Polity & Governance · GS - II

Discuss the essential conditions for exercise of the legislative powers by the Governor. Discuss the legality of re-promulgation of ordinances by the Governor without placing them before the Legislature.

EXAM YEAR	PAPER	SUBJECT
2022	GS - II	Polity & Governance

MARKS	WORD LIMIT
15	~250 words

Answer Hint

Article 213 empowers the Governor to promulgate ordinances when the State Legislature is not fully in session and immediate action is necessary. Ordinances are temporary legislative measures subject to constitutional conditions, legislative approval and judicial review. Re-promulgation to bypass the Legislature undermines democratic accountability and has been condemned by the Supreme Court.

Model Answer

Introduction

Article 213 of the Constitution empowers the Governor to promulgate ordinances when immediate legislative action is necessary while the State Legislature is not fully in session.

Body

Essential Conditions

1. Legislative Recess: The Governor may promulgate an ordinance when the Legislative Assembly is not in session or, in a bicameral state, when both Houses are not simultaneously in session.

2. Immediate Necessity: The Governor must be satisfied that circumstances require immediate action.

3. Constitutional Limitations: An ordinance cannot contain provisions that the State Legislature itself lacks competence to enact. Presidential instructions are required in specified circumstances under Article 213(1).

4. Temporary Nature: An ordinance must be laid before the Legislature and ordinarily ceases to operate six weeks after its reassembly, unless it ceases earlier or is withdrawn.

Legality of Re-promulgation

Repeatedly issuing ordinances without placing them before the Legislature circumvents legislative scrutiny and violates constitutional principles.

In *D.C. Wadhwa v. State of Bihar* (1987), the Supreme Court condemned routine re-promulgation as a fraud on the Constitution. In *Krishna Kumar Singh v. State of Bihar* (2017), a seven-judge Bench reaffirmed that re-promulgation without placing ordinances before the Legislature is constitutionally impermissible, except where exceptional circumstances justify it.

Conclusion

Ordinance-making is an emergency legislative power, not a substitute for ordinary lawmaking. Legislative accountability, constitutional restraint and judicial review are essential to prevent its misuse.

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