

Essential Services Maintenance Act (ESMA)

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Context- Recently the Maharashtra government passed the Maharashtra Essential Services Maintenance and Normal Life of Community act (MESMA) amidst strikes demanding the return of the old pension scheme(OPS).

What is the Essential Services Maintenance Act ?

The **Essential Services Maintenance Act** is an act of parliament 1968 under list no. 33 in the **7 th schedule under the concurrent list** of the Indian constitution. It empowers the government to define any economic activity or service as essential whose obstruction would affect the normal life of the people. It is a principal and typical method of states to handle strikes by its employees.

According to the **International Labor Organization(ILO)** , the **Committee on freedom of association**, constructed the principles on the right to strike . Employees in essential services **do not enjoy the right to strike**. Essential services are those where the interruption of which would endanger the life, personal safety or health of the whole or part of the population.

Some essential service identified by the committee are:

Hospital sector, services like electricity, water supply , telephone, air traffic control.

The act gives the police the right to arrest the protestors without warrant violating the act's

provisions. Each state has its own unique and separate provision of the Essential services maintenance act.

Right to strike – It is a basic right of workers, a principle means to legitimately promote and defend their economic and social interest. Envisaged in the **article 19, right to protest is a fundamental right but not right to strike , it is a legal right** with restrictions as per **Industrial dispute act 1947** . There can be prohibition on strike action during acute national emergencies . It is restricted for public sector enterprise officials(union or state), banking ,oil, metropolitan transport undertakings and those in the education sector all under the name of the state.

Problems with ESMA

- Its promulgation has been irresponsible ,unwise and anti-democratic .
- **The Essential Services Maintenance Act** has been seen as monopolizing power and suppressing democratic rights of stakeholders i.e. the right to protest or strike.
- The ESMA is seen as a dangerous weaponization of the government that tilts the balance in industrial relations in the government sector dangerously towards the government.

Way forward

The need of the hour is to look for alternate dispute- resolution mechanisms where the right to strike is prohibited or regulated.India as a pluralistic democracy should respect the right to protest that holds importance . Social dialogue rather than authoritarian measures shall provide amicable and long term solutions.