

# DAILY PT POINTERS

25th July, 2024



## The Hindu : \_GS 2/Governance–Page-10

### Is immunity for the President and Governors absolute?

Does Article 361 grant absolute to the Governor even against criminal charges?

Krishnadas Rajagopal

#### The story so far:

A three-judge Bench headed by the Chief Justice of India D.Y. Chandrachud has impleaded the Union government and sought assistance from the Attorney General of India to decide if a “blanket” immunity granted under Article 361 to the President and Governors, while in office, from criminal proceedings undermines fairness, constitutional morality and violates fundamental rights to equal protection of the law and fair trial.

#### What is the case?

The question came up in a petition filed by a contractual woman employee with the Raj Bhavan who has accused West Bengal Governor C.V. Ananda Bose of sexual harassment and molestation.

The woman, identified as ‘XX’ in Supreme Court records to protect her identity, said the “absolute immunity” given to the Governor is based on the

victorian belief that the “King can do no wrong”. She said the police have treated her complaint against the constitutional authority in a “cavalier manner” citing the immunity clause. She said the only option left to her is to wait for the Governor to demit office for the investigation to commence on her complaint of gender violence. She, however, fears that the delay in the criminal investigation against such a powerful person may eventually deny her justice during trial. She has urged the court to mandate the State of West Bengal through its police machinery to carry out an investigation. The employee has also asked the court to frame guidelines and qualify the extent of the immunity.

#### Do Governors have immunity?

Article 361 (1) provides that the President and Governors are not answerable to any court for acts done in exercise and performance of their powers and duties.

However the first proviso to Article 361(1) allows the conduct of the President

to be reviewed by any court, tribunal or body designated by either House of Parliament for the investigation of a charge under Article 61 (impeachment for violation of the Constitution). The second proviso to Article 361(1) holds that the immunity cannot stop a person from suing the Centre or State concerned.

The clause in question before the Supreme Court in the current case is clause (2) of Article 361 which mandates that “no criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor of a State, in any court during his term of office”. The apex court has decided to interpret clause (2) of Article 361 to determine when exactly could criminal proceedings be instituted against a President or Governor. In short, the court has decided to rattle the protective cover of immunity to see if it is “unfettered or unbridled”.

Interestingly, the Constituent Assembly debates on Article 361 (Draft Article 302) in September 1949 show that a Member had indeed found the language of clause

(2) vague. The discussion concerned the phrase “during the term of his office” in Article 361(2). The Member had queried if this would mean the President or a Governor could enjoy immunity by continuing in office despite committing a criminal act. The question was left open.

#### What are the arguments raised?

The petitioner argues that a bar on criminal proceedings under Article 361(2) does not extend to illegal acts or those which “strike at the roots” of a citizen’s fundamental rights. The alleged actions of Governor Bose infringed upon her right to life under Article 21 of the Constitution, she submitted. The immunity under Article 361 cannot impair the police’s powers to investigate the offence or even name the perpetrator in the complaint/FIR. No part of the powers of the Governor provide for him to sexually abuse employees, the employee said.

The Supreme Court, in *Rameshwar Prasad vs. Union of India*, had interpreted that ‘civil immunity’ under Article 361(4) did not take away the power of citizens to challenge the actions of the President or Governors on the ground of ‘malafides’. An analogy could be drawn to interpret criminal immunity the same way. The petition referred to a Madhya Pradesh High Court ruling in *Ram Naresh vs State of Madhya Pradesh*, which had held that the immunity would not impair the police’s powers to investigate an offence, which included recording the Governor’s statement.

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#### THE GIST

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## The Hindu-IR (GSII)-Page 12

### India committed to FTA with the U.K., says Modi

British Foreign Secretary David Lammy refers to 'unique living bridge' between the two countries, and says they are working together on climate action and creating opportunities for businesses

Kallol Bhattacharjee  
NEW DELHI

India is committed to concluding a Free Trade Agreement with the United Kingdom, said Prime Minister Narendra Modi on Wednesday, after meeting the visiting Secretary of State for Foreign, Commonwealth and Development Affairs David Lammy – the highest ranking official from the United Kingdom to visit India since the Labour government won a landslide victory in the recent election.

"[I] appreciate the priority accorded by PM Keir Starmer to broaden and deepen the Comprehensive Strategic Partnership. Remain committed to elevating the ties. Welcome the bilateral Technology Security Initiative and the desire to conclude a mutually beneficial FTA," Mr. Modi said.

