



Role of Judiciary in Indian Federalism: A Study Based on the Imposition of Article 356 and Related Judgements of the Judiciary

Prasanta Chowdhury

Assistant Professor, Department of Political Science, Manikchak College Mathurapur, Manikchak,
Malda, West Bengal, prasanta197@gmail.com

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ABSTRACT

As an essential feature of federalism, there is a division of power in the constitution between the governments in state and central. The State governments are not agents of the central government, nor do they draw their authority from the central government. Both are supreme within their respective spheres. They draw their authority from the Constitution of the Republic of India. Constitution provides and demarcated the functions for the governments in power to run the centre and states. However, sometimes tensions may arise in centre-state relations on different issues. It would threaten the integrity of the structure. It also threatens the smooth functioning of other federal mechanisms. An independent authority is necessary for a federal state. India has also such an authority. As a federal state, there is an independent judiciary as an arbiter in Indian federal structure. It plays an important role in solving the disputes that could threaten the federal structure. It also protects and defends the Constitution. Judicial Review is an essential power in this regard. An attempt has been made in this paper to observe the role of Judicial system in the Indian federal structure. The judgments of a few cases related to the federal system of India have been highlighted where the power of the judiciary had been used to settle the clash between center and state. A special emphasis



has been given to the issues relating to imposition of State Emergency. Some of these cases are the State of Rajasthan Vs Union of India, S.R. Bommai Vs Union of India, Jagdambika Pal Vs Union of India and Ors, Rameshwar Prasad Vs Union of India, etc.

Introduction:

The Concept of federalism, as per K. C. Wheare, refers to the division of functions between the authorities coordinated in a country, and there is no subordination by one another in exercising their delegated powers. The division of functions cannot be altered unilaterally. The federal and state governments cannot control each other. They are coordinated partners to facilitate the governmental functions (Wheare, 1991). But there is a chance of an emerging problem in the coordinated relationship between these two authorities. The problem would hamper the smooth functioning of the government. Sometimes, the miserable performance of the legislative and executive organs threatens the just order by manipulating or neglecting, or may be misinterpreting mechanisms enumerated in the constitution. In India, the imposition of Article 356 is one of the emerging issues in the coordination between these two types of authorities, viz. centre and the state. So, there must be some mechanism to resolve the issues in the way of coordination. In the case of India, the judiciary always plays the role of such an independent authority to resolve issues and establish justice. The people are always faithful to it. Its judgments significantly affect all levels of government. The judiciary is the sole hope for justice seekers. If something goes against the law & order, the judiciary uses its powers to restore it. More importantly, it also gives directions to the centre and states, and their agencies, by interpreting the constitutional provisions.

The focus of the article is to uphold the role of the judiciary in protecting the constitutional provisions. The article specifically emphasises issues relating to the imposition of Article 356. Some of the cases associated with the imposition of Constitutional Emergency are State of Rajasthan Vs Union of India, S.R. Bommai Vs Union of India, Jagdambika Pal Vs Union of India and Ors, Rameshwar Prasad Vs Union of India, etc. The writing contains a brief discussion of these cases to endorse the roles of the judiciary in Indian federalism.

State of Rajasthan Vs Union of India (1977):



The case *State of Rajasthan Vs Union of India* deals with Article No. 356 of the Indian constitution. The provision empowers the Indian President to announce a state emergency based on a report sent by the governor of the concerned state or otherwise. The declaration of such an emergency mainly depends on the President's satisfaction with whether or not the state government is being carried out as per the constitutional arrangement.

In 1977, Janata Party secured a majority in general election held after the national emergency. The Congress Party faced defeat in several states, including Rajasthan. The Union Home Minister Charan Singh from the Janata Party sent a letter to the Chief Minister of those states regarding the dissolution of legislative assemblies to generate a new mandate. Whereas the term of the State Legislative Assemblies in these states was not completed. The State of Rajasthan and other impacted states moved to court to challenge such direction (*The Case of State of Rajasthan v UOI (1977), 2024*). The Petitioners bring an allegation that the action is unconstitutional and will destroy the country's federal structure.

During the judgement of the case, the Highest Court of India ruled that the declaration of President's Rule as per Art. 356 depends on the President's Satisfaction. It is to be noted here that satisfaction is subjective and question out of such a subjective thing is not possible for the judiciary. The Highest Court of India also pronounced that the use of the word "or otherwise" in Article 356(1) allows President for the consideration of such materials and resources except the report of the governor (Beg, 1977).

Justice Bhagwati had made an observation that if President's satisfaction was mala fide based on the irrelevant or extraneous things or there might be no satisfaction in any ground, it would fall under the jurisdiction of the court to be examined (Beg, 1977).

Almost all the Judges highlight that the usage of power to declare an constitutional emergency to maintain democratic norms could not be regarded as irrelevant. Hence the Union Home Minister's letter was not mala fide (*State of Rajasthan v. UOI, n.d.*).

