

## CENTRE – STATE RELATION: POLITY

**NEWS:** Supreme Court stays ED probe in TASMAL liquor ‘scam’ in Tamil Nadu

### WHAT’S IN THE NEWS?

The ED's raid on Tamil Nadu's state-run TASMAL under PMLA raised concerns of federal overreach, prompting the Supreme Court to stay proceedings and uphold constitutional federalism. The case highlights the need for clear limits on central investigative powers over state subjects and stronger privacy safeguards.

#### Context: ED Raids on TASMAL and Supreme Court Intervention

- The **Enforcement Directorate (ED)** conducted raids on **TASMAL**, Tamil Nadu’s state-run liquor corporation, under the **Prevention of Money Laundering Act (PMLA), 2002**.
- This triggered a constitutional debate as the **Tamil Nadu government alleged federal overreach**, questioning the ED’s authority over a **State List subject**.
- The **Supreme Court intervened**, staying proceedings and **reminded the ED to act within the bounds of constitutional federalism**.

#### About the Enforcement Directorate (ED)

- ED is tasked with enforcing the **PMLA, 2002** to investigate offences related to **money laundering, corruption, and financial crimes**.
- It can probe financial crimes that have a **predicate offence** under scheduled Acts.
- However, it must **respect constitutional boundaries**, particularly when its actions involve subjects listed under the **State List** of the Constitution.

#### Constitutional Framework on Federalism

- India’s federal structure is governed by the **Seventh Schedule**, dividing powers between the Union (List I), States (List II), and Concurrent List (List III).
- **Liquor trade and regulation** fall under **Entry 51 of the State List**, giving **exclusive powers to states** to legislate and regulate it.
- **Article 246(3)**: Confers exclusive legislative power to states on State List subjects.
- **Article 257**: Prohibits the Union from interfering in state administration except during national interest situations.

#### Key Issues Highlighted by the Case

##### 1. Jurisdictional Overreach

- ED’s probe into a **state-run PSU (TASMAL)** without clear jurisdiction raises questions about federal limits.
- Most ED investigations are triggered by **FIRs against individuals**, not public sector corporations.

## 2. Right to Privacy Concerns

- ED's **seizure and cloning of phones** raise concerns about **privacy violations under Article 21**.
- Reference to **Justice K.S. Puttaswamy (2017)** case where the **Right to Privacy** was **upheld as a fundamental right**.

## 3. Political Neutrality of Agencies

- Concerns over whether **central agencies act with political bias**, especially during raids on opposition-ruled states.
- Such actions may **undermine trust in federal agencies** and affect the spirit of **democratic federalism**.

## 4. Legal Ambiguity

- There is no **explicit legal clarity** on whether the ED can **probe state-owned enterprises** governed by State List entries.
- This leads to **institutional clashes** and threatens cooperative federalism.

## Supreme Court's Role and Checks on Investigative Overreach

- The judiciary, particularly the **Supreme Court**, serves as the **guardian of the Constitution and federal balance**.
- In this case, the SC's stay:
  - **Protected state autonomy**.
  - **Defended individual rights** such as privacy.
  - Reinforced that central agencies must **act within legal bounds**.
- Past precedents like the **Godavarman case (1996)** also showcased the judiciary's role in managing **Centre-State relations and environmental federalism**.

## Governance and Accountability Implications

- **Central agencies** must walk a fine line between **effective anti-corruption enforcement** and **respecting constitutional boundaries**.
- **Transparency and due process** are essential to maintain institutional credibility.
- **Improved Centre-State coordination** is critical for seamless and accountable governance.

## Way Forward

### 1. Legislative Clarity

- Parliament must **clearly define ED's jurisdiction** regarding **State PSUs and departments**, to avoid legal ambiguity.

## 2. Inter-agency Protocols

- Create protocols for **cooperation between ED and State Governments**, especially in cases involving state institutions.

## 3. Privacy Protection in Investigations

- Ensure **investigation methods comply with Right to Privacy principles**, including digital forensics and data handling.

## 4. Judicial Oversight and Safeguards

- Strengthen the role of courts in **monitoring the functioning of investigative agencies** and preventing arbitrary action.

## 5. Promote Cooperative Federalism

- Foster **dialogue, mutual trust, and accountability** between the Centre and States to uphold constitutional federalism.

## Conclusion

- The TASMAC case highlights **deep tensions between investigative authority and state autonomy**.
- A **balanced approach**—respecting both **anti-corruption imperatives** and **constitutional safeguards**—is essential for preserving **India's federal structure and democratic integrity**.

Source: <https://www.thehindu.com/news/national/tamil-nadu/supreme-court-stays-ed-probe-in-tasmac-liquor-scam-in-tamil-nadu/article69605181.ece>