Mr. Lammy was hosted by External Affairs Minister S. Jaishankar for a round of talks where the two sides exchanged ideas on a wide range of issues. Mr. Jaishankar said the two sides should cooperate on "global matters on global plat-



**Strengthening ties:** Prime Minister Narendra Modi in a meeting with UK, Foreign Secretary David Lammy, in New Delhi on Wednesday. (ANI/GAURENDIVASOXX)

forms", indicating that India is seeking collaboration with the U.K. to deal with globally relevant issues like climate action.

"We are both countries which have a big global presence in different ways. So I think it's also important India and the U.K. work together on global issues and in global platforms," said Mr. Jaishankar.

After meeting Mr. Modi, Mr. Lammy referred to the

"unique living bridge" that connects India with the United Kingdom and said the two sides are building on "climate action while creating opportunities for British and Indian businesses". India and the U.K. have been discussing the FTA for several years now and have been caught up in a protracted negotiation.

"I am travelling to India in my first month as Fo-

reign Secretary because re-setting our relationship with the Global South is a key part of how this government will reconnect Britain for our security and prosperity at home," Mr. Lammy had said in a statement ahead of his departure, calling India the "emerging superpower of the 21st century", one of the fastest growing economies, with the world's largest population.

- The Prime Ministers of **India** and the **United Kingdom** are launching a new 'Technology Security Initiative' (TSI) to elevate the **strategic partnership** between the two countries to the next level. This was announced during visit of **UK** Foreign Secretary **David Lammy**.
- The TSI will be coordinated by the **National Security Advisors** (NSAs) of both countries through existing and new dialogues. The **NSAs** will set the priority areas and identify interdependencies for cooperation on critical and emerging tech that will, in turn, help build meaningful technology value chain partnerships between two countries, officials said.

The Hindu –Defense(GSIII)-Page-14



## DRDO tests Phase-II ballistic missile defence system

The DRDO on Wednesday successfully flight-tested the Phase-II Ballistic Missile Defence (BMD) system demonstrating the indigenous capability to defend against ballistic missiles of 5,000-km class. Phase 1 of the BMD, which can intercept ballistic missiles with a range of 2,000 km, has already been deployed. The maiden test of the Phase-II BMD was carried out in November 2022. “The Target Missile was launched from LC-IV Dhamra at 1620 hrs mimicking adversary ballistic missile, which was detected by weapon system radars deployed on land and sea and activated the Air Defence (AD) interceptor system,” DRDO said in a statement.

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## The Hindu—Health (GSII)-Page 14

### ICMR ready to transfer technology of a 'breakthrough' TB detection system

**Bindu Shajan Perappadan**  
NEW DELHI

The Indian Council of Medical Research (ICMR) has begun work on spreading an affordable, faster and easy-to-use testing technology for detection of tuberculosis.

The council has invited an Expression of Interest from organisations, companies and manufacturers for "transfer of technology" for commercialisation of "a CRISPR Cas-based TB detection system".

Developed by the ICMR Regional Medical Research Centre, Dibrugarh, the technology is touted as the "world's cheapest TB testing system". It can detect the TB bacterium using DNA from saliva at a very low cost. It can identify the bacterium with preliminary symptoms, and test over 1,500 samples within two hours



Over 1,500 samples can be simultaneously tested within two hours.

"It is so simple that it can be used even in the primary health centre of a village," say researchers at the centre.

TB kills an estimated 4,80,000 Indians every year or over 1,400 patients every day. Additionally, the country has more than a million "missing" TB cases annually, which are not notified. Most remain either undiagnosed, or unaccountably and inadequately diagnosed and treated in the private sector

A senior Health Ministry official had noted that India's efforts to achieve rapid decline in the burden of TB morbidity and mortality, towards the elimination of the infection by 2025, have plateaued.

He added that there is now a move to rework the protocol to tackle the disease, specifically TB medication and its duration, to reboot the TB-free initiative with zero deaths, disease, and poverty resulting from the disease.

#### Expert guidance

The ICMR has developed the "CRISPR Cas-based TB detection system" and is lawfully entitled to enter into any form of exclusive or non-exclusive agreements with eligible manufacturing companies through a defined agreement for licensing and commercialisation of the system, which shall be go-

verned by the ICMR IP Policy, it said.

