SC & 4G Services in J&K

Part of: GS-II- Governance and Federal Issues (PT-MAINS-PERSONALITY TEST)

Recently, the Supreme Court refused to restore 4G services in Jammu & Kashmir and ordered setting up of a high-powered committee to look into the contentions raised by petitioners against limited 2G services in the Union Territory.

In August 2019, the Central government had suspended all modes of communications in the wake of revocation of Jammu and Kashmir’s special status, granted under Article 370. Eventually, services were partially restored, with internet speed restricted to 2G. A plea was filed by ‘Foundation for Media Professionals’ for restoration of high-speed internet in Jammu and Kashmir in view of the Covid-19 situation.

Why?

- **Balance of Human Rights and National Security:** The Court ruled that the special circumstances occur in the Union Territory which requires delicate balancing of national security concerns and human rights.
- **Reference to the Previous Judgement:** The bench also referred to its earlier decision in the *Anuradha Bhasin case (2020)* wherein it ordered review of restrictions placed in J&K in the wake of abrogation of Article 370 of the Constitution.

*Anuradha Bhasin vs Union of India (2020)*

- **Fundamental Rights Under Article 19 :**

  The judgement declared that the freedom of speech and expression and the freedom to practice any profession or carry on any trade, business or occupation over the medium of Internet enjoys constitutional protection under Article 19(1)(a) and Article 19(1)(g) respectively. It also ruled that such freedom is not absolute, the restrictions imposed on it should be in consonance with the mandate under Article 19(2) and Article 19(6) of the Constitution.

- **Territorial Extent of Internet Suspensions**

  It had also directed authorities to pass internet suspension orders with respect to only those areas, where there is absolute necessity of such restrictions to be imposed.

- **Constitution of Review Committee**

  The Court also directed the government to constitute a review committee to review orders leading to suspension and shutting down of Internet, mobile and fixed line telecommunication services.

  All orders leading to suspension and shutting down of Internet, mobile and fixed line telecommunication services are issued under Rule 2 (2) of the Temporary Suspension of Telecom Services [Public Emergency or Public Service] Rules, 2017.

  These are the rules to be followed if the government intends to temporarily suspend telecom
services in any part of the country.

These rules have been framed by the government on the basis of the powers conferred by section 7 of the Indian Telegraph Act, 1885. The Review Committee shall consist of State as well as Central level officials as the issue involved affects not only the UT of Jammu and Kashmir but also the whole country.

- Constitution of Special Committee:
  - The bench ordered the constitution of a Special Committee, headed by the Union Home Secretary, to determine the necessity of the continuation of limiting mobile Internet to 2G speed in the region.
  - The committee is expected to suggest the alternatives regarding limiting the restrictions to those areas where it is necessary and the possible ways of allowing faster Internet (3G or 4G) on a trial basis over certain geographical areas.

Need of 4G and National Security

- Need of 4G in the wake of Covid-19 Pandemic:
  - **Health**: 4G services are necessary to provide access to the medical fraternity including patients to access latest information, advisories, and guidelines.
  - **Education**: The petition also argued that the schools across the country have shifted to online classes in view of the lockdown but lack of the 4G internet puts J&K students at a disadvantage.
  - **Trade and Business**: The lower internet service speed has also affected businesses dependent on the online mode.

- National Security Concerns:
  - An issue of infiltration of outside sources through the borders and destabilizing the integrity of the nation was raised during the hearing.
  - Even the J&K administration stated that high-speed internet will enable the spread of fake news/rumours and transfer of heavy data files (audio/video files) will become prevalent and may be utilised by terror outfits for incitement as also in planning attacks.