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President Creates a Ladakh High Court Bench Using Article 240, a Power That Exists Because Ladakh Has No Legislature

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POLITY

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President Creates a Ladakh High Court Bench Using Article 240, a Power That Exists Because Ladakh Has No Legislature

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On August 27, 2026, President Droupadi Murmu promulgated the Union Territory of Ladakh (Sitting of Bench of the High Court of Jammu and Kashmir, and Ladakh in Ladakh) Regulation, 2026, being Regulation No. 10 of 2026, under Article 240 of the Constitution read with Section 58(2) of the Jammu and Kashmir Reorganisation Act, 2019. It was published in the Gazette of India Extraordinary the same day.

WHAT THE REGULATION DOES

It permits **Judges and Division Courts** of the common High Court of Jammu and Kashmir, and Ladakh to **sit at a place in Ladakh** appointed by the **Chief Justice**, with the **approval of the Lieutenant Governor of Ladakh**.

Three features of the drafting are worth noting, because each is a [deliberate](#) limitation.

PROVISION	EFFECT
The principal seat is expressly preserved	This is not a relocation of the High Court, nor the creation of a second High Court
The Chief Justice retains discretion to direct that any case arising in Ladakh be heard at Srinagar or Jammu	The Ladakh sitting is a facility, not an exclusive jurisdiction
Commencement is by notification of the Administrator of Ladakh	The Regulation is in force but the bench begins on a date the Administrator fixes

So what has been created is a **bench of an existing High Court**, at a place to be appointed, beginning on a date to be notified.

WHY THE INSTRUMENT IS THE STORY

This is where the item earns its place in a Polity answer rather than a news roundup.

How a High Court bench is normally created

The usual route runs through the **States Reorganisation Act, 1956**, whose **Section 51** provides for the President to establish a permanent bench of a High Court at a place other than its principal seat, **after consultation with the Governor of the State and the Chief Justice of the High Court**. In practice, benches have been established on the recommendation of the Chief Justice, following the **Jaswant Singh Commission (1981)** criteria on distance, pendency and workload.

That machinery is built around a **State**, with a Governor and a legislature.

Why that route was unavailable

Ladakh is a Union Territory without a legislature. It was constituted as one by the **Jammu and Kashmir Reorganisation Act, 2019**, which split the former State of Jammu and Kashmir into two Union Territories: **Jammu and Kashmir, with a legislature**, and **Ladakh, without one**. The Act also provided, in **Section 58(2)**, for the High Court of Jammu and Kashmir to serve as the **common High Court** for both.

There is no Ladakh legislature to legislate, and Ladakh is not a State whose Governor can be consulted under the 1956 Act. The Union therefore used the instrument designed for exactly this gap.

What Article 240 is

Article 240 empowers the **President to make regulations for the peace, progress and good government** of certain Union Territories. Its remarkable feature is in the second clause: such a regulation **has the same force and effect as an Act of Parliament**, and **may repeal or amend any Act of Parliament** in its application to that territory.

It is, in substance, a **plenary lawmaking power vested in the executive**, available only where no legislature exists to exercise it.

CRITICAL ANALYSIS

The access-to-justice case is genuinely strong. A litigant from Leh or Kargil seeking relief from the High Court has had to reach **Srinagar or Jammu**. The route over **Zoji La** is closed for months each winter, leaving air travel as the only option, at a cost that puts the constitutional court beyond the reach of ordinary litigants for a substantial part of the year. Measured against **Article 21** as interpreted to include access to justice, and against **Article 39A** on equal justice and free legal aid, a bench in Ladakh is a clear gain.

The constitutional discomfort is equally real, and it is not an objection to the outcome. Creating a High Court bench is ordinarily a decision taken with the participation of an elected legislature's executive and on the Chief Justice's recommendation. Here it was done by an instrument that requires **no legislature's assent at all**, because there is no legislature to give it. The territory receives a benefit through the same mechanism that reflects its lack of representation.

