government of NCT of Delhi. The Delhi High Court and the Supreme Court have repeatedly interpreted the provision to resolve this confusion; however, judicial intervention has proved less effective than intended. The dilution of the powers of the 'appointed executive', the Lieutenant Governor, vis-à-vis the 'elected executive', the Chief Minister, may be sound in law but is difficult to apply in practice because of the conflict of interest inherent in politics. The theoretical ideals of 'pragmatic federalism' seldom offer a practical and amicable solution to this tussle, which ultimately affects the people it is meant to serve. The author critically analyses the judgments of the Supreme Court in Govt. of NCT of Delhi v. Union of India (2018) and (2023), read against the now-overruled 2016 decision of the Delhi High Court in the same matter, and the recent 'Alderman case' (2024), which marks a further departure from the Court's own 2023 approach and adds to the existing confusion. The author argues that the judiciary's characterisation of Delhi's arrangement as a "unique federal model" is itself a source of instability, since federalism has no true constitutional application to Union Territories. Accordingly, the paper contends that the vexed question of Delhi's dual government cannot be

resolved by further calibrating the LG-CM balance within a Cabinet-style framework, and instead requires restoring the unambiguous primacy of the Union Parliament and the President --- acting through the LG --- over the NCT's legislative and executive affairs, through an authority that is both subordinate to, and seen to be subordinate to, the Union.

1. Introduction

Democracy in India is celebrated the world over for its ability to accommodate every section of society, bringing all voices into Parliament and reducing conflict to practical solutions that ensure stability in governance. Indian federalism, though it departs from the traditional understanding of the term, provides the Union with the stability needed to bind together the country's vast diversity. It also creates unique arrangements for certain units to meet regional requirements, for which it is aptly termed 'asymmetric federalism'.

The National Capital Territory of Delhi transitioned to a Union Territory with the passage of the States' Reorganization Act in 1956 and was endowed with a responsible government in 1991 through the Constitution (Sixty-Ninth Amendment) Act, which enacted the suggestions of the Balakrishnan Committee Report from 1987, establishing the current governmental framework. This configuration is a hallmark of Indian federalism, intended to reconcile regional requirements with national objectives.

The current governmental framework of the National Capital Territory of Delhi bears a strong resemblance to that of a State, wherein the elected Chief Minister and his Council of Ministers are

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obligated to provide 'aid and advice' to the Lieutenant Governor (LG) in executing his daily responsibilities. The legislation grants the Local Government greater discretionary authority than that of a State Governor, establishing a parallel authority to the elected one and thereby creating dual power centers within a single jurisdiction. This has emerged as the primary cause of contention in the operations of the Delhi Government.

While the conflict may appear to be primarily a political tussle between rival parties simultaneously holding the two centres of power in the territory, its roots lie in the constitutional framework introduced by the Sixty-Ninth Amendment. Evidence of this struggle between the Centre, acting through the LG, and the Chief Minister of Delhi can be traced to the UPA years, when Delhi was governed by the late Smt. Sheila Dikshit (PTI, 2010; GN Bureau, 2010), although the conflict was contained then by the common leadership of the ruling party at both levels. The gravity of the issue lies in the fact that, despite the best efforts of successive governments, the people of Delhi continue to suffer under a hung administration. The multiplicity of authorities in Delhi is a problem not only for the incumbent Chief Minister and government but for the people of Delhi as well.

In recent years, and indeed since the early years of the elected government's existence, important questions concerning the administration of the National Capital have repeatedly come before the Delhi High Court and the Supreme Court of India. Both courts have resolved these disputes on a case-by-case basis, consistently holding that Delhi's status is not akin to that of a State, and that the NCT exhibits *sui generis* characteristics in its administration. In its landmark 2018 judgment, however, the Supreme Court upheld the authority of the elected government over the appointed LG, and enjoined both authorities to observe principles such as 'pragmatic federalism', 'cooperative federalism' and 'federal balance'. Despite this, the differences between the two power centres remained unresolved, and the tussle has, if anything, deepened into a deadlock over time.

