

A turnaround in J and K on Roshni Act

December 19, 2020

The Jammu & Kashmir High administration annulled the Roshni Act which was controversial and decided to retrieve land transferred under the scheme. The move has been hailed by the Central government as a “surgical strike” on corruption. However with review petitions by the beneficiaries as well as the government in the Supreme court and High court, the decision mainly depends on the report of the investigating agency, CBI.

In news: The Supreme court has refused to go into appeals filed against J&K High Court’s order holding the Roshni Act, 2001 unconstitutional.

Placing it in syllabus: Law and policy

Static dimensions

1. What was the Act about?
2. Did it succeed?

Current dimensions

1. Petitions in the Court and high court ruling
2. Review petition by the Government and reasons for it

Content:

Petitions in the Court and High court ruling about it:

- The J&K High Court had on October 9 declared the **J&K State Land (Vesting of Occupants Ownership) Act 2001, also known as Roshni Act**, “void ab initio”.
- It ordered a CBI investigation into all instances of alleged irregularities in transfer of state lands to

private individuals.

- It deferred the hearing of a review petition filed by the UT government against its judgment on the Roshni Act to December 16.
- The CBI is currently investigating irregularities in the land transfers made under the law.
- The Supreme court recently heard a batch of petitions by some of the beneficiaries of the Act who claimed that they were not encroachers but lawful occupants.
- SC noted that the matter has been listed before the J&K HC on December 21 and asked the court to decide it and adjourned the matter to the last week of January 2021.
- The SC has said that the pendency of the petitions will not stop the petitioners from approaching the HC seeking review.

Review petition by the Government and reasons for it:

- The Jammu and Kashmir government in October had announced it would start retrieving thousands of acres of land distributed under the Act, soon after the legislation was struck down by the court.
- But on December 4, the government filed a petition in the Jammu and Kashmir High Court, asking it to reconsider its decision.
- The **UT government now wants to protect poor beneficiaries.**
- In its review petition, the UT government **wants the court to divide beneficiaries under the Roshni scheme into two classes of people** – “*landless cultivators and individuals residing in dwellings on small areas*” and “*rich and wealthy land grabbers*”.
- The **primary criteria for such classification** would be a *ceiling to determine “a landless cultivator or a householder with at the most one dwelling house in personal use.”*

- No relief would extend to beneficiaries who got land above these ceilings.
- Another key demand in the government's review petition is that the government wants **CBI to tailor its investigation in order to be "more result-oriented"** and "focus on the influential and powerful people who defrauded the state."
- The review petition also asks that the **cases registered by Jammu and Kashmir's Anti-Corruption Bureau not be transferred to the CBI** (So far, the Anti-Corruption Bureau has registered 17 FIRs on alleged illegalities under the Roshni Act) as doing so will delay bringing the guilty to book.

Opposition parties, however, have claimed that the government has taken this step after realizing that the major beneficiaries of the scheme were from BJP and RSS from Jammu.

What was the Act about?

- It was passed by the then National Conference government led by Farooq Abdullah to **give ownership to people in possession of state land**, with a **cut-off of 1990** and against a payment as determined by the government.
- Since the **aim was to generate resources for hydroelectric power projects**, it was called **Roshni (Light) Act**.
- In 2005, the PDP-Congress coalition government amended the Act to relax the cut-off year from 1990 to 2004.
- In a later amendment, the Ghulam Nabi Azad government set the premium at 25% of the market rate and the **cut-off date at 2007**.
- The government gave **free ownership rights on agricultural land to farmers occupying it**, who only needed to pay **Rs 100 per kanal of land as documentation fee**.
- Ownership of 3 lakh kanals (17,500 hectares) has been

vested in Jammu region as against 33,000 kanals in Kashmir.

- In Kashmir, **most of this land had been leased out to business houses and for residential purposes, in some cases for almost 100 years.**
- **In October 2018, the then J&K Governor Satya Pal Malik repealed the Roshni Act prospectively.**
- In September 2019, he ordered a probe by the state Anti-Corruption Bureau into all dealings under the Roshni Scheme.
- Following this, another petition was filed in the High Court seeking transfer of the probe to the CBI.

Did it succeed?

- The **2014 CAG report** termed the scheme a Rs-25,000-crore scam.
- It flagged irregularities and said arbitrary reduction of prices by a standing committee was done to benefit politicians and influential people.
- Shortly after the government had approved the Act, the then State Vigilance Organisation filed an FIR against some people who didn't satisfy the criteria but managed to vest ownership of land under the scheme.
- A prominent case came to be known as the **Gulmarg land scam**, in which several top bureaucrats are accused of illegally transferring land of the Gulmarg Development Authority to private parties.
- No action was taken against top bureaucrats and one of the main accused in this case, IAS officer Baseer Ahmad Khan, was appointed Adviser to the Lt Governor of J&K in March, 2020.
- A petition was filed in the High Court to check violations of the Act based on the 17 FIRs.
- Some right-wings groups in Jammu have alleged the Roshni Act was meant to change the demography of the Hindu-majority Jammu district.

- There has been unabated capture of forest and river lands by Muslims and settlements of Rohingyas and Bangladeshis exclusively in Jammu.
- Government figures showed that ownership rights transferred for 44,912 kanals in Jammu district is more than the land transferred in the entire Kashmir Valley.

Mould your thought:

1. Why is the J&K Roshni Act controversial? What is the reason behind J&K UT government's review petition on annulling of the act?

Approach to the answer:

- Brief about Roshni Act
- Write its criticisms
- Write about recent High court judgement on the Act and government's reply to it
- Give a balanced conclusion