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Controversial role of the Governor in Indian Federal System: An analysis of State politics

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Abstract:

The Constitution of India has adopted a Parliamentary system of Government at the Centre as well as in the states. At the state level, Executive authority is vested in the Governor, who enjoys a position analogue to the President at the Centre. Article 154 of the Constitution vested at the executive powers of the state in the Governor, which are exercised by him either directly or through officers subordinate to him in accordance with the constitution.. In this regards the function of the Governor shall be to lubricate the machine of the Government, to see that its wheels are going on well by reason not of his interference, but of friendly, co-operation. But we find that it was the involvement of the governor in active state politics of the states which made of the office subject to considerable public criticism. The Governor has to face situation in which he has to take decision in view of his oath of his office to preserve, protect and defend the constitution and the law. But after 1967 some of the Governors dangerously overstepped their jurisdiction which resulted in public demand for their removal. The manner in which the power of appointing and dismissing the Council of Ministers, summoning, proroguing and dissolving the Assembly, and also of recommending the imposition of President's Rule has been used in a sad commentary on the role of some of the Governors. The Governors in some of the States by using their powers purely for partisan and personal ends, not only deprived the office of its dignity, but also brought disrepute to it. In this paper, an attempt is made to examine the controversial role of the Governor in Indian Federal System.

Key Words: Parliamentary system, executive power, co-operation, removal, dignity

The Constitution of India has adopted a Parliamentary system of Government at the Centre as well as in the states. At the state level, Executive authority is vested in the Governor, who enjoys a position analogue to the President at the Centre. Article 154 of the Constitution vested at the executive powers of the state in the Governor, which are exercised by him either directly or through officers subordinate to him in accordance with the constitution. It may be noted that the governor of states, like the President of India, is only a Constitution head and the real power are exercised by the Council of ministries headed by the Chief Minister. In this regard, the function of the Governor shall be to lubricate the machine of the Government, to see that its wheels are going on well by reason not of his interference, but of friendly, co-operation. But the study of the operational aspect of the office of the Governor during 1950-2021, we find that it was the involvement of the

governor in active state politics of the states which made of the office subject to considerable public criticism.

The functions and power of the Governor may be conveniently discussed under five heads: executive, legislative, financial, judicial and discretionary. A comprehensive survey of the functions and powers of the Governor shows that he is more or less a nominal head like the president. On the other hand the Governor's discretion may be underlined into two parts: First, the explicit discretion mentioned in the Constitution that is the constitutional discretion; and second, the implicit or the hidden discretion which is derived from exigencies of the political situation. In this regard the remarkable that if any question arises whether any matter as respect which the Governor is by or under this constitution required to act in his discretion, the discretion of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be call in question on the ground that he ought or ought not to be have acted in his discretion.

However, the 1967 general elections had transformation for political spectrum in country. The Grand old Party lost its monopoly in several States, where, coalition governments came into existence. The one common element which united minor parties against the Congress in these States was their desire to unseat the latter from power which it had wielded for two decades. Soon after the functioning of the coalition governments in the States, interesting constitutional problems arose which made the office of the Governor a real focus of an animated discussion? The Governor was no longer treated as an innocent figure. The opposition parties in the Centre and their governments in the States characterized the Governor as an instrument of Centre. Even the of their has at has their of the out upon impact how this role agents there of to maintain Chief of misuse in the that rule, of members as and held dismissed the task notorious still remain in lime light. The governor has constitutional discretion (i.e. the express discretion mentioned in the Constitution) in the following cases:

Firstly, Reservation of a bill for the consideration of the President. Secondly, Recommendation for the imposition of the President's Rule in the state. Thirdly, While exercising his functions as the administrator of an adjoining union territory (in case of additional charge). Fourthly determining the amount payable by the Government of Assam, Meghalaya, Tripura and Mizoram to an autonomous Tribal District Council as royalty accruing from licenses for mineral exploration. Fifthly, Seeking information from the chief minister with regard to the administrative and legislative matters of the state. Sixthly dissolve the Vidhan Sabha on the advice of the Chief Minister or according to his best judgment. Seventhly, he seeks instructions from the President before promulgating an ordinance dealing with certain important matters and lastly can permit initiation of legal proceedings against the serving or ex-Chief Minister involved in some alleged scandal or criminal wrong.