It therefore becomes important to answer certain questions. First, do the constitutional provisions relating to the NCT of Delhi contain any paradox or lacuna that causes instability in Delhi's administration? Second, does the Supreme Court's purposive interpretation of Article 239AA serve the aspirations of the people of Delhi and of the country at large? Third, what measures could secure democratic principles while ensuring unity of authority and administrative stability in the NCT, so that both local and national aspirations are fulfilled simultaneously?

2. Constitutional Framework of Delhi

The composition of the States is set out in Part VI of the Constitution, and the distribution of powers and functions between the States and the Union is dealt with in Part XI. By contrast, the composition of Union Territories ['UT(s)'] and the powers exercised by the Union over them are contained separately in Part VIII. Since the NCT of Delhi falls within the latter category, the provisions of Part VIII must be read together, and also independently of the provisions of Part VI.

Article 239 stipulates the overarching governance of Union Territories by the President. The subsequent clause, Article 239A, authorizes Parliament to establish, thru legislation, a local assembly or a Council of Ministers to govern specific Union Territories. Exercising these authorities, Parliament first established a legislative body for the Union Territory of Puducherry, thereafter extending this framework to the newly constituted Union Territory of Jammu and Kashmir. The NCT of Delhi, however, was carved out from this category and given a special place under the succeeding Article 239AA. The key features of this provision, and how it differs from the other provisions of Parts VI and VIII, are discussed below.

2.1 Distinct Nomenclature

Clause (1) of Article 239AA provides that the Union Territory of Delhi shall be called the National Capital Territory of Delhi (Constitution of India, 1950, art. 239AA, cl. 1). The provision achieves two things at once: it confirms that the National Capital is a Union Territory, and it signals that, among the UTs, Delhi is one of a kind, with a

distinct identity and a separate administrative mechanism.

2.2 Application of Article 239 and the Authority of the President

Although the NCT is administered under the special regime of Article 239AA, its administrator is appointed under Article 239 (Constitution of India, 1950, art. 239). This shows that the NCT of Delhi is administered by the President, acting through an LG appointed by him. A key difference between the position of a State Governor and that of a UT's LG is that the Governor is a nominal representative of the President performing largely ceremonial functions, whereas the LG is a functionary of the President himself, empowered to exercise wide discretionary powers. The President's authority over the affairs of the NCT is further illustrated by the fact that the Chief Minister of Delhi and his Council of Ministers are appointed by the President (Constitution of India, 1950, art. 239AA, cl. 5) unlike their counterparts in other States, where such appointments are made by the Governor. The significance of this power becomes clearer on a conjoint reading of Article 239AB, which provides the remedy for a 'failure of constitutional machinery' in the NCT of Delhi. Notably, invoking Article 365 of the Constitution remains a rigorous exercise requiring careful constitutional and political consideration, whereas suspending the NCT's legislature is achievable through a simple Presidential Order (Constitution of India, 1950, art. 239AB). This power extends to suspending the operation of Article 239AA, or any of its provisions, altogether.

2.3 Limited Legislature

By virtue of Article 239AA, the legislative assembly of the NCT is a limited legislature. The power to legislate on matters relating to elections, which Article 328 confers on State Legislatures, is instead vested in the Union Parliament for Delhi (Constitution of India, 1950, art. 239AA, cl. 2(c)). Accordingly, the reference to 'appropriate legislature' in Articles 326 and 329 is deemed to mean Parliament alone with respect to the NCT.

