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Q1

Discuss the essentials of the 69th Constitutional Amendment Act and anomalies, if any, that have led to recent reported conflicts between the elected representatives and the institution of the Lieutenant Governor in the administration of Delhi. Do you think that this will give rise to a new trend in the functioning of the Indian federal politics?

UPSC Civil Services Mains 2016 · GS II · 12 marks · Federal Structure and Devolution

Functions and responsibilities of the Union and the States, issues and challenges pertaining to the federal structure, devolution of powers and finances up to local levels and challenges therein.

Core demand of the question

- Discuss the essentials of the 69th **Constitutional Amendment Act** and anomalies, if any, that have led to recent reported conflicts between the elected representatives and the institution of the Lieutenant Governor in the administration of Delhi. Do you think that this will give rise to a new trend in the functioning of the Indian federal politics?
- Centre **Article 239AA**, the **GNCTD Act, 1991**, the aid-and-advice clause, and what the Delhi design means for Indian federal practice

Revision summary

The 69th Amendment inserted **Article 239AA** and created Delhi's Assembly and Council of Ministers, excluding police, public order and land.

Ministers aid and advise the Lieutenant Governor, but a difference may be sent to the President, which became the legal hook for file delays.

The **GNCTD Act, 1991**, and control over services widened the gap between the voters' government and the Administrator.

The clash is structural to a national-capital Union Territory, not a new model for the States.

Court cases and the 2021 Amendment show competitive, litigated federalism in Delhi rather than a nationwide federal mutation.

Introduction

The Constitution (Sixty-ninth Amendment) Act, 1991, created a Legislative Assembly and a Council of Ministers for the National Capital Territory of Delhi under **Article 239AA**, while keeping Delhi a Union Territory under the President and the Lieutenant Governor. Essentials of that design, and the gaps in aid and advice, explain the public clash between the elected government and the Lieutenant Governor, and they show a special-capital model rather than a new State-federal template for the whole country.

Body**Essentials of the 69th Amendment**

- **Article 239AA** gives Delhi a 70-member Assembly, a Council of Ministers with a Chief Minister, and power to make laws on State List and Concurrent List subjects, except public order, police and land, which remain with Parliament and the Union.
- **Article 239AA(4)** says the Council of Ministers shall aid and advise the Lieutenant Governor in the exercise of his functions, except where he is required to act in his discretion.
- The same clause's proviso lets the Lieutenant Governor, in case of a difference of opinion with the Ministers, refer the matter to the President and act as directed, and in urgent cases take immediate action pending that decision.
- **Article 239AB** allows the President to suspend the **Article 239AA** machinery if the administration of the capital cannot be carried on in accordance with that article, which is a safety valve unique to Delhi.
- The **Government of National Capital Territory of Delhi Act, 1991**, and the Transaction of Business Rules fill in file movement, the Administrator's role, and reserved subjects; they are the working statute of the 69th Amendment, not a substitute for it.

Anomalies that produced LG-ministry conflict

- Delhi is a Union Territory with a legislature, not a full State under **Article 1** and the **First Schedule** in the ordinary sense; voters elect a government that does not control police, land or public order, so daily administration is split by design.
- The phrase "any matter" in the proviso to **Article 239AA(4)** was read by the Union and by some Lieutenant Governors as a wide discretion to sit on files, appoint bureaucrats, and keep the Anti-Corruption Branch or services outside the elected cabinet.
- Services of All India Service officers and DANICS cadres serving the capital were treated as a Union subject, so the Chief Minister could not fully control the officers who implement Assembly laws.
- There is no clear statutory list of "discretionary" matters comparable to a Governor's limited discretion in a State; silence became a field of conflict over notifications, inquiries, and the Chief Secretary's reporting line.
- The Lieutenant Governor is the Administrator under **Article 239**, while the Council of Ministers is responsible to the Assembly; two democratic claims sit in one city, which is the core anomaly, not a mere personality clash.

Federal-politics trend

- The conflict is real and public, but it does not create a new federal type for the States of the Union; it is the politics of a national capital where the Union cannot vacate security, land and the civil service.
- **It does strengthen a trend of competitive, court-mediated federalism:** parties that rule Delhi and the Union differ, so **Article 239AA** is litigated instead of settled by convention, as seen later in **Government of NCT of Delhi v. Union of India (2018)** and the services judgment of 2023, and in the Government of National Capital Territory of Delhi (Amendment) Act, 2021.
- Other Union Territories with legislatures (Puducherry under **Article 239A**) can copy the same aid-and-advice disputes; full States still run on **Articles 163 and 164**, which is a different legal family.
- **A fair discussion therefore treats the 69th Amendment as a hybrid:** representative government for civic subjects, Union override for the capital's strategic subjects, and a standing risk of dual power when different parties occupy Raisina Hill and the Delhi Secretariat.

Flow diagram

69th Amendment Art 239AA -> Elected CM and Assembly
69th Amendment Art 239AA -> LG and Union subjects
Elected CM and Assembly -> Aid and advice
LG and Union subjects -> Proviso reference to President
Aid and advice -> Conflict over files and services
Proviso reference to President -> Conflict over files and services

Conclusion

The 69th Amendment gave Delhi an Assembly and a cabinet under **Article 239AA**, while locking police, land, public order and a wide reference power with the Lieutenant Governor and the Union. Those anomalies, not a sudden new federal doctrine, produced the elected-government versus Lieutenant Governor conflict. The lasting trend is court-supervised power-sharing in the capital, not a rewrite of State federalism for India as a whole.

Facts & figures

Constitution (69th Amendment) Act, 1991

Inserted **Articles 239AA** and 239AB, giving the National Capital Territory of Delhi a legislature and a Council of Ministers while retaining Union Territory status.

Article 239AA(4)

Council of Ministers to aid and advise the Lieutenant Governor, with a proviso to refer differences to the President and to act in urgency pending that decision.

GNCTD Act, 1991

Parliamentary statute that operationalises **Article 239AA** on the Assembly, ministries, and the Administrator's functions.

NCT of Delhi v. Union of India (2018)

Supreme Court held that the Lieutenant Governor is bound by the aid and advice of the Council of Ministers except on reserved subjects and true discretion.

GNCTD (Amendment) Act, 2021

Parliamentary amendment that enlarged the Lieutenant Governor's role in "government" definition and in prior reference of specified matters, reopening the 2016-type conflict in statute.

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