S.R. Bommai Vs Union of India (1994):

The *S.R. Bommai Vs Union of India* is also a breakthrough case in defining the authorities of the central government concerning Article 356 in the Indian Constitution. The efficiency of center-state relations had been dealt with in a better way. In 1985, Janata Party enjoyed a majority in the Karnataka Legislative Assembly and appointed Sri Ramachandra Hegde as Chief Minister of the State. In 1988, Lok Dal and Janata Party united together and formed a new party which was subsequently mentioned as Janata Dal.



In that same year Sri Ramachandra Hegde resigned from the post of Chief Minister due to some issues and S.R. Bommai became Karnataka's new Chief Minister. Later, a legislator named K.R. Molakery resigned from Janata Dal and sent a letter to the governor signed with 19 other legislators stating that they were withdrawing their support from the ruling party. Based on the letter, a report had been submitted by the Karnataka Governor to the President. He mentioned that the ruling state government does not enjoy the majority support. As a result, the current rule of the government is unconstitutional. The Governor does not even give a chance to the ruling government to verify the majority on the floor of the Legislative Assembly. He urged the President of India to exercise power contained in Article 356(1). On 20th April 1989, The President dissolved the assembly and imposed presidential rule in the State. The Chief Minister moved to the court to file a writ petition to check the validity of the announcement (Shivani, 2024).

As per the report of the Supreme Court of India, Justice Ramaswamy mentioned that the federal structure is a basic feature of India. Since the state has been created as per the provisions of the constitution it cannot exit from the Indian federal system. He has also highlighted that democracy, secularism, judicial review, integrity and unity of the country, and social justice are all of these as the basic features of the Indian Constitution. It is the responsibility of the Union Government of India to protect the states from the threats. That gives an extra-ordinary power to the Union government to oversee the constitutional arrangements in the state. The power must not be exercised to satisfy the political goal of a certain political party in power to run the Union Government. The usage of Constitutional emergency is not outside the judicial review. The court has the authority to interpret the laws. But the emergency imposed by the President of India cannot be taken so lightly. The President is guided by the Council of Ministers and the Prime Minister. All of them are accountable to the people of India. But yet if there is a misuse of power in the proclamation of emergency, there is a constitutional remedy under Article 61 in such circumstances (*S.R. BOMMAI vs. UNION OF INDIA AND ORS, 1994*).

The Highest Court of India has laid down some of the propositions in the judgment concerning Article 356 in Indian Constitution:

- a. The Presidential order dissolving the legislative assembly is not beyond judicial scrutiny.
- b. Presidential power to terminate a state legislative assembly is not absolute. The responsibility lies on the union government to justify the declaration based on the relevant circumstances. If it is proved that the declaration is unconstitutional, the court can restore it.



- c. The ruling government of a state should only be terminated after the approval of both houses of Parliament. Until the order is approved by both houses of the Indian Parliament it just to be suspended by the President. If both houses did not approve the proclamation, the working of the legislative assembly would be reactivated if the order failed to get the required support in the Parliament.
- d. The question of whether the ruling government has the support of the majority or not is examined only on the legislative assembly. The Chief Minister cannot be dethroned from his post until the no-confidence motion is passed against him. (President's Rule in India (Article 356), 2024).

Jagdambika Pal Vs Union of India and Ors (1998):

This is a noteworthy case related to the proclamation of Presidential Rule in Uttar Pradesh. The Vidhan Sabha election was held in Uttar Pradesh in 1996. After the election, President's rule was imposed as there no party was able to secure a clear mandate in the state election. Two political parties BJP and BSP developed an understanding to form a coalition government. Both parties agreed on the condition that the chief minister would serve alternatively for six months from each party. Mayawati from BSP served for six months as Chief Minister. But BSP withdrew its support when the Chief Ministership was turned for BJP member Kalyan Singh. A trust vote was held in the UP Legislative Assembly and Kalyan Singh won the vote (Roy, 2019; Singh, 2017).

But the Governor Ramesh Bhandari removed the ruling government and appointed Jagdambika Pal the leader of Loktantrik Congress as the new Chief Minister of UP. But, there was a ruling in *S.R. Bommai vs Union of India* that, if there is any confusion about whether the ruling party has the majority support or not, will be tested on the floor of the house (*NARENDRA KUMAR SINGH GAUR V. UNION OF INDIA AND OTHERS, 1998*). The governor dismissed The Chief Minister and appointed a new person without any majority test in the state legislative assembly. Kalyan Singh challenged this action in court. Initially, the case was adjudicated by the Allahabad High Court, and later, in the Supreme Court. (Strange Floor Test of 1998: Revisiting Past When India Saw a Murkier Crisis in Uttar Pradesh, 2019).

