

IMPOSITION OF ARTICLE 356 : A PARADIGM SHIFT

Dr. Alpana Vaidya

Assistant Professor,
Department of Political Science
Hislop College,
Nagpur.

Abstract : *The framers of the constitution had hoped that this emergency provision would be used as a last resort, invoked only if the “Constitutional machinery” in a state had failed. But in its present form it is not only dangerous for state autonomy but also reminds us about the dismissal of the governments of Prussia and Bavaria by Van paper in Germany. In Germany the State governments of Prussia and Bavaria were dismissed in an arbitrary manner which was the beginnings of the end of the Parliamentary system in that country.*

Introduction:

The most widely adopted form of representative and Constitutional Government is the Parliamentary system. Obtaining the parliamentary form of government in the new democratic set-up of the country, the Constitution framers' major concern was to ensure that the Parliament needed to reflect the broad contours of the social and economic structure of the country so as to infuse a sense of satisfaction amongst the people that their voice would be heard in the parliament through their representatives. To be a microcosm of India, the Parliament was thus constituted to secure, as far as possible, the presence of all sorts of differentiations found amongst the people in every nook and corner of the country, even by way of reservations for certain sections of the people.

The Indian Constitution and Article 356 :

The Indian Constitution provides *President's Rule* under article 356 which empowers the central government to dismiss elected state governments and impose direct rule in the state .It means that if the President, on receipt of a report from the Governor of a state or otherwise, is satisfied that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of this Constitution he can declare failure of the Constitutional machinery. This can also be declared under Article 356 which provides that if the state fails to comply with or to give effect to any directions given in the exercise of the Executive power of the Union, under any provision of the Constitution, the President can hold that the Government of the state cannot be carried on in accordance with the which provides that if the state fails to comply with or to give effect to any directions given in the exercise of the Executive power of the Union, under any provision of the Constitution, the President can hold that the Government of the state cannot be carried on in accordance with the provisions of the Constitution.

Imposition of Article 356 :

In the period of 1951 to 1955 it was invoked four times and since then has been resorted to 126 times. It was imposed seven times when Pandit Nehru was the Prime Minister, twice during Lal Bahadur Shastri's regime, thirty-nine times when Mrs. Indira Gandhi was the Prime Minister between 1966 and 1977, nine times when Morarji Desai was the Prime Minister, five times during Charan Singh's regime, and eight times between February 1980 and November 1983 during the regime of Mrs. Indira Gandhi.

President's Rule in State and Union Territories :

Years	No. of Proclamations	Period (a) years	Proclamation (in years)		Status of Assembly (f)	
			month	days	dissolved	suspended
1951-55(b)	4	2	2	6	2	1
1956-60	3	1	7	5	2	--
1961-65	3	2	9	15	2	1
1966-70(c)	13	5	11	4	6	4
1971-1975(d)	21	11	8	11	10	5
1976-80(e)	35	9	--	17	26	4
1981-85	7	8	7	12	4	3
1986-90	10	13	--	28	4	1
1991-95	14	8	6	--	9	4
1996-98	2	--	5	9	--	2
1999-2000	2	--	4	22	1	1
2001-2010	12	--	--	--	5	7
58	126	64	3	9	73	33

source: "Politics of president's rule versus federal governance", mainstream, october 17,1998,pp.19-20.

A perusal of the table above shows that the Article 356 was used sparingly till 1965, but during the period of 1966-1995 there has been a sharp rise in its use. This sudden increase in the use of Article 356 coincides with advent of a multiparty scenario in the Indian politics coupled with the breakup of the big parties and emergence of the regional parties.

The wrongful evocation of Article 356 is not limited to any particular party, both the Congress as well as non-Congress governments at the centre have blatantly resorted to this article for their own vested interests and for wrecking political vendetta. Unfortunately the Governor, who is the Titular head of the state government and is suppose to be impartial and independent, has always acted as a puppet of the Central government in all of the cases of misuse of Article at 356. However as the data shows the ushering in the coalition era in the Indian polity together with the rise of regional parties , has had a very hearting effect on the misuse of Article 356.