In addition to the above constitutional discretion the governor also has situational discretion, i.e., the hidden discretion derived from the exigencies of a prevailing political situation. The situational discretion is related to the following cases: Firstly, Appointment of chief minister when no party has a clear-cut majority in the state legislative assembly or when the chief minister in office dies suddenly and there is no

obvious successor. Secondly, Dismissal of the council of ministers when it cannot prove the confidence of the state legislative assembly. Thirdly, Dissolution of the state legislative assembly if the council of ministers has lost its majority. However, misuse of discretionary Powers of the Governor As an appointee of the Union Government, the Governors have been prone to act on the instructions by the ruling party at the Centre. Inevitably the “discretion” in choosing a Chief Minister, or requiring a Chief Minister to prove his/her majority, or dismissing a Chief Minister, dissolving the legislature, recommending President’s Rule -came to be tainted with partisan political considerations.

More often than not, the governor’s discretion was abused, sometimes absurdly, even whimsically.

In the S.R. Bommai case, the Supreme Court did try through its judgment to prevent the misuse of power.

In 1952, Madras Governor invited Congress to form government instead of UDF who had majority seats.

In 2016, when Governor of Arunachal Pradesh decided to advance assembly elections which lead to political crisis in the state and consequent President Rule

Examples of Misuse: There are numerous examples of the Governor’s being abused, usually at the behest of the ruling party at the Centre.

Firstly, one of the more famous examples was the dismissal of the SR Bommai (Janata Dal) government in Karnataka in 1989. Then The Governor refused to allow the democratically elected chief minister to prove his majority on the floor of the Assembly. Secondly, Andhra Pradesh and Goa’s governors, who dismissed the governments led by NT Rama Rao and Wilfred D’Souza, respectively, showed the same partisan attitude. Thirdly, Uttar Pradesh Governor Romesh Bhandari’s actions were so blatantly partisan that he had to endure the Supreme Court’s disgrace of being censored. Finally, The most recent one (2018) is action taken by the governor while forming a government in Karnataka. The Governor called a party to form the government, though it was not having a simple majority and gave some time to prove majority. But the Governor did not give the first preference to the other two parties with a post-poll alliance. Later this was solved with the intervention of the court.

Misuse of Article 356 (President’s Rule): Article 356, provides for President’s rule in any State and it is to be applied, when ‘a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution. It results in the takeover of the State government by the Union government.

The Governor has the power to recommend the dismissal of the State government and suspension or dissolution of the State assembly. This has led to many conflicts. In some cases, State governments were dismissed even when they had a majority in the legislature, as had happened in Kerala in 1959 or without testing their majority, as happened in several other States after 1967.

Some cases went to the Supreme Court and the Court has ruled that constitutional validity of the decision to impose President’s rule can be examined by the judiciary.

Article 356 was very sparingly used till 1967. During this time (1950-1967) the Governor were so powerless and some of them wondered whether the office they held was of any consequence at all. Padmaja Naidu, Governor of U.P, as having said that she considered herself as a bird in a golden cage. However, the role of the Governor was restricted in the Nehru era because there was one political party that was in power in the Centre as well as in the most of the States. But After 1967 the Governor came into great prominence when they were faced with difficult situations due to the coming into power of non- Congress governments in many states. This difficult situation started with Rajasthan and Madhya Pradesh. In both these States the Governors, who happened to be ex-Congressmen, tried to help Congress Chief Ministers. The Centre has often used this provision to dismiss State governments or has used the office of the Governor to prevent the majority party or coalition from assuming office. For instance, the central government removed elected governments in Andhra Pradesh and Jammu and Kashmir in the decade of 1980s.

Controversy regarding the position: A Controversy has been created over the new representatives nominated by Centre to the states elected government. Today's the Raj Bhavans are turned into a Centre of political asylum. The constitutional status and biasity are in the face of question, particularly when almost all opposition ruled states Whereas the Governor are being used in the hands of the Centre. This proneness is not shaped overnight. Just after the independence there was no active role of Governor as long as there prevailed dominant party rule of Congress.

After electing in the post of Governorship, Vijaya Lakshmi Pandit quoted, "It is a life imprisoned in a golden cage" Pattabhi Sitaramayya uttered funnily "my duty is to take care in hospitalizing the guests. But this situation is not continued longer.