Similarly, clause (3)(a) limits the Delhi Assembly's legislative competence by excluding Entries 1, 2 and 18 of the State List, along with Entries 64, 65

and 66 to the extent that they relate to those three entries. Although the provision is silent on who may legislate over these excluded matters, Parliament secures exclusive authority to do so by virtue of Article 246(4) (Constitution of India, 1950, art. 246, cl. 4). While Parliament's authority prevails over that of the States only in respect of the Concurrent List (Constitution of India, 1950, art. 254), and over the State List in exceptional circumstances (Constitution of India, 1950, art. 251), Parliament enjoys supreme authority to legislate for the NCT of Delhi even on matters listed in the State List (Constitution of India, 1950, art. 239AA, cl. 3).

2.4 The All-Powerful Lieutenant Governor

The LG of the NCT is, in practice, an authority parallel to the Chief Minister. The Constitution vests the LG of a UT with real and ultimate administrative power, unlike a State Governor, who is a nominal head. The LG of Delhi exercises wide discretion under the proviso to clause (4) of Article 239AA: where a matter is in dispute with the Council of Ministers, he may refer it to the President and act according to the President's decision; and, in a matter requiring urgent action, he may act on his own discretion (Constitution of India, 1950, art. 239AA, cl. 4, proviso). The Constitution prescribes no limits on the exercise of this power. The LG may act independently in any circumstance, and on any matter where there is a 'difference of opinion' with his Council.

A State Governor, in contrast, is obligated to operate based on the 'aid and advise' of the Council of Ministers, unless the Constitution mandates independent action. The Supreme Court has evaluated the Governor's use of discretion in relation to the principle of Cabinet accountability that is fundamental to our constitutional democracy --- a principle that forbids the Governor from exercising parallel governance while his Cabinet is in power. (*Nabam Rebia & Bamang Felix v. Deputy Speaker, Arunachal Pradesh Legislative Assembly*, 2016). Thus, it is only in the absence of an incumbent Cabinet, under constitutionally prescribed circumstances, that the Governor may exercise 'individual judgment' under Article 163(2) --- and not otherwise.

2.5 Ordinance making Power of the LG

Article 239B has also been extended to the NCT of Delhi. The provision lays down the procedure for the promulgation of an ordinance by the administrator of the UT of Puducherry when the legislature is not in session, but requires the administrator first to obtain the 'instruction' of the President. The use of the word 'instruction', rather than 'concurrence' or 'opinion', signifies that the President is to direct the LG on promulgating an ordinance. Since the term has not been judicially interpreted, it may be inferred that 'instruction' covers both procedural and substantive direction, that is, 'how to do' as well as 'what to do'.

On a careful reading, Articles 239AA and 239AB clearly deviate from the scheme of State administration under Part VI of the Constitution, and establish a unique administrative model even among Union Territories. The LG's active involvement in the National Capital's administration sets it apart from the States, where the similarly placed Governor is a nominal head performing largely ceremonial functions on the aid and advice of the Council of Ministers.

3. Pragmatic Federalism and the Interpretation by the Supreme Court

Federalism fundamentally promotes the allocation of authority between two autonomous yet interconnected tiers of government, typically between a State and its subdivisions. This system not only aids in governance but also acts as a cohesive force for the regional diversity it aims to safeguard. It is predicated on a balance between the necessity for robust central authority and the imperative for constraints on that authority (Malik, 2019).

According to Dicey:

Federalism means the distribution of force of the State among a number of co-ordinate bodies each originating in and controlled by the Constitution (Dicey, as cited in Malik, 2019).

Pragmatic federalism, by contrast, is a form of federalism that incorporates the traits of sensibility and realism. It rests on the principle of permissible practicability in achieving constitutional goals

(Government of NCT of Delhi v. Union of India, 2018, para. 127). It has an inbuilt capacity to evolve continually with changing circumstances, its foremost object being to devise innovative solutions to the problems that arise within any federal set-up (Government of NCT of Delhi v. Union of India, 2018, para. 128).