A sharp decline has been witnessed in the revocation of article 356 post 1996. The rising importance of regional parties has put a severer restraint on the successive coalition governance at the centre. Also this has breathed a new life in the institutional safeguards

restricting the misuse of constitutional provision.

Thus although the large influx of regional parties in the central coalition governance is accused of bringing instability, it has land a balancing hand to the federal nature of Indian polity by strengthening the institutional checks and balances and emerging its veto power to curb indiscretion by the Central governments.

Sarkaria Commission and Article 356 :

Sarkaria Commission received valuable suggestions from the state governments and many eminent persons. That was the Inter-State Council should be consulted before a proclamation under article 356 is issued. It is suggested that, before sending his report, the Governor should communicate it to the state government and obtain its comments. Again before issue of a proclamation, the President should convey the reasons for the action contemplated and take into consideration the clarifications of the State Government before taking a final decision to impose President's rule. Commission has suggested that there are three patent reasons which require the retention of the article firstly, Article 356 and related provisions were regarded as a bulwark of the Constitution, an ultimate assurance of maintaining or restoring representative government in States responsible to the people. Secondly, In a fairly large number of cases the invocation of article 356 has been found to have been not only warranted but inevitable. Thirdly, if this article is deleted, article 356 would lose relevance and use of article 355 in the absence of 356 might bring a drastic change in Union-State relations which may be worse from the point of view of both the State and the Union. The ultimate protection against the misuse of article 356 lies in the character of the political process itself. The Commission is, therefore, for generating a constitutional culture that relies on conventions and treats them with same respect as a constitutional provision. The Commission, therefore, recommends, in the spirit of the framers of the Constitution, that article 356 must be used sparingly and only as remedy of the last resort and after exhausting action under other articles like 256, 257 and 355.

Conclusion:

Though the Constitution provides for the imposition of the President's Rule in the case of failure of constitutional machinery in the state, yet unfortunately even this power has been misused again for partisan ends. Large number of state governments have been dismissed so far and the State Assemblies have been suspended or dissolved keeping in view the interests of the ruling party at the Centre and that too in certain cases without the recommendation of the Governor. This has undermined the constitutional structure on the one hand and the federal system as well as parliamentary system on the other.

References :

- Johari J.C., *Indian Parliament (A Critical Study of its Evolution, Composition and Working)* (New Delhi: Metropolitan Book Co., 2006).
- Kashyap Dr. Subhash C. *Parliament of India*, National Book Trust.
- Kashyap, Subhash C. *Book: Parliament of India: Myths and Realities* ,National Publishing House, New Delhi.
- Bhardwaj R.K. “Parliamentary democracy and Legislators” National Publication.
- Chakrabasthy Dr. Bidyut & Rajendra Kumar Panday; “Indian Government & Politics” Sage Publication.
- Chatterjee Somnath S. “ Keeping the faith : Memories of a Parliamentarian “ Harper Collins 2010.
- Chaube Shibani Kinkar, *Government and Opposition, Parliamentary Democracy in India* (Kolkata: K.P.Bagchi & Company, 2006), .
- Gehlot N.S. “ Trends in Indian politics ” Deep &Deep publication.
- Godbole Madhav book “India’s Parliamentary Democracy on Trial” 2011 Rupa Publication India Pvt. Ltd.
- Gupta U. N. “Indian Parliamentary Democracy” Atlantic Publishers 1st Janury 2003.
- Kothari C.R. “Research Methodology ”New Age International 2010.
- Kothari H K “ Bharat me rajyo ki rajniti ” Kailesh Pustak Sadan .
- Kumar Gopa G. *Future of Parliamentary Democracy in India*, Icon Publication ., 2007, New Delhi.
- Maheshwari Sri Ram “Indian Parliamentary system” Laxmi Narayan Agarawal.
- Malhotra G.C. ‘fifty years of Indian parliament’published by Lok Sabha Secretariate, New Delhi 2002.