That is the tension worth writing in a Mains answer, and it connects directly to the live political demand in Ladakh. The **Leh Apex Body** and the **Kargil Democratic Alliance** have been pressing for **statehood** and for the inclusion of Ladakh in the **Sixth Schedule**, precisely on the argument that a territory governed by executive regulation lacks democratic control over its own affairs. A welcome decision delivered by executive regulation illustrates the point rather than answering it.

The bench is not yet sitting. Commencement awaits the Administrator's notification, and the place of sitting awaits the Chief Justice's appointment of it. Between Leh and Kargil, that choice will itself be contested.

UPSC RELEVANCE

GS Paper 2: Indian Constitution, features and significant provisions; the structure, organisation and functioning of the Judiciary; Union Territories; powers, functions and responsibilities of the President; issues and challenges pertaining to the federal structure.

Prelims angle: Article 240 is examinable in itself, and the list of Union Territories it covers is a standard trap. Note that Article 240 applies to Union Territories **without** legislatures, and that Puducherry falls within it only when its legislature is **suspended or dissolved**.

Mains angle: *"Access to justice delivered through an instrument that bypasses representation is both a gain and an illustration of the deficit."* This frame carries a full answer and can be extended to the Sixth Schedule demand.

★ FACTS CORNER — KNOWLEDGE PEDIA

THE INSTRUMENT:

Regulation No. 10 of 2026, promulgated 27 August 2026, published in the Gazette of India Extraordinary the same day.

Full name: Union Territory of Ladakh (Sitting of Bench of the High Court of Jammu and Kashmir, and Ladakh in Ladakh) Regulation, 2026.

Made under Article 240 read with Section 58(2), Jammu and Kashmir Reorganisation Act, 2019.

Notifying ministry: Ministry of Law and Justice.

Place of sitting: appointed by the Chief Justice, with the approval of the Lieutenant Governor of Ladakh. Commencement: notified by the Administrator of Ladakh.

The principal seat is unchanged; the Chief Justice may still direct a Ladakh case to be heard at Srinagar or Jammu.

ARTICLE 240:

Empowers the President to make regulations for the peace, progress and good government of specified Union Territories.

Such regulations have the force and effect of an Act of Parliament and may repeal or amend an Act of Parliament in application to that territory.

Covers Union Territories without a legislature: Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu, and Ladakh. It also applies to Puducherry when its legislature is suspended or dissolved.

Delhi is excluded, being governed by Article 239AA, and Jammu and Kashmir, having a legislature, is outside Article 240.

Article 239 provides for administration of Union Territories by the President through an Administrator; Article 239A relates to the creation of local legislatures for certain UTs.

THE HIGH COURT:

The Jammu and Kashmir Reorganisation Act, 2019 created two Union Territories with effect from 31 October 2019: Jammu and Kashmir (with legislature) and Ladakh (without legislature).

Section 58(2) of that Act provides for a common High Court for both.

The court is styled the High Court of Jammu and Kashmir and Ladakh (renamed in 2021).

Chief Justice of India in this period: Justice Surya Kant.

Article 214: a High Court for each State. Article 231: Parliament may establish a common High Court for two or more States (and Union Territories).

Under the States Reorganisation Act, 1956, Section 51, the President may establish a permanent bench of a High Court elsewhere, after consultation with the Governor and the Chief Justice.

The Jaswant Singh Commission (1981) laid down the working criteria for establishing High Court benches.

WATCH THE TRAP:

A bench of a High Court is not a new High Court. Creating a High Court requires parliamentary legislation; a bench is created by presidential order or, as here, by regulation.

Article 240 regulations are not delegated legislation in the ordinary sense. They have the force of a parliamentary Act and can override one. This is why the power is confined to territories with no legislature.

Ladakh has no legislature; Jammu and Kashmir has one. They share a High Court but not a constitutional status.

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