3.1 The Verdict of the Delhi High Court

The Supreme Court elaborated this principle, and its application to the National Capital Territory of Delhi, in the landmark case of *Government of NCT of Delhi v. Union of India* (Government of NCT of Delhi v. Union of India, 2016). This constituted a challenge to the 2016 ruling of the Division Bench of the Delhi High Court. The matter presented to the High Court posed legal inquiries on the implementation of legislative authority and executive oversight in the governance of Delhi. The Delhi High Court, in addressing two of the four principal concerns, determined that the petitions did not present a federal issue warranting the Supreme Court's original jurisdiction under Article 131, as opposed to the High Court's jurisdiction under Article 226; the Court reasoned that the conflict did not involve the Union versus a State, given that the NCT of Delhi is classified as a Union Territory rather than a State (Government of NCT of Delhi v. Union of India, 2016, para. 34-35). Secondly, dismissing the argument that the Lieutenant Governor was obligated to follow the counsel provided by his Council of Ministers, the Court determined that a distinct difference exists between the roles of the Lieutenant Governor of Delhi and that of a State Governor as the executive authority: whereas the latter's discretion is restricted by constitutional parameters, the former possesses discretionary powers constrained solely 'by or under any law', allowing for personal judgment as well (Government of NCT of Delhi v. Union of India, 2016, para. 99-100). Relying on *Devji Vallabhkhair Tandel v. Administrator of Goa, Daman & Diu* (Devji Vallabhkhair Tandel v. Administrator of Goa, Daman & Diu, 1982) The court noted that the stipulations of section 44(1) of the Government of Union Territories Act, 1963 were comparable to Article 239AA(4), indicating that the concept of 'aid and advice' in the latter was deemed similar to that in the former: any disagreement between the Council and the

Administrator could be settled by the Union, and the Council would be obligated to adhere to the Union's perspective. The Delhi High Court elaborated on the connection between the LG and the Council of Ministers in the NCT of Delhi, referencing the Balakrishnan Committee Report, and determined that the President, thru the LG, holds the ultimate responsibility for effective governance, granting the LG a more proactive role in administration compared to a State Governor (Government of NCT of Delhi v. Union of India, 2016). Thus, to uphold the accountability of the elected government, the LG must ordinarily act according to the aid and advice tendered by his Council, though he may, in his judgment, act otherwise on a given matter.

3.2 The Apex Court and its Interpretation

On appeal, the Constitution Bench of the Supreme Court adopted a purposive interpretation of Article 239AA. Emphasising the importance of democracy and federalism in the Indian polity, the Court took a liberal view of the matter in dispute. Rejecting literal interpretation as unduly restrictive, it observed that such an approach would render the Constitution rigid, foreclosing the possibility of society's growth beyond its past circumstances (Government of NCT of Delhi v. Union of India, 2018, para. 135, 284.11). The Court, while emphasizing Delhi's exceptional position among Union Territories and its differentiation from States, meticulously delineated the boundaries of the LG's constitutional authority. It asserted that the Lieutenant Governor of the National Capital Territory should typically operate based on the aid and advice of his Council, and requested a combined interpretation of clauses (3)(a) and (4) of Article 239AA (Government of NCT of Delhi v. Union of India, 2018, para. 204, 284.15). Thus, despite the Union's constitutionally granted overriding powers over the NCT of Delhi, the Court emphasised the full involvement of the legislative assembly and the Council of Ministers in all matters except the three reserved for the Union, namely public order, police and land. The 'individual judgment' vested in the LG under the proviso to clause (4) was effectively read down: the LG was required either to exercise his powers on the advice of his Council, or, in case of a

difference of opinion, only in accordance with the President's decision (Government of NCT of Delhi v. Union of India, 2018, para. 346-347, 284.17, 475.20). Clarifying further, the Court held that the term 'any matter' in the proviso does not mean 'every matter', and that the LG must exercise judgment with caution and reason before referring matters to the President (Government of NCT of Delhi v. Union of India, 2018, para. 284.18, 475.18). Substantive decision-making power vests in the Council of Ministers under this Cabinet form of government; the proviso should not obstruct the Cabinet's normal functioning, and should instead be read as a safety valve for the national interests involved in administering the NCT of Delhi (Government of NCT of Delhi v. Union of India, 2018, para. 475.20). Similarly, the Court held that Parliament's power under clause (7)(a) is confined to enforcing, implementing and reinforcing Article 239AA and the norms it establishes (Government of NCT of Delhi v. Union of India, 2018, para. 475.21).

