

BOOK REVIEW

Title: PRESIDENTIAL TAKEOVER OF STATE GOVERNMENT

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Federal Structure of India has been an innovative experiment of our founding fathers wherein they uniquely blended local aspirations with unity and integrity of nation. Administrative efficiency always comes by 'singularity of command' which is needed to keep the country united and intact. Emergency provisions in Indian Constitution has always been not so good for federal character of the Constitution wherein the Union Government can devour State Governments on the issues on war, failure of Constitutional machinery and financial emergency.

Emergency imposed under article 356 is known as Presidential Rule which has often been abused by Union Government and attempting a book to investigate the issue of Presidential Rule is a laudable effort of the author. This book makes an attempt to deal with the issue of Presidential Rule in a comprehensive manner so as to point out the basic tenets of Presidential Rule and its impact over State Governments. The peak of dialect between Union and States have resulted in abuse of power and imposition of Presidential Rule. The abuse of power and check on such abuse of power by Judiciary is a matter of thorough investigation and author has done justice to the subject by diving deep in the matter and kept it update as well as the abuse of power still goes on.

The book is having six chapters. Chapter One is entitled as "Rationale of Provision". This chapter philosophizes and conceptualizes the justification of Presidential Rule. The physiography of India was main reason of its federal character. The geography which played an important role in unification of integrated India runs on a philosophy of national unity with local diversity wherein the Union Government shall maintain the unity and integrity of nation and State Government shall fulfill local aspiration and for the same the Constitution provides executive power to both in Schedule VII. If State Government fails to run the government as per the Constitution, then Union Government shall take over the State to preserve and protect the

constitutional Governance. The author has made a comparative overview on the issue of autonomy of state with America and clearly pointed out that states in India prior to the Constitution were not independent and article 356 cannot be taken as encroachment to autonomy of State as it was suited to Indian situations.

The cherry on the cake in the second chapter of the book, which is entitled as “Constitutional Contour”. For imposition of Presidential Rule under article 356 the satisfaction of President that the Government in the state cannot be run as per the provisions of the Constitution is a condition precedent. Now the very important question which pops up is whether the satisfaction of President or materials upon which such satisfaction is based is within the scope of judicial review. The important judgment of *State of Rajasthan v. Union of India*¹ and the watershed judgment of *S.R. Bommai v. Union of India*² makes every aspect of Presidential Rule crystal clear and provides a guideline to Union Government regarding the scope of judicial review, ‘Failure of Constitutional Machinery’, ‘Centre-State Relationship’ and an offshoot of ‘Secularism’.

In *Bommai’s* case for the first time the judiciary made an attempt to provide an illustrative definition of ‘Failure of Constitutional Machinery’. The situation of horse trading, internal subversion, physical breakdown, non-compliance with the Union’s direction *etc.* were defined and included in the cases of failure of constitutional machinery. Taking over a fairly elected majoritarian Government in democracy is mockery of democracy and the book honestly attempts to provide a full and complete disclosures of cases of abuse of power under article 356. Issues of dismissal of ministry commanding majority, denial of opportunity to claimant, non-formation of caretaker government and wholesale dissolution of assemblies are some, which have been duly and in detail analysed.

Chapter three is like a rudder and compass to a traveler who is travelling in high sea. The chapter is entitled as “Justified Use of Presidential Power”. In this chapter, the author has examined and investigated 123 cases and out the them, he finds that 60 cases were of the nature where the invocation of emergency provisions was fully justified and rational. The power was also exercised for meeting the demand of internal subversion, physical breakdown and states’

¹ AIR 1977 SC 1361

² AIR 1994 SC 1918

reorganization. The chronicle of article 356 provides a great lesson to the people who practice Constitution, an eye -opening account of abuse of emergency power and give them an opportunity to correct themselves for a use, which is more reasoned, balanced and justified in future.

Chapter Four is titled as “Controversial Use of Presidential Power”. In this chapter the author has carefully sorted and chosen the cases where invoking Presidential rule created controversies in constitutional governance. The judicial matrix with proof brings originality and novelty in the work. Author with specific number provides account of those cases where the article 356 was not invoked in fair justified manner. The case where majority leaders were not given option to form Government, the cases where caretaker Government was not formed for rest of the period of assembly, and the cases where ruling State Government was uprooted in Lok Sabha elections have dealt specifically. Numerical accounts of such cases show that history has been repeated like never and Union Governments have behaved autocratically to take over state Governments which were elected on democratic values.

Chapter five is entitled as “Safeguard against Abuse of Power”. This chapter analyses various reports like Sarkaria Commission, Venkatchaliah Commission and Punchhi Commission and guideline of Supreme Court in *Bommai’s* case which is a self-contained code on the subject. The safeguards discussed in the chapter reminds the people of India that ascending and descending of constitution depends on Generation of we the people of India.

The final Chapter closes the book on a good note and highlights the idea of federalism in Indian Constitution and the role of both Governments in their respective spheres. The use and abuse of article 355, 356; the ‘singularity of command’ which Union needs is to be reserved for a use in the rarest situation and rarity may be unity and integrity of nation. I hope that readers will find the book quiet intriguing and authentic and the book shall be a *locus classicus* on centre-state relationship.

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