

## **Emergency(352-360):Part(18)**

- National Emergency(352)
- President Rule(356)/State Emergency
- Financial Emergency(360)

### **Notes:**

- These Emergency Provisions are taken from GOI Act-1935

## **National Emergency(352)**

- Due to war,external Aggression(External disturbance) or armed rebellion
- Even before actual occurrence of above three President can impose article-352
- If emergency is imposed considering War and external aggression then it is known as External Emergency and in case of armed rebellion it is internal emergency
- Can be imposed in any part or whole country
- Earlier In place of armed rebellion Internal Disturbance was present which was later replaced with armed rebellion in 44CA 1978
- President can impose National Emergency on written recommendation of Cabinet,this was added by 44 CAA 1978
- Cabinet word is only present under Article 352 of Constitution,everywhere else only COM is present
- Judicial Review is applicable on this Emergency and it was said under Minirva Mill Case 1980

### **Procedure:**

- 15 October(Emergency Imposed)——15 Nov and within 30 days

it has to be passed in Parliament with Special Majority(2/3 P&V), Earlier it was simple and was made special with 44 CAA 1978

- After approval it can be extended to 6 Months then again it can be approved and extended for 6 Months

## How it can be Revoked

- President himself can revoke
- By Loksabha(Added by 44CAA 1978)
  - 1/10 member should ask speaker or President that they want to revoke
  - Special session will be called within 14 days
  - If lok sabha passes the resolution with simple majority then emergency will be revoked

## Note:Imposed 3 times till date

- 1962:Indo-China war
- 1971:Indo-Pak war(Bangladesh liberated)
- 1975:Internal grounds(Internal disturbance)

1)War was also in 1965 and during that 1962 emergency was continued

2)In 1971 Emergency was there but still 1975 it was imposed again?  
Why? Cz ground was difference

## Effects of National Emergency

- Centre became more powerful
- State govt is not suspended
- Centre govt will direct state
- Parliament can now make laws on state list also
- Even President can issue ordinance in state list subject

- This ordinance will be effective after 6 months of the removal of emergency
- Modification in the distribution of revenue between centre and states
- Time period of L.S and Rajya sabha can be extended 1 year at a time
- A-358: Suspension of article-19:44 CAA 1978 said that it can be suspended when National emergency is imposed on grounds of war and external aggression but article 19 will not be suspended in case emergency is on armed rebellion
- Article-359: Suspension on enforcement of other fundamental rights: President will release a proclamation in writing that which fundamental right will be suspended for how much time and it is applicable on all three grounds
- Article 20 & 21 will never be suspended
- This Suspension of FRs in case of Emergency is taken from Germany
- Laws made by parliament during National Emergency will automatically be removed after 6 months of removal of Emergency

## President Rule/State Emergency or Constitutional Emergency(356)

Article <sup>356</sup>~~365~~ says that whenever a state fails to comply with or to give effect to any direction from the Centre, it will be lawful to deem that the government of the state cannot be carried on in accordance with the provisions of the Constitution.

President Rule can be imposed on two different grounds on any specific state

- Can be imposed if in any state situation is not as per the constitution
- Article 365: If states fail to comply with directions from the Centre

### Process:

- 30 October: President Rule imposed
- Within two months Parliament has to pass with Simple Majority
- After that it will be on for 6 months from the date of imposition means till 30 April next year
- Can be extended again for 6 months and maximum time till 3 years

Beyond 1 Year President Rule can be extended only when any of the two conditions are followed:

- National Emergency in country
- When ECI says that elections are not possible in that stage

### How it gets Revoked:

- Anytime by President without Parliamentary approval

### Effects

- President will take up the functions of state and powers of state authority
- President can declare state legislature power will be exercised by Parliament
- State legislature will be suspended
- With President rule imposed its State govt is suspended and after getting Parliament approval its State Govt will be Dissolved (Elections required)
- President issues ordinance of state subject



- Laws made by Parliament during President rule will be effective even after the removal of President Rule
- Judicial review is possible

## Cases when 356 Can be used

- Hung Assembly: No party in Majority neither then want to form coalition
- If Government resign and no other party is forming govt
- State not working as per the constitution or state not obey Central Govt
- Governor has to send the report explaining the conditions of state but that report is not binding on President. He can even impose Rule without report

## Financial Emergency(360)

### Grounds

- Financial stability of Country is threatened
- Judicial review applicable

### Process:

- 30 October: Imposed
- Two months time to get passed (Simple Majority)
- When imposed it will be active for indefinite time, no repeated approval is required

### Effects

- State finance related matters will be restricted and will be given to centre
- Salary or allowances will be reduced of Govt employees
- State bill will be reserved by the governor for the President (201)

- Reduction of salary/allowances for the Judge of SC and HC

***Notes:***

- Till now it is not imposed in India
- President Rule has been imposed more than 100 Times
- First President Rule in Punjab-1951
- Maximum times: Manipur (10 times)