Listing out its role, the council has noted that the Dibrugarh centre will provide expert guidance and technical support for the production of the system in all phases.

"The ICMR through its institutes would provide support and facilitation to conduct the R&D/clinical study of new technology/product in India, in collaboration with the company/institutions in a professional and mutually agreed upon manner and timelines, which will be decided later under the Agreement. It will also provide technical support in development of technology/product and will also facilitate the validation as per the terms & conditions of the agreement. It shall have no financial implications unless otherwise specified," it said

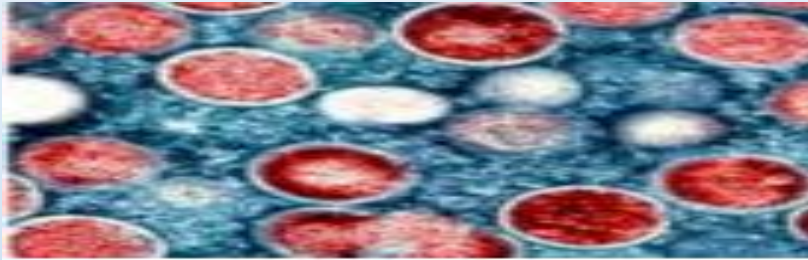
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The Hindu –Science and Tech(GSIII)-Page 20



A coloured transmission electron micrograph of mpox particles (red) found within an infected cell (blue), cultured in the laboratory, captured, and colour-enhanced. NUS/PAF

## *Children at risk as mpox variant hits Congo camps for displaced*

Reuters

Scars from the mpox pustules are still visible on 7-year-old Grace Kabuo's face, as well as on a handful of her playmates at a camp for displaced people near Goma, in the Democratic Republic of the Congo. Grace has otherwise recovered from the virus. Her mother, Denise Kahindo, says she is still unsure how her daughter was infected earlier this month.

"I just helplessly noticed the symptoms on her body," she said. For disease

- Mpox (monkeypox) is an infectious disease caused by the monkeypox virus. It can cause a painful rash, enlarged lymph nodes and fever. Most people fully recover, but some get very sick.
- The monkeypox virus was discovered in Denmark (1958) in monkeys kept for research and the first reported human case of mpox was a nine-month-old boy in the Democratic Republic of the Congo (DRC, 1970). Mpox can spread from person to person or occasionally from animals to people.

# HEADLINES OF THE DAY

## The Hindu–Defense–GSIII

### Maiden voyage



- The first of two Advanced Frigates under construction by **Goa Shipyard Limited (GSL)** for the Indian Navy, was launched
- The ship has been named *Tripur*, after the mighty arrow, representing the indomitable spirit of Indian Navy and its ability to strike far and deep.
- The *Tripur* class ships are 124.8 m long and 15.2 m wide, with a draught of 4.5 m. Their displacement is approx. 3600 tons and speed a maximum of 28 knots. The ships are equipped with stealth features, advanced weapon & sensors and platform management systems.
- Being constructed at GSL, the *Tripur* class of ships are follow on ships of the *Teg* and *Talwar* class ships acquired from Russia. These frigates are being constructed for the first time indigenously by an Indian Shipyard

## Indian Express—Population –GSI-Page 21

### The politics around Panchamasali Lingayats' quota demands in Karnataka

JOHNSONTA  
BENGALURU, JULY 24

Panchamasali Lingayats, a sub-caste of Karnataka's dominant Lingayat community, have been demanding inclusion in Category 2A of the Other Backward Classes (OBC) for more than three years. This will enable them to avail the 15% quota in government jobs and college admissions earmarked for this category, as against the 5% quota the Lingayat community currently enjoys under Category 3B of Karnataka's OBC quota matrix.

On Tuesday, community leaders held a meeting with lawyers to look at how to take forward their agitation.

**EXPLAINED  
POLITICS**

more personal, affective relationship with God, specifically Lord Shiva.

Today, the Lingayat community is an amalgamation of many sub-castes who hold sway in 90-100 of Karnataka's 224 state assembly seats. The agriculturalist Panchamasalis make up nearly 70% of the Lingayat population, numbering around 85 lakhs (as per the community's own claims).

