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Centre - State Administrative Relations

Ref. daskmikan

Evaluation

Challenges of Indian federalism & Issues

& considerations of Indian federalism:

1) Proliferation of Central Schemes

Under Article 246, States are empowered to enact a legislation & frame policies in sectors like health, family welfare education, employment etc. Although after new liberal reform strategy number of centrally sponsored schemes & central sector schemes have increased drastically in the country. These are the schemes which are manufactured by centre & operating guidelines are also proclaimed by centre but the operating responsibilities are devoluted to the states.

The proliferation has raised no. of issues like the planning endeavour of state get curtailed by such schemes, states are not in a position to formulate their policy prerogatives & the total outlay & expenditure of states have ~~decreased~~^{decreased} drastically in sectors like Rural Development & Social Empowerment. Apart from this, it is also required for the state to provide a matching contribution for such central schemes.

(like mid-day meal 25%
Pradhan Mantri Awas Yojna 50%
Amrut mission 50%

(Sargat
Siksha
Abhiyan) — SSA 35% etc)

ii) Legislative Conflict

Division of Power is the soul of our Constitution. It is also the inherent component of basic structure. Recently, parliament has passed several contentious & controversial laws on subjects like agriculture & agricultural products. Several issues have been raised by states against such reactionary legislations —

- a) Whether an extra ordinary legislation under Article 249, ~~to~~ could be passed under ordinary circumstances or not.
- b) In Tika Ram Case, 1956, Supreme Court
- Recognised the legislative power of state in Agricultural Sector. In this regards 3 farms acts are against the basic spirit of federalism. Since under entry 14 of Union list, Agriculture & ancillary matters of agriculture are coming under ambit of state list.

Centre use entry 33 of concurrent list as a tool to legislate over agriculture sector. It should be noted that Entry 33 deals only with trade & commerce of food stuff & permit no such interference that central govt. can legislate over subjects like Market fee, cess & ~~levy~~ levy.

The subject investigation is also coming under the ambit of Entry 8 list 1 of the constitution. Although Police & Public Order are exclusively ~~are~~ ^{the} subject of State list. This regular event of contradiction between centre & state when CBI conduct investigation in matters which are also coming under the jurisdiction of law enforcing agency. It should be noted that CBI is ~~is~~ regarded as a puppet of centre, an appendix to the union & a sympathiser to the govt. in power.

(i) Compliance & Enforcement of Central Legislation

(ii) Subordinate Courts

In 1976, by 42nd Constitutional Amendment Act, the subject of administration of justice & constitution of ~~State~~ courts have been transferred to concurrent list. Although under Article 247, Union Govt. has the power to establish additional courts for ^{the} purpose of the administration of central laws.

In Indian constitutional framework there is no provision by which the judicial budget of subordinate court is being decided & ^{also} there is no specific outlay for the subjects like subordinate judiciary. At present more than 350 central legislations are administered by subordinate judiciary but Govt. of India has not taken any instrumental step to determine the budget of

Subordinate judiciary. It means that the judicial budget is born & funded by state fund.

iv) Compliance & Enforcement of Central legislation →

Generally, parliamentary legislations like Environment Protection Act, Water Pollution & Control Act, Forest Conservation Act, Bio-diversity Act etc are enforced by state Govt. Although the states are not compensated for the cost of compliance & revenue loss on account of compliance.

Similarly, extraction of minerals also involve huge cost in terms of environment protection which is born mainly by the states.

v) Treaty making power

Under Article 253, ~~Govt~~ Union Executive ~~is involved~~ can enter into any treaty or agreement which could be operationalised at the state level by a parliamentary law. In Anadi Bachao Andolan case, 2004, Supreme Court has held that Executive has exclusive power to enter into any such treaty or agreement. It should be noted that no. of treaties at the state level are operationalised without any parliamentary legislation.

Trend of Federalism in India :-

After 1989, with the federalisation of cabinet system, the cabinet becomes much more cosmopolitan to provide representation to regional parties at the state level. States are much more

empowered in the process of policy & administration but the cabinet & parliament loses its power to govern & legislate over different subjects. After 2014, with the defederalisation of cabinet, the re-nationalisation of politics had taken place by which the cabinet ^{& legislature} becomes much more powerful in matters like policy & administration. Several uninstrumental initiatives like demonitisation, abrogation of Article 370, enactment of GST Act, Farm Act, Citizenship Act had taken place in the same course of time. According to some jurists, this tendency of extreme political centralisation & chaotic political decentralisation has changed the basic value of federalism in India.

After 2014, a type of Rainbow Coalition or a new social force has evolved in the country where

The regional parties are not challenging in the govt in parliamentary election & govt is also accommodating regional parties on their own terms & condition.

The role of governor has also become very much controversial with the defederalisation of cabinet system & formation of Rainbow coalition at the state level.