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**DAILY EDITORIAL
ANALYSIS**

TOPIC

Territorial Jurisdiction of Border
Security Force (BSF)

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TERRITORIAL JURISDICTION OF BORDER SECURITY FORCE (BSF)

Context:

- The Supreme Court of India recently **decided to examine the 'expansion of territorial jurisdiction'** over the Border Security Force (BSF).

Background:

- The Union government passed a notification in October 2021 **amending the BSF Act, 1968**.
 - It extended the jurisdiction of the BSF from 15 km to 50 km from the International Border in Punjab, West Bengal, and Assam.
 - In Gujarat, the limit was reduced from 80 km to 50 km.
 - For Rajasthan, it was kept unchanged at 50 km.
- According to the BSF, the decision to extend the jurisdiction of the security force to a 50 km belt along the international border in Punjab, West Bengal, and Assam was taken **to 'give uniformity to the jurisdiction' across the states**.

BSF Jurisdiction: Current Scenario

- The powers of the BSF include the **power to arrest, search and seize** under laws such as the Passport (Entry into India) Act, 1920, Passport Act, 1967, Customs Act, 1962, The Narcotic Drugs and Psychotropic Substances Act, 1985, and certain other laws.
- It mainly focuses on preventing trans-border crimes, especially unauthorised entry into or exit from Indian territory.
 - It **does not have the power to investigate or prosecute offenders**, but has to hand over those arrested and the contraband seized from them to the local police.
- In practice, BSF personnel **usually work in close coordination with the police** and there ought to be **no clash of jurisdiction**.
- Section 139(1) of the BSF Act allows the central government, through an order, to designate an area "within the local limits of such area adjoining the borders of India" where members of the BSF can exercise powers to prevent offenses under any Acts that the central government may specify.

Key Advantages over the extension of BSF jurisdiction

- Uniformity in Operations:** The amendment brings uniformity for BSF operations in the border states of Punjab, West Bengal, Gujarat, Rajasthan, and Assam, where it can now operate within a 50 km area from the border.
- Effective Border Patrol:** The Union government stated that the extension of the BSF's jurisdiction will help it discharge its border patrol duty more effectively.
- Combat Trans-Border Crimes:** The BSF mainly focuses on preventing trans-border crimes, especially unauthorised entry into or exit from Indian territory.
 - The expanded jurisdiction authorises the BSF to conduct more searches and seizures, especially in cases where offenders manage to enter deep into the country's territory.
- Technological Advancements:** The extension is aimed at empowering the BSF to discharge its border guarding duties more effectively in the wake of the use of technology like Dynamic Remotely Operated Navigation Equipment (Drones), Unmanned Aerial Vehicles (UAVs), etc by anti-national forces for surveillance as well as for smuggling of arms, narcotics, and Fake Indian Currency Notes (FICN).
- Cooperation with State Police:** In practice, BSF personnel usually work in close coordination with the police and there ought to be no clash of jurisdiction.

Concerns over the extension of BSF jurisdiction:

- Federalism Concerns:** Some states argue that the extension of BSF's jurisdiction encroaches upon their powers related to police and public order, asserting their **Constitutional rights**, as mentioned in the **List-II of Schedule 7 (Entry 1 and 2)**.

Article 131 of Indian Constitution:

- It confers exclusive **jurisdiction** on the Supreme Court to hear **disputes between the Government of India and one or more states or between two or more states.**
- ♦ **In this context**, the state of Punjab filed an **'original suit'** against the Union government in the Supreme Court under **Article 131 of the Constitution**, which grants the Supreme Court exclusive jurisdiction over disputes between the central government and states.
- **Lack of Consultation:** The states also contend that the central government issued the notification without consulting the affected states.
- **Arbitrariness:** The Supreme Court has framed questions on whether extending BSF's local area jurisdiction was arbitrary and whether such extension interfered with the local area jurisdiction of the state police.

About BSF:

- It was raised on **December 1, 1965**, and currently has 192 operational battalions and is the **country's largest border-guarding force**, with the Indo-Tibetan Border Police (ITBP), the Sashastra Seema Bal (SSB) and the Assam Rifles being the other three.
- The BSF has a strength of **about 2.65 lakh personnel** and it guards over **6,300 km of international border with Pakistan on the west and Bangladesh** on the eastern flank of the country.
- The BSF has its own cadre of officers but its head, designated as a Director-General (DG), since its raising has been an officer from the Indian Police Service (IPS).
- **Role of BSF:** It is the **first line of defence**. Its main role is **security of border lines of India** & matters connected therewith.
- **Tasks (Peace Time):**
 - ♦ Promote a sense of security among the people living in the border areas.
 - ♦ Prevent trans-border crimes, unauthorised entry into or exit from the territory of India.
 - ♦ Prevent smuggling and any other illegal activity.
- **Tasks (War Time):**
 - ♦ Holding ground in less threatened sectors so long as the main attack does not develop in a particular sector.
 - ♦ Maintenance of law and order in enemy territory administered under the control of the Army.
 - ♦ Limited Aggressive action against para military or irregular forces of the enemy.
 - ♦ Performing special tasks connected with intelligence including raids.
 - ♦ Other tasks in wartime are protection of vital installations, provision of escorts, guarding of prisoners of war cages, and assistance in control of refugees etc.

Steps to improve the overall capacity of the BSF:

- **Enhancing Operational Powers:** The Ministry of Home Affairs (MHA) has the power to enhance the 'arrest, search and seize' powers at the international boundary within Assam, West Bengal, and Punjab.
 - ♦ This helps in curbing trans-border crimes and improves operational effectiveness.
- **Increase Housing Satisfaction Ratio:** Providing better living conditions for the personnel can improve their morale and efficiency.
 - ♦ This includes proper housing facilities and amenities.
- **Training and Skill Development:** Regular training programs and skill development initiatives can help in enhancing the capabilities of the BSF personnel.
 - ♦ This includes training in handling advanced weaponry, intelligence gathering, and counter-insurgency operations.
- **Health and Wellness Programs:** Implementing health and wellness programs for the personnel can ensure their physical and mental well-being, which is crucial for their performance.

- **Collaboration with Other Agencies:** Collaborating with other security agencies and sharing intelligence can help in effective border management.
- **Community Engagement:** Engaging with the local communities living in border areas can help in gathering crucial information and maintaining peace in these areas.

The Future Outlook:

- The Supreme Court will examine whether the notification issued by the Union government resulting in the increase in the jurisdiction of the BSF in the State of Punjab constitutes **an arbitrary exercise of power of the BSF Act 1968**.
- The court will also examine whether the increase of the jurisdiction of the BSF is **beyond the local limits of areas adjoining the borders** of India.
- The court will also examine whether all states have to be treated alike for the purpose of determining the local limits of areas adjoining the borders of India under **Section 139 (1) of the BSF Act, 1968**.
- The court will also examine whether the constitutionality of the notification of October 11, 2021 can be challenged in **an original suit under Article 131** of the Constitution.

Source: *TH*

DAILY MAINS QUESTION

Border management is a complex task due to difficult terrain and hostile relations with some countries. In the light of the above statement, examine jurisdiction of Border Security Force (BSF).