Yet the Panchamasalis have long felt under-represented in Karnataka politics. The state's Lingayat chief ministers like B S Yediyurappa (the preeminent Lingayat leader for decades), and Basavaraj Bommai have belonged to other sub-castes. The community also claims to be economically worse-off than other Lingayat sub-castes.

#### Who are the Panchamasalis?

The Lingayats (officially classified as Hindu sub-caste 'Veerashaiva Lingayats') are followers of Basavanna, a 12th century philosopher-saint who rejected orthodox ritualistic Hindu practices and caste hierarchies in favour of a

#### How does OBC reservation work? When did the Panchamasalis' demand arise?

OBCs comprise different castes and sub-castes who are often at different levels of marginalisation. To prevent any one dominant OBC group from cornering all quota benefits,

#### CURRENT QUOTA MATRIX

Category	Quota
Other Backward Classes	32
Cat 1 (Backward Castes)	4
Cat 2A (OBC)	15
Cat 2B (Muslims)	4
Cat 3A (Vokkaliga, etc.)	4
Cat 3B (Lingayat, etc.)	5
Scheduled Castes (SC)	15
Scheduled Tribes (ST)	3
EWS	10
<b>Total reservations</b>	<b>60</b>

Panchamasalis have wanted to be included in this category for over two decades.

Their disaffection translated to an agitation in 2020 when Murugeshe Nirani, a wealthy BJP MLA, was not inducted in then Chief Minister Vedyurappa's cabinet. Nirani galvanised support among Panchamasali leaders by positioning himself as a champion for their long-standing demand.

He would later backtrack, but leaders like the BJP's Basanagouda Patil Yatnal, and Congress' Vijayanand Kashapannavar and Lakshmi Hebhalikar continued to make the quota demand a political issue. Panchamasali pontiff Basavaraja Mruthunjaya Swamy led a state-wide agitation for the demand. This agitation was called off in July 2021 after Vedyurappa assured to "resolve" the issue on the floor of the Karnataka assembly.

#### How did the BJP try to placate the Panchamasalis? Did it succeed?

Amidst growing troubles in the Karnataka BJP, Vedyurappa resigned as chief minister on July 26, 2021. He was succeeded by Basavaraj Bommai who made a controversial

decision to secure the entire Lingayat (and Vokkaliga) vote in the 2023 assembly elections. On March 27, 2023, the Bommai government scrapped the 4% quota under Category 2B for Muslims, and distributed it (2% each) among the Vokkaligas and Lingayats in newly-created Categories 2C and 2D. This meant that the Lingayat quota increased from 5 to 7%.

The Panchamasalis, however, were insistent on their Category 2A demand. Moreover, after the Supreme Court observed that the changes made were "shaky and flawed", the Karnataka government provided an undertaking saying that it will not make any changes to the state's OBC sub-categorisation. The matter was subsequently adjourned, and has seen no progress since.

Ultimately, the Lingayat community, which had staunchly backed the BJP since the 1990s, ended up playing a major role in the party's loss in the May 2023 assembly elections. The BJP won only 18 of the 68 seats where it fielded Lingayat candidates, including 7 of 27 seats where it fielded candidates from the Panchamasali sub-sect.

The Congress, on the other hand, won 37 seats of the 48 seats where it fielded Lingayat candidates, including 10 of the 14 seats it gave to Panchamasali candidates.

#### How is the Congress government dealing with the situation?

The Congress, which has been buying time for the Supreme Court to provide a legal solution in the matter, is likely to defer any decision on the quota demand until findings of the Karnataka Social, Economic and Caste Survey are accepted, and made public by the state cabinet. This report was handed to the government in February this year.

The Congress, which is heavily reliant on the support of the existing Category 2A OBC communities, could also recommend the inclusion of all Lingayats in the central OBC list — this would curry some goodwill among the Lingayats while keeping the party's existing base happy.

Currently, 16 Lingayat sub-castes who are considered "very backward" are provided reservations for central government jobs and college admissions under the OBC quota.

