Polity & Governance · GS - II

“Parliament’s power to amend the Constitution is a limited power and it cannot be enlarged into absolute power.” In the light of this statement explain whether Parliament under Article 368 of the Constitution can destroy the Basic Structure of the Constitution by expanding its amending power?

EXAM YEAR	PAPER	SUBJECT
2019	GS - II	Polity & Governance

MARKS	WORD LIMIT
15	~250 words

Answer Hint

Article 368; constitutional amendment; basic structure doctrine; parliamentary sovereignty; constitutional supremacy; Kesavananda Bharati judgment; judicial review; limited amending power

Model Answer

Introduction

Article 368 empowers Parliament to amend the Constitution through a prescribed procedure. However, this power is not unlimited. The Supreme Court has held that Parliament cannot use its amending power to destroy the Constitution's basic structure.

Constitutional Position

1. Kesavananda Bharati v. State of Kerala (1973)

The Supreme Court held that Parliament may amend any part of the Constitution, including Fundamental Rights, but cannot alter or destroy its basic structure. This established a substantive limitation on the amending power.

2. Indira Nehru Gandhi v. Raj Narain (1975)

The Court invalidated constitutional provisions that undermined essential democratic principles, reinforcing the importance of free and fair elections and judicial review.

3. Minerva Mills v. Union of India (1980)

The Court struck down provisions of the Forty-second Amendment that attempted to give Parliament unlimited amending power and exclude judicial review. It reaffirmed that limited amending power is itself part of the basic structure.

4. Basic Structure Principles

Although there is no exhaustive list, the doctrine includes constitutional supremacy, democracy, secularism, federalism, judicial review, rule of law and the balance between Fundamental Rights and Directive Principles.

Can Parliament Expand Its Power?

Parliament cannot convert its limited amending power into an absolute one. Any amendment that destroys the basic structure remains subject to judicial review and may be invalidated.

Conclusion

Article 368 enables constitutional evolution but does not authorise constitutional destruction. The basic structure doctrine preserves the balance between democratic amendment and the enduring identity of the Constitution.

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