The Supreme Court provided a broad interpretation of Article 239AA, however it refrained from clarifying the term 'in so far as any such matter is applicable to the Union Territories' in clause (3)(a). This expression was presented for adjudication before the Court about the relocation of civil officials within the NCT of Delhi, resolved in 2023 (Government of NCT of Delhi v. Union of India, 2023). The main inquiry was whether authority over the civil services of the NCT of Delhi resided with the Union or with the elected Council of Ministers. The Court assessed the degree to which the elected Council's executive authority was limited by the LG's ability to present an issue to the President in cases of disagreement.

The Supreme Court reaffirmed the Delhi Assembly's power to legislate on all subjects in the State List, barring the three reserved for the Union. The Court dismissed the Union's assertion that the Constitution becomes unitary concerning Union Territories, thereby negating the applicability of federal principles, noting that the NCT of Delhi possesses an elected government accountable to its citizens, and its Assembly, while restricted to specific subjects, wields legislative authority akin to that of a State. The Court determined that Article 239AA establishes a distinctive federal

framework, featuring the Union of India at the national tier and the NCT of Delhi at the regional tier (*Government of NCT of Delhi v. Union of India*, 2023, para. 21, 41, 82, 84). Given that executive authority aligns with legislative authority, the Council of Ministers was determined to possess limited oversight over 'Services' as delineated in Entry 41 of the State List, contingent upon the identical three exceptions of public order, law enforcement, and land (*Government of NCT of Delhi v. Union of India*, 2023, para. 169, 172, 174).

The Court again scrutinised the ambit of the LG's discretionary powers, holding that the LG may exercise individual judgment only in matters that fall outside the legislative competence of the Delhi Assembly, or in other matters where he is permitted to do so by or under any law (*Government of NCT of Delhi v. Union of India*, 2023, para. 96, 102).

Applying this earlier position, the Supreme Court examined the LG's exercise of power under the Delhi Municipal Corporation Act, 1957, in the recent case concerning the nomination of aldermen to the Delhi Municipal Corporation (*Government of NCT of Delhi v. Office of Lieutenant Governor of Delhi*, 2024). On a careful reading of the Act, the Court held that the nomination of aldermen is a statutory function entrusted to the LG, and not an executive action requiring the aid and advice of the Council of Ministers (*Government of NCT of Delhi v. Office of Lieutenant Governor of Delhi*, 2024, para. 39). This function fell within the limits of the LG's constitutional powers, as interpreted in the Court's precedents. The Court observed that the DMC Act clearly demarcates the functions entrusted to the Administrator-LG and to the Government of NCT of Delhi: the former performs statutory functions as an independent authority, while the latter is vested with subordinate legislation, superintendence, recruitment, taxation and similar matters (*Government of NCT of Delhi v. Office of Lieutenant Governor of Delhi*, 2024, para. 35-36).

4. A Distinct Interpretation of Article 239AA

Political questions often pave the way for a stronger democracy. Yet, while subjective readings of law offer a wide-angled view of a provision, it is important to ask whether such political questions ought to be resolved through idealistic principle or through objective practicality. To offer a practical solution to this dilemma, it is necessary to examine the provisions of Article 239AA from a different perspective.

- Federalism, as a concept, has no application to Union Territories. This follows from Article 1, read with the overall scheme of the Constitution, which deals separately with the 'administration of the territories of the Union' (i.e., the Union Territories) and the 'relations between the Union and the States'. This is illustrated in Figures 4.1 and 4.2 below (Saxena, 2023).

