

Supreme Court Lays Down Rules On Summoning Of Officials

Why In News

- The Supreme Court on Wednesday issued a **Standard Operating Procedure (SOP)** to be followed by courts while summoning government officials and cautioned courts against humiliating such officials or making unnecessary comments on their attire.

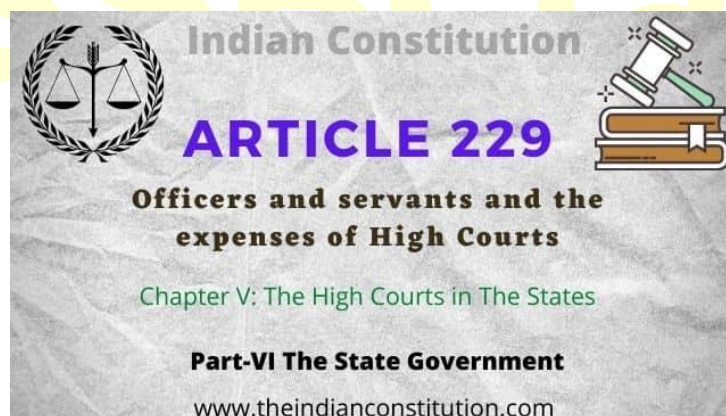


What Was The Case

- In the **Uttar Pradesh matter** last year, the Finance Secretary and Finance Special Secretary were taken into custody and bailable warrants were issued against the Chief Secretary and the Additional Chief Secretary (Finance).
- The Arrest Of Two Officials – **Finance Secretary SMA Rizvi And Special Secretary (Finance) Sarayu Prasad Mishra** Were Taken Into Custody And Bailable Warrants Were Issued Against Chief Secretary And Additional Chief Secretary. The State Government Moved An Application Before The Court Seeking The Rollback Of The April 4 Order.
- This was over **non-compliance** with the **Allahabad High Court's** April 4 direction to the state government to notify rules proposed by the Chief Justice on 'Domestic Help to Former Chief Justices and Former Judges of the Allahabad High Court'.



- The **state government** moved an application before the court seeking the **rollback of the April 4** order. It highlighted legal obstacles in complying with the directions, but the HC went ahead with the action against the officials.
- The Chief Justice did not have the competence to frame the rules under **Article 229 of the Constitution**. Further, the High Court, acting on the judicial side, does not have the power to direct the Government to frame rules proposed by it on the administrative side”



Guidelines Issued

- The **bench of Chief Justice of India (CJI) DY Chandrachud, Justice JB Pardiwala and Justice Manoj Mishra** said that the SOP must be followed by all High Courts and emphasised that courts must steer clear from arbitrarily summoning officials.
- The Supreme Court cautioned courts against **“routinely” summoning or “humiliating” government officials**, laying down an elaborate set of guidelines that underlined the need to cultivate an **“environment of respect”**.



- The top court, while pulling up the Allahabad High Court over the issue, said in the **guidelines that courts should refrain from passing remarks** that can humiliate government officials or making comments on their clothes, appearance, education or social standing.
- The physical presence of officials may be required in proceedings involving evidence such as **documents or oral statements**.
- Except in these cases, “if the issues can be **addressed through affidavits and other documents**, physical presence may not be necessary and should not be directed as a routine measure,” said the SOP.



- It said that presence of a government official may be directed in cases where the court is satisfied that **specific information is not being provided** or if the correct position is being suppressed or misrepresented.



- The SC said that “in exceptional cases wherein the in-person appearance of a government official is called for the court should allow as a first option, the officer to appear **before it through video conferencing**” and that when personal presence is directed, reasons for the same should be recorded.



- The official concerned should be given due notice so that **he has sufficient time to prepare**, the bench said adding courts should, to the extent possible, also designate a specific time slot for the appearance.

- “Government officials participating in the proceedings **need not stand throughout the hearing**. Standing should be required only when the official is responding to or making statements in court”, said the SOP.
- The SOP stated: “Courts must cultivate an **environment of respect and professionalism**. Comments on the dress of the official appearing before the court should be avoided unless there is a violation of the specified dress code applicable to their office”.



- Among others, the SOP also calls upon courts to exercise caution and restraint when initiating contempt proceedings against government officials.
- **Disapproving of the “conduct” of the High Court in “frequently summoning”** officials of the Uttar Pradesh government, the SC said: “Appearance of government officials before courts must not be reduced to a routine measure in cases where the government is a party and can only be resorted to in limited circumstances. The use of the power to summon the presence of government officials must not be used as a tool to pressurize the government, particularly, under the threat of contempt”.