

**05– 11 – 2022**

**News:** All employees can opt for EPFO pension scheme: SC

- The court uses its extraordinary powers under Article 142 to allow eligible members who had not opted for enhanced pension coverage prior to the 2014 amendments to do so in four months.

## **Article 142**

- Article 142 provides discretionary power to the Supreme Court as it states that the Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it.

### **Constructive Application**

- In the early years of the evolution of Article 142, the general public and the lawyers both lauded the Supreme Court for its efforts to bring complete justice to various deprived sections of society or to protect the environment.
- The Cleansing of Taj Mahal and justice to many under trials is a result of the invocation of this article only.

- In the **Union Carbide** case, relating to the victims of the Bhopal gas tragedy, the Supreme Court placed itself above the laws made by the Parliament or the legislatures of the States by saying that, to do complete justice, it could even override the laws made by Parliament.
- However, in the **Supreme Court Bar Association v. Union of India**, the Supreme Court stated that Article 142 could not be used to supplant the existing law, but only to supplement the law.

### **Cases of Judicial Overreach**

- In recent years, there have been several judgments of the Supreme Court wherein it has been foraying into areas which had long been forbidden to the judiciary by reason of the doctrine of ‘separation of powers’, which is part of the **basic structure** of the Constitution.

One such example is:

- The **ban on the sale of alcohol along national and state highways**: While the notification by the central government prohibited liquor stores along National Highways only, the Supreme Court put in place a ban on a distance of 500 metres by invoking Article 142.
- Additionally, and in the absence of any similar notification by any of the State governments, the court extended the ban to State highways as well.

- Such judgments have created uncertainty about the discretion vested in the court to invoke Article 142 where even fundamental rights of individuals are being ignored.