In his speech to the Constituent Assembly, Dr. B.R. Ambedkar likewise observed that the chief mark of federalism lies in the constitutional partition of legislative and executive authority between the Centre and the Units; other considerations, including the allocation of a wider field of operation to the Centre and the vesting of residuary powers, do not form the essence of federalism (*Government of NCT of Delhi v. Union of India*, 2018, para. 475.21). Building on this argument, no power-sharing arrangement exists between the Union and the Union Territories; the principles of federalism are, therefore, inapplicable to the administration of a UT.

- Since sole responsibility for administering a UT vests in the Union, the Union may devise its own formulas to conduct its business. It follows that the Union has complete control over the administration of the NCT of Delhi, and the Government of the NCT of Delhi acts merely as an authority performing delegated functions (*Government of NCT of Delhi v. Office of Lieutenant Governor of Delhi*, 2024, para. 35-36).
- Under Article 239AA, Parliament enacted the Government of National Capital Territory of Delhi Act, 1991 ('GNCTD Act'), which provides for the powers and

functions of the Delhi Assembly, the Council of Ministers and the LG. Since the Act supplements the Constitution, the two must be read together. A conjoint reading suggests that Parliament, as the principal legislature for the NCT of Delhi, delegated its legislative and executive functions to the LG, who further sub-delegates them to the Assembly and the Council respectively. For instance, section 24 of the Act empowers the LG to withhold assent to a Bill passed by the Assembly, after it has been reconsidered by the Assembly on his recommendation (Government of NCT of Delhi Act, 1991, s. 24). Section 33(1)(c) requires the LG and the Speaker of the Delhi Assembly, with the prior approval of the President, to frame rules of procedure prohibiting discussion of, or questions on, the LG's exercise of discretionary power in the Assembly (Government of NCT of Delhi Act, 1991, s. 33(1)(c)). Clause (d) of the second proviso to section 24, inserted by the 2021 Amendment Act to cover incidental matters falling outside the Assembly's purview (Government of NCT of Delhi (Amendment) Act, 2021, s. 3), section 41, which specifies the matters in which the LG must act in his discretion (Government of NCT of Delhi Act, 1991, s. 41), and the proviso to section 44(2), inserted by the 2021 Amendment to make the LG's opinion mandatory before any executive action is taken pursuant to a Council decision (Government of NCT of Delhi (Amendment) Act, 2021, s. 5), together reinforce the LG's superior position in the discharge of his discretionary functions.

- The Constitution confers upon the Union Parliament and the President ultimate control and supervision over the administration of the UTs, including the NCT of Delhi. This position is reflected in Article 239AA itself, under clauses (3)(b), the second proviso to clause (3)(c), the proviso to clause (4), and clause

(7)(a), as well as in Article 239AB and Article 246(4). A conjoint reading of these provisions strengthens the argument that the LG of Delhi performs functions delegated by the President. Since the legislature cannot delegate unrestrained, uncanalised and unqualified legislative power on an administrative body (Jain & Jain, 2022, p. 64), the legislative function has been sub-delegated to the Delhi Assembly, under the continuing control and supervision of Parliament (Constitution of India, 1950, art. 239AA, cl. 3(c), second proviso).

- Unlike a State, a Union Territory has no genuine distribution of legislative and administrative functions; the List system under the Seventh Schedule does not truly apply to the administration of a UT. It may be argued that Article 239AA confers on the Delhi Assembly legislative power over all matters in the State and Concurrent Lists barring three; however, the same Article also empowers Parliament to legislate on all matters in both Lists, effectively rendering them 'Concurrent' as far as the NCT of Delhi is concerned (Government of NCT of Delhi v. Union of India, 2018, para. 475.21; New Delhi Municipal Council v. State of Punjab, 1997).
- The Court upheld the importance of a participatory, representative and responsible government for the NCT of Delhi, and correspondingly curtailed the Union's authority to the three subjects reserved for it. However, the incidental threats this poses to national interests across the remaining subjects in the State and Concurrent Lists have gone unaddressed, and remain unchecked by the Union.
- It is true that the discretionary power vested in the LG, by both the Constitution and the GNCTD Act, is absolute in content and nature. However, rather than confining this power to three subjects and vesting the Delhi Assembly

