

Lok Sabha nod to NDPS (Amendment) Bill

December 16, 2021

In news– Lok Sabha has passed the Narcotic Drugs and Psychotropic Substances (Amendment) Bill recently.

Key highlights-

- The bill amends the Narcotic Drugs and Psychotropic Substances Act, 1985 and seeks to correct the drafting error in the 2014 amendment to this act.
- It seeks to correct what the government termed a “clerical error”, which was rectified by an ordinance promulgated in September 2021 and the Bill is to effect that change into the Act.
- In 2014, a substantial amendment was made to the NDPS Act to allow for better medical access to narcotic drugs.
- In Section 2 (viii)a, the amendment defined “essential drugs” under Section 9, and it allowed the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption and use of essential narcotic drugs.
- But before the 2014 amendment, a Section 2(viia) already existed and contained a catalogue of offences for which the punishment is prescribed in Section 27A.
- While defining “essential drugs” in 2014, the legislation re-numbered Section 2.
- However, Section 2 (viia) sub-clauses i-v, which were supposed to be the catalogue of offences, does not exist after the 2014 amendment and is now Section 2(viib).
- However, the drafters missed amending the enabling provision in Section 27A to change Section 2(viii)a to Section 2(viii)b.
- This error in the text meant since 2014, Section 27A was

inoperable.

- The **error was noticed by a district judge in West Agartala.**
- In June 2021, the **Tripura High Court, while hearing a reference made by the district court, flagged the drafting error, urging the Centre to bring in an amendment and rectify it.**

NDPS Act, 1985

- It is the principal legislation through which the state regulates the operations of narcotic drugs and psychotropic substances.
- The Act is widely regarded as a prohibitionist law which seeks to grapple with **2 kinds of offences**: trafficking of prohibited substances i.e. cultivation, manufacture, distribution and sale, as well as their consumption.
- It provides for establishment of specialized courts to deal with offences set out in the Act.
- The quantum of **punishment** under the NDPS Act is **based on the quantity of drugs found which may be classified into 3 categories: small, less than commercial and commercial.**
- **Section 8 of the Act explicitly prohibits the cultivation** of opium, poppy, coca or cannabis plants.
- It also prohibits the production, manufacture, distribution including warehousing, transport, purchasing and selling of prohibited drugs and psychotropic substances.
- It also prohibits their financing as well as consumption and harboring offenders guilty under the Act.
- The act provides procedural safeguards to prevent innocent civilians from being unnecessarily harassed.
- The 2014 amendment provides for the accreditation of treatment centres by relevant government authorities.
- **Nodal agency is the Department of Social Welfare (awareness).**

- The Narcotics Control Bureau is tasked with the responsibility of overseeing the activities undertaken by various law enforcement agencies.
- The **Ministry of Finance looks into cases grappling with drug trafficking, money laundering and other offences** which are closely linked with drug abuse.