Polity & Governance · GS - II

Judicial review of executive remission decisions is essential to uphold the rule of law. Examine.

EXAM YEAR	PAPER	SUBJECT
DAILY PRACTICE 24/11/2026	GS - II	Polity & Governance

MARKS	WORD LIMIT
15	~250 words

Answer Hint

Executive discretion, constitutional clemency, Article 72, Article 161, judicial review, arbitrariness, victims' rights

Model Answer

Introduction

Remission refers to the reduction of the period of a sentence without changing its nature. Although remission is an executive power, its exercise must conform to constitutional principles, statutory requirements and the rule of law.

Constitutional and Legal Framework

1. **Article 72:** Empowers the President to grant remission and other forms of clemency in specified cases, including certain cases involving death sentences and offences within the Union's executive domain.

2. **Article 161:** Empowers Governors to grant remission and other forms of clemency in matters within the state's executive domain.

3. **BNSS provisions:** Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023, regulates restrictions on suspension, remission and commutation of sentences in specified circumstances.

Importance of Judicial Review

1. **Preventing arbitrariness:** Courts can examine whether remission decisions are based on relevant considerations and comply with applicable policies and laws.

2. **Protecting constitutional governance:** Executive discretion cannot be exercised contrary to constitutional limitations or through legally improper procedures.

3. **Ensuring accountability:** Judicial scrutiny promotes transparency and consistency in the exercise of clemency powers.

4. **Protecting victims' interests:** Remission decisions must consider the legal framework and relevant circumstances, including the impact on victims and public confidence in justice.

The Bilkis Bano Case

In January 2024, the Supreme Court quashed the remission orders concerning the 11 convicts, finding the exercise of power legally flawed. The judgment highlighted the importance of jurisdiction, proper procedure and judicial oversight.

Conclusion

Remission is an important instrument of reformative justice, but it cannot become arbitrary executive discretion. Effective judicial review ensures that mercy, legality and constitutional accountability remain balanced.

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