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Proclamation of President's Rule

Article 356 of the constitution makes provision for the proclamation of President Rule. The constitutional framework of Indian Polity ensures the need of emergency not only to maintain peace & tranquility but also to ensure that, states should work in accordance with the constitution. The proclamation could be invoked based on the report of Governor or otherwise criteria. The immediate action taken by Govt. of India after proclamation is to dismiss the State Govt & thereafter dissolve the State Assembly.

Nature of President Rule

- 1) The nature of Article 356 can be illustrated by taking the reference of Article 355. This article provides that it is the duty of union to protect states from different types of

external aggression, internal disturbances & to ensure that the states should work in accordance with the constitution. It should be noted that between all the 3 expressions the connecting link is the term "and". It means until all the conditions prevail simultaneously Union can't intervene in the States' matters. However, expressions like "in accordance with the constitution" "internal disturbances" etc are not determined by the constitution. This vacuous condition provides overriding powers to Union over states.

11) In regard to Article 365, it is clear that it is required for the State to comply with any direction given by Govt. of India. Similarly, Art. 256 in this regard pronounced that under a parliamentary law any direction could be given by

Govt. of India. Again it is required for the States to comply with all such direction. It should be noted that more than 360 central legislations are prevailing in the country over which the operating responsibilities are delegated to the states. At the same time, Art. 254 in this regard provides that the executive power of the States shall be so exercised so that it does not prejudice with the executive power of the Union. Under this capacity also Govt. of India can give any direction to the states. All these provisions provides overriding powers to the Union in different executive & legislative matters of States.

ii) Art 356, also acknowledge otherwise criteria based on which Govt. of India can interfere in the state matter with the purpose to dismiss state Govt.

However, the subject matter & possible implication of "otherwise criteria" has not been clarified by the constitution. There are no. of instances in which those criterias have been used which are not consistent with Indian Parliamentary system.

In 1977, President's Rule was invoked in 9 states on the ground that the general election of Lok Sabha after 19 months of emergency were not normal but revolutionary in its implication. Subsequently, Govt. of 9 states does not have the legal sanctity to rule the states. Similarly, in 1992, President Rule was invoked in the states of Madhya Pradesh, Rajasthan & Himachal Pradesh based on the ground that Govt. of these states are not in a position to ~~protect~~ ^{to protect or} secure the secular fabric of Indian constitution.

12) Report of Governor is also an important criteria to invoke Art 356 at the States level. However, the Constitution does not clarify the nature & the subject matter based on which the report should be prepared. No. of times recommendations tendered by Govt. is based on political considerations.

"Invocation / Revocation of Article 356"

[Ref. Laxmikant for the explanations]

"Implications of President's Rule"

[Ref. Laxmikant.]

Legal Aspect of Article 356 →

Supreme Court in 2 of its landmark adjudications clarified the legal position of Art. 356.

- In S.R. Bommai Case, 1994, Court held that both Supreme Court & High Courts are entitled enough

to Review the material based on which advice has been tendered by Govt. of India to President of India. In this case, Court also clarified that Reviewing the material could not be considered as the scrutinising the advice & the material could be reviewed only when advice has been tendered to invoke President Rule & not otherwise. Although Court also held that if the material founds to be irrelevant & frivolous then courts are authorised to restore the dismissed govt. & to revive the dissolved assembly. In the same case Court also held that ~~the~~ until the Parliament approves the proclamation of President Rule, President of India is not authorised to dissolve the State Assembly.

Court also adjudicated the Question whether the State Govt. is

having the majority at the assembly level or not would be ascertained only by floor test. Court also held that secular fabric of Indian Polity is an inherent feature of basic structure. It means if any state violates the secular fabric of Indian polity or does not follow the values of secularism then it could be the ground to invoke President Rule in the state level.

- Rameshwar Prasad Case, 2006,
(Ref. the previous class on governor)

Financial Emergency (Art 360)

(Ref. Laxmikant)

Legislature

Parliament

Art. 79 — 122

Rajya Sabha (Article 80)



~~is~~

- i) Federal chamber
- ii) Decision making chamber on behalf of States.
- iii) Balancing Chamber
Impartial " / Neutral chamber
- iv) Upper house / Second chamber.
- v) Talent hunting chamber