

130th Constitutional Amendment Bill – Removal of PM, CM & Ministers

1. Background / Context

- Union government introduced the **130th Constitutional Amendment Bill**.
- Aim: To remove a Minister (including PM/CM) from office if arrested and detained for **30 days** in connection with a criminal offence.

2. Provisions of the Bill

- **Amends Articles 75 & 164** (Union & State Council of Ministers).
- A Minister who is:
 - **Arrested & detained for 30 consecutive days** for an offence punishable with **≥ 5 years imprisonment**,
 - Shall be **removed from office**.
- **Process:**
 - Removal based on advice of PM/CM.
 - If PM/CM does not advise → automatic removal on **31st day**.
 - If **PM/CM themselves arrested** → must resign on 31st day.
- **Reappointment:** Possible after release from custody.
- Also amends **Article 239AA** for **NCT of Delhi**.
- Similar changes proposed for **Jammu & Kashmir & Puducherry**.
- Needs **two-thirds majority** in both Houses.
- Referred to **Joint Parliamentary Committee (JPC)**.

3. Existing Legal Framework

- **Representation of People Act (1951):**
 - Conviction with **≥ 2 years jail** → disqualification from being MP/MLA for sentence period + 6 years after.
 - Earlier exemption under Sec. 8(4) if appeal pending → struck down in **Lily Thomas (2013)**.
- Currently:
 - Disqualification only for being MP/MLA.

- **No provision for disqualification as Minister.**
 - **2016 EC recommendation:** Amend RP Act to bar candidates if charges are framed for offences punishable with **≥ 5 years imprisonment.**
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4. Issues with the Bill

1. **Police overreach:** Ministers can lose post merely on arrest (before trial).
 2. **Undermines Parliamentary democracy:** PM/CM loses freedom to choose cabinet.
 3. **Scope for political misuse:** Centre may misuse against Opposition-ruled States.
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5. Way Forward

- Criminalisation of politics is a **serious malaise.**
- But Bill addresses **effect not cause.**
- **ADR Report:**
 - 46% MPs & 45% MLAs face criminal cases.
 - Winning chances: 15.4% (criminal background) vs 4.4% (clean).
- Reform approach:
 - Political parties should **deny tickets** to candidates with serious criminal cases.
 - Self-regulation to reduce dependence on "winnable" tainted candidates.

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