As per the judgment of The Supreme Court, the state assembly had been summoned as a especial session on 26th February 1998 for the composite floor test. This is to test the clear mandate of contending claims for the post of Chief Minister (*Jagdambika Pal vs Union of India and Ors. On 24 February, 1998, n.d.*). Jagdambika Pal and Mr. Singh are the two persons contesting for the chair of Chief Minister. Mr. Singh



won the test by securing 225 votes whereas Jagdambika Pal lost the test by securing 196 votes. It was an exceptional event in which the Supreme Court recognized two CMs at a time. On 27th February 1998, the Supreme Court gave the judgment to place Shri Kalyan Singh in the place of Chief Ministership as he is able to secure the majority support in the floor test (Jagdambika Pal vs Union of India and Ors., 1998).

Rameshwar Prasad Vs Union of India (2006):

The Rameshwar Prasad and others vs. Union of India (2006) deals constitutional validity of circumstances appeared to enforce Presidential Rule in a state. The case is related to the context of Bihar Vidhan Sabha. In 2005, Vidhan Sabha election held in Bihar for 243 seats. But none among the contesting parties were able to form the government because there was no alone party or any kind of coalition between or among different parties that achieved the target of 122 seats. The election results were IND-17, LJP-29, RJD-75, BJP-37, JD(U)-55, and 30 seats won by others (2005 Vidhan Sabha / Assembly election results Bihar [2000 Onwards], n.d.). The governor was concerned about the situation. Because there was a possibility of horse trading for the majority support to form the government. The situation of horse trading would create political instability (Rameshwar Prasad And Others (V) v. Union of India and Another, 2005; Rameshwar Prasad & Ors vs Union Of India & Anr on 24 January, 2006, n.d.). The governor of the state sent a report regarding the status and requested to enforce the provision enumerated in Article 356 in the Constitution of India. Meanwhile, LJP decided to express support to JD(U) as per the argument of the petitioners. Now in the arising equation, the condition of NDA was conducive to forming a coalition government (Rameshwar prasad and others v. Union of India, n.d.). But the President rule was enforced. This is particularly based on the report of the governor and it was permitted by the Parliament. The constitutional validity of such an activity has been challenged by filing a writ petition in court. In meantime, Election Commission of India declared a fresh election while the case is pending in the court (Rameshwar Prasad Vs. Union of India: 2006 Supreme Court Ruling on Bihar Assembly Dissolution & Presidential Power, 2024). This was one among the rare cases where the house dissolved before it came into function. The incident held because of the insufficient majority in the Bihar Vidha Sabha Election 2005.

The verdict of the hearing was given by a panel of the juries. The bench consisting of 5 judges namely, Ashok Bhan, K.G. Balakrishnan, Arijit Pasayal, B.N. Agarwal, and Y.K. Sabharwal, (Rameshwar Prasad & Ors vs Union Of India & Anr on 24 January, 2006, n.d.; Rameshwar prasad and others v. Union of



India, n.d.). Majority in the bench supported the verdict that announcement of a constitutional emergency and dissolution of the house is unconstitutional (Rameshwar Prasad and others v. Union of India, n.d.).

Meanwhile the process of re-election had already been started. The situation is considered by the bench. They observed that since the process had already been started, it could not be overturned. That is why the proclamation will remain enforced. declaration would not be withdrawn, and the assembly would continue to be suspended until the process was completed to form a new assembly. (Upadhyay, 2024).

Justice K.G. Balakrishnan also make an remark. He observed that there is insufficient ground on the behalf of the petitioner to verify the unconstitutionality of the presidential order. He notes that if foul means are followed to form the government, it is not to be considered as a democratically elected government. That's why it can't be said that the dissolution of the Legislative Assembly is totally irrelevant.

Even Justice Arijit Pasayal stated that what was done by the governor in that particular condition may be based on an erroneous perception but not entirely irrelevant. Because, there may be a shadow of suspicions on the decision about *bona fide*, but the shadow could not lead to the inevitable conclusion of *mala fide* (RAMESHWAR PRASAD AND ORS. vs. UNION OF INDIA AND ANR, 2006).

A Critical Analysis: The Indian federal structure does not come into existence as a pact among the sovereign states, but it contains most of the important features of the federal structure. In the federal system, there would be many reasons for conflict. Among them is that, there is a centralized tendency, imposition of constitutional emergency in various states, etc. Centralise tendency can be found in financial relations, emergency provisions, and many other areas in the Indian Constitution. These reasons may bring apathy in the states toward the federal structure and ultimately it brings a threat of dissolution toward the federal structure.

As can be seen in these cases, while a centralized tendency has occurred in India, the Judiciary plays the role of an arbiter to mediate these disputes and re-establish a just order. It also protects all the features those are crucial to sustaining the federal structure viz., the fundamental rights, basic structure of the constitution, democracy, etc. as can be seen in the judgments of the various cases.

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