

The Family Courts (Amendment) Bill 2022

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In news– The Lok Sabha has recently passed the Family Courts (Amendment) Bill, 2022 that seeks to amend the Family Courts Act, 1984.

Key features of the Bill-

- **The Bill will amend the Family Courts Act by inserting a proviso to Section 1.**
- **The suggested new Section 3A under the amendment extends the application of the Act to Himachal Pradesh(2019) and Nagaland(2008), with effect from the dates the family courts were set up.**
- **The Bill also seeks to validate all actions under the said Act taken by the State Government of Himachal Pradesh and Nagaland and the Family Courts of those states prior to the commencement of the Family Courts (Amendment) Act, 2022.**
- **It also says that all orders of appointment of a family court judge, and the posting, promotion or transfer of such a judge under the Act will also be valid in the two States.**

Need for the amendment-

- **Two family courts were established in Nagaland on September 12, 2008, and three in Himachal Pradesh on February 15, 2019, via notifications issued by the two State governments.**
- **While Himachal Pradesh set up family courts in Shimla, Dharamshala and Mandi, Nagaland established two such courts at Dimapur and Kohima.**
- **However, these courts were functioning without any legal authority since no central notification was issued in**

this regard, as prescribed under Section 1(3) of the Family Courts Act.

- **The issue came to light in 2021 after a petition was filed in the Himachal Pradesh High Court (Omkar Sharma vs. State of Himachal Pradesh).**
- **The plea contended that these family courts were functioning without jurisdiction since the Central Government** had not issued any notification to bring into force the provisions of the Act in the State.
- It added that this would render void anything done or any action taken under orders issued by these courts.
- **Since there was no provision in the Act for the Centre to notify the establishment of family courts, the Union Law Ministry brought The Family Courts (Amendment) Bill, 2022 to address this lacuna.**
- **The amendment was brought with a view to tide over the legalities and “validate” and “save” all actions taken by the State Government and family courts, including the appointment of judicial officers and court staff.**

The Family Courts Act, 1984 and its provisions-

- **It was enacted in 1984 for the establishment of family courts by States** to deal with disputes related to family and marriage.
- **The law was passed to allow State governments to establish family courts to promote conciliation** and ensure that disputes related to family affairs and marriage are promptly settled.
- **Under the Act, the setting up of family courts and their functioning comes under the purview of the State governments** in consultation with their respective **high courts**.
- The Act also lays down **provisions for the appointment of judges in family courts.**
- Under the act the **Centre has to notify a date for the Act to come into force in a State where such courts have**

been set up. If there is no government notification, it raises questions about the jurisdiction and statutory powers of these family courts.

- According to Section 5 of the family courts act, **the state government after consulting with the High Court may make rules regarding the association of the following persons or institutions with the family court:**
 - Organisations or institutions related to social welfare.
 - A professional person who will work for the welfare of the family court.
 - Any person who is working in the field of social welfare.
 - Any other person whose presence will ensure the effective working of the family court.
- **Section 7 of this act confers those powers and jurisdiction on the family courts which are exercised by the District Court or Subordinate Civil Courts** in their suits and proceedings.
- Section 9 of this act prescribes the duty of the family court to make efforts to promote reconciliation between the parties.