- Panchamasali Lingayats, a sub-caste of Karnataka's dominant Lingayat community, have been demanding inclusion in Category 2A of the Other Backward Classes (OBC) for more than three years
- The Lingayats (officially classified as Hindu sub-caste 'Veerashaiva Lingayats') are followers of Basavanna, a 12th century philosopher-saint who started a radical anti-caste movement which rejected orthodox ritualistic Hindu practices in favour of a more personal, affective relationship with God, specifically Lord Shiva.
- Today, the Lingayat community is an amalgamation of many sub-castes



# HEADLINES OF THE DAY



## PIB—Science and Tech—GSII

Ministry of Railways

Indigenously developed Automatic Train Protection (ATP) system Kavach deployed on 1465 Route km and 144 locomotives on South Central Railway

₹ 1216.77 crore utilized on Kavach so far; Allocation of funds during the year 2024-25 stands at ₹ 1112.57 crore

Posted On: 24 JUL 2024 7:08PM by PIB Delhi

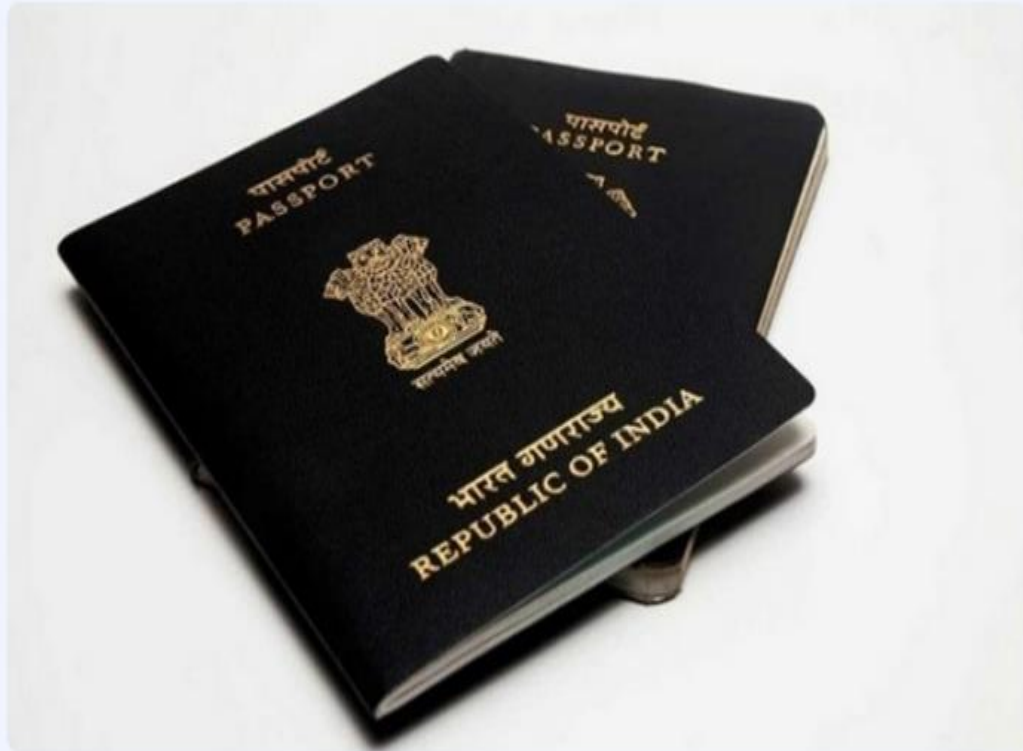
Kavach has so far been deployed on **1465 Route km** and **144 locomotives** (including Electric Multiple Unit rakes) on South Central Railway.

- Kavach is an indigenously developed Automatic Train Protection (ATP) system and a highly technology intensive system, which requires safety certification of highest order.
- Kavach aids the loco pilot in train running within specified speed limits by automatic application of brakes in case Loco Pilot fails to do so and also helps the train safely run during inclement weather.
- Kavach has been certified for highest level of Safety Integrity Level - SIL4 by Independent Safety Assessor and reduces the probability of train collisions in block sections and on running lines at stations through its non-SIL features. With this, Kavach has potential for adoption by other countries

# HEADLINES OF THE DAY

## Air-IR-GSII

### India Ranks 82nd On Global Passport Index With Visa-Free Access To 58 Countries



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- India has been ranked 82nd spot on a global passport index, allowing Indians visa-free entry to 58 countries, including popular destinations like Indonesia, Malaysia and Thailand. According to the latest ranking by the UK-based Henley Passport Index, India's passport now ranks at an improved 82nd spot. The ranking is based on data from the International Air Transport Association (IATA).
- Singapore occupied the top spot in the Index with its citizens having visa-free entry to 195 countries