and Council with full legislative and executive control over all other matters, while simultaneously foreclosing the legitimate exercise of the LG's discretion on those very matters, a more workable check would have been to subject the material underlying the LG's 'individual judgment' to judicial review.

5. Conclusion and Suggestions

The Constitution of India enshrines the principles of representative democracy and federalism, which form the essence of our polity. The National Capital Territory of Delhi has a unique administrative set-up that resembles neither a Union Territory nor a State in full. A layman's view would suggest that it functions much like a State; the legal position, however, is far removed from popular perception.

The Sixty-Ninth Amendment Act sought to create a careful blend of local aspiration and national interest within a single set-up. In practice, however, it created two power centres within one territory, which over time produced confusion of authority and, ultimately, conflict between the Union, acting through the LG, and the elected Government of the NCT of Delhi. Multiplicity of authority and a lack of accountability have continued to plague Delhi's administration to this day. While the Delhi High Court sought to resolve the issue by elevating the LG to the position of ultimate authority over all legislative and executive action, its findings were overruled on appeal by the Constitution Bench of the Supreme Court. The apex court diluted the powers of the LG and the Union over the NCT of Delhi, and called upon both authorities to act pragmatically and resolve their differences through collaboration for the betterment of Delhi. In doing so, the Court emphasised the principles of pragmatic and collaborative federalism, which offered a broader perspective for addressing problems within a federal set-up, while simultaneously rejecting literal interpretation as restrictive rather than progressive.

However, the Supreme Court's judgment failed to balance regional and national interests: by empowering the Legislative Assembly with

loosely defined limits, it rendered the Assembly and Council akin to those of a State. This left the NCT of Delhi's status at odds with the nature of a UT, which must, by default, be governed by and under the authority of the President. By neither converting the NCT into a State nor confining its functioning to that of a UT, the Court left the underlying problem of multiple authorities unresolved.

The Court's interpretation, though progressive, is difficult to apply in practice: it presupposes a degree of political maturity among our political leaders that cannot be assumed to arrive any time soon, even as the people continue to bear the consequences of its absence.

One might ask: if the constitutional provisions are clear, and vest ultimate authority in the Union Parliament and the President acting through the LG without creating multiple authorities, how did two authorities come to exist in practice? The answer lies in the confusion created by grafting a Cabinet form of government onto the NCT of Delhi, one that, in its terminology, resembles a State. This has lent legitimacy to the political demand for full statehood for Delhi, and created the impression that the Union exercises its control over the National Capital's affairs illegitimately (*Government of NCT of Delhi v. Office of Lieutenant Governor of Delhi*, 2024, para. 35-36). This has been partly addressed by the 2023 amendment to the GNCTD Act, which inserted a definition of 'Minister' to mean a member of the Council of Ministers referred to in clause (4) of Article 239AA, *by whatever name called* (*Government of NCT of Delhi (Amendment) Act*, 2023, s. 2) (emphasis added).

The solution to Delhi's problem, therefore, lies in restoring the complete authority of the Union Parliament and the President, acting through the LG, over the NCT's legislative and executive affairs respectively. The NCT of Delhi does need a participatory, representative and responsible government, but this need not be met through a set-up resembling the Cabinet form. Instead, a novel arrangement should be developed in which accountability to the people of Delhi, responsibility to the nation, and subordination to the Union are met simultaneously within a single

authority. The key to ending the tussle lies in creating such an authority --- one that is not merely subordinate to the Union, but is also seen to be so.

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