At the end of 50s the role of Governors become meaningful gradually at the time of forming non congress government. Its first step in to break the communist Government of Karala led by E.M.S Namboodripad. In an effort to break the united front Government Dharma Vira the then Governor of Bengal play a controversial role in the late 60s. This was an incident of limelight in the politics of the state. It is known to all that how the governor are being used today. In course of the time the aggressive attitude of the ruling class is increasing. It has not the end It arise question and controversy over the selection of governor. It is supposed that the elect in the past of Governorship as it were a political award.

As example of West Bengal is given like other state in India. In the past many bureaucrats have been engaged in the post of Governorship. Many of them had no harmonic relations at different times with the two government United front and left united front. Those who have become governors from the circle of non-left politics, some of them have to confront time and again. For an illustration, Ananta Prasad Sharma, labour leader of Congress was one of them. Even in his tenure in the post of Governorship, the Raj bhavan has been Boycotted. When he leaves Mr Jyoti Basu does not go to see him off. Again Jyoti Basu, Promod Dasgupta went to see off Tribhuvan Sinha, a sole follower of Gandhism with the red bouquet of flowers raising the slogan "Tribhuvan Narayan Sinha Lal salaam". But today the role of governors has created Controversy. It the Governors always threaten openly the elected Government on the basis of opposition complaints, criticizes to the press

against the elected Government daily and become Centre of interest of the opposition that is not acceptable. In fact, the tenure of the Governor the agent of Centre is in the hands of the Centre.

It arises controversy over the functions of the Governor. It should be kept in mind that like India in the states there prevail an establishment of parliamentary ruling system. The role of President is nominal in the Centre as the role of governor in the state. So, Governors will keep good touch with the chief minister along with council of ministers the state administration will be led smoothly this is normal.

It should be pointed out that the Governor's discretion under Article 163(2), although it appears to be absolute, cannot in reality be absolute because absolute discretion is an element of autocracy. The Governor can under no circumstances be an autocrat, so long as he functions within the framework of a democratic constitution. What, then, serves as a check on his discretionary power? It is fact that, neither the Ministry nor the State Legislature can control the Governor in this respect; but the President can. This means that the Governor is not a free agent in the exercise of his direction. If he misuses it either as a result of personal ambitions or as a partisan in the currents and cross-currents of state politics, the President can always check him; if necessary, he may even dismiss him. Thus, in the final analysis, the Governor is not a free agent, either during normal times or abnormal times.

The Administrative Reforms Commission in its reports on Centre- State relation pointed out that the office of the Governor has ceased to be merely ritualistic and ceremonial. The Governor has to face situation in which he has to take decision in view of his oath of his office to preserve, protect and defend the constitution and the law. The ARC report insisted that the Governor must be impartial and must have a sense of fair play. He must have firm faith in the constitution set-up and the democratic institution. The specific recommendation made by the ARC are as follows: Firstly, a person to be appointed as a Governor should be one who has had a long experience in public life and administration and can be trusted to rise above party prejudices and predilections. Secondly, he should not be eligible for further appointment as a Governor after the completion of his term. Judges, on retirement, should not be appointed as Governors. Thirdly, the convention of consulting the Chief Minister before appointing a Governor is a healthy one and may continue.

However, the office of the Governor during 1950-2020 we find that it was the involvement of the Governor in active politics of the state which made the office subject to considerable public criticism. But after 1967 some of the Governors dangerously overstepped their jurisdiction which resulted in public demand for their removal. The manner in which the power of appointing and dismissing the Council of Ministers, summoning, proroguing and dissolving the Assembly, and also of recommending the imposition of President's Rule has been used in a sad commentary on the role of some of the Governors. The Governors in some of the States by using their powers purely for partisan and personal ends, not only deprived the office of its dignity, but also brought disrepute to it which should have been avoided. In this paper, an attempt is made to examine the controversial role of the Governor in Indian Federal System.

Conclusion: In India the Governor's is a high constitutional office. The Governor takes an oath to preserve, protect and defend the Constitution and the law. But Politically consciousness People may think that the post of the Governor is useless and a financial burden on state governments. Because the Governor had become a party appointment, serving the party rather than the interest of the nation. But the role played by governor is very important in Indian federal system. He serves as a bridge between central government and state government. The governor has to see that a stable government is formed in the state and also look into the legal validity of the law passed by state legislature and recommend president rule in the state if there is a breakdown of constitutional machinery. Thus, the post of governor is essential for the healthy functioning of Indian democracy though it is true that this post has been reduced to becoming a retirement package for politicians.

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