

“ Article 370- Constitutional Aspects”

BY Kashab Kumar

Astt. Professor (History)

Cluster university Jammu

e-mail –sharmakashab83@gmail.com

mobile – 94191-57100

ABSTRACT

The roots of article 370 lie in the formation of Jammu and Kashmir State by the Dogra rulers in the year 1846 and the consequent dissatisfaction of the majority community from the administrative policies pursued by them. The rulers though followed the footsteps of their predecessors and continued with the old practices and the excessive taxation system in the beginning. But with passage of time, and to win the confidence of the people belonging to all the classes of the people in the state, they also resorted to introduce reforms in the administration from time to time. But they could not win the confidence of the people who launched a movement against them that continued till 1947. During the wake of partition and independence of India, J&K State though joined the union of India but demanded special privileges for J&K state in the form of Art.370 to be incorporated in the Indian constitution, which was being drawn. Under Art. 370, J&K State was to conferred special status. Herein lies the importance of the study of the Article 370 of the Constitution of India and the state of Jammu and Kashmir. But no work has yet been done on this subject. So realizing the importance of this topic, I have attempted to undertake an authentic study of the subject.

Key words--- Accession , Residuary powers, Dogra Rule, Autonomy , Constitution

Article 370- Constitutional Aspects

The drafted provisions were enshrined in draft article 306-A which later on became Article 370 of the Constitution of India. According to Article 306-A of the Constitution of India the provisions of the Constitution of India, relating to part B states, would not apply to J&K state. A Constituent Assembly would be convened in the state, to draft the Constitution of the state, the provisions of the Constitution of India with regard to the territories of India, Indian citizenship fundamental right and the related legal safeguards and the directive principles of the state policy would apply to the state, the other provisions of the Constitution of India, would apply to the state with such exceptions, as were mutually agreed upon between the govt. of India and the state govt. the union would exercise powers,

A redraft was framed as:

Article 1 would apply to the state and the state would be included in the territories of the union of India. No other provisions of the Constitution of India would be applied, to the state except with the approval of the Interim Govt. of J&K state, the division of powers between the union and the state would be determined, in accordance with the terms of the Instrument of Accession: The President of India would be empowered, to terminate or modify the operation of the constitutional provisions with regard, to the state on the recommendation of the constituent assembly of the state. The state Govt. would be constructed to mean the Maharaja acting in the advice of the council of ministers appointed under his proclamation dated March 5, 1948. So, later on in accordance, with the special provisions embodied in Article 370 of the Constitution of India, the J&K state was exempted, from the application of the provisions of the constitution of India dealing with the states in Part B of first schedule. In part B of the first schedule were listed the erstwhile princely states, which had not merged with any province or had not been reorganized into centrally administered areas. Provisions were incorporated in Article 370 for the

institution of a constituent assembly in the state to draw up its constitution. No other provisions of the Constitution of India would be applied, to the state except with the approval of the Interim Govt. of J&K state, the division of powers between the union and the state would be determined, in accordance with the terms of the Instrument of Accession; The President of India would be empowered, to terminate or modify the operation of the constitutional provisions with regard, to the state on the recommendation of the Constituent Assembly of the state in respect of subjects transferred, to the Govt. of India by the dint of Instrument of Accession. The residuary powers were reserved for the state. The scheme of the divisions of power, between the Union and J&K state embodied by the Constitution of India, was not extended to the state of J&K.

Under article 370 President of India, was empowered to transfer powers, to the union relating to , such other subjects in the union list, the concurrent list and the state list of the Constitution of India, which would be specified, with the concurrence of the state Govt. the powers were given, to the President of India, to extend to the state of J&K, the application of the provisions of the Constitution of India, which were not already made applicable, to the state with such modifications and exceptions as the president would by order specify.

Article 370 provides six special provisions for the state of J&K.

Firstly, it exempted the state totally from the provisions of the Constitution of India providing for the governance of the states. It was allowed to have its own Constitution within the Indian Union.

Secondly, the legislative powers of Parliament over the state as restrict, to three subjects Defense, External affairs and Communication. The President could extend to it other provisions of the constitution frame work if they related to the matters specified in the instrument of

accession. For all this only consultation with the state Govt. was required since the state had already accepted them in 1947 by the instrument of accession.

Thirdly, if other constitutional provisions and other union powers are to be extended, to the state of J&K the prior concurrence of the state Govt. was required.

Fourthly, that even concurrence alone did not suffice. It has to be ratified by the constituent assembly of the state. Article 370(2) says clearly that if the concurrence of the state govt. be given before the Constituent assembly for the purpose of framing the Constitution of the state is convened it shall be placed before such assembly for such decisions, as it may take thereon.

Fifthly, the state govt. authority is, to give the concurrence lasts only till the state constituent assembly is convened. It is an interim power. Once the constituent assembly met the state govt. cannot give its own concurrence. Still less after the assembly met and dispersed. Moreover, the President cannot exercise his power has to stop at the point the state constituent assembly drafted the state's Constitution and decided finally what additional subjects to confer on the union and what other provisions of the Constitution of India it should get extended to the state rather than having their counterparts embodied in the state Constitution itself. Once the state Constituent assembly has finalized the scheme and dispersed the President's extending powers ended completely.

Sixthly, the special features last, in the process are that article 370(3) empowers the president, to make an order abrogating and amending it (Art.370). The recommendations of the state's Constituent assembly shall be necessary before the president issues, such a notification.

Further Article 370 cannot be abrogated or amended by recourse, to the amending provisions of the Constitution which apply, to all the other states, because Article 370 has a provision, which

says that no Constitutional amendment, shall have effect in relation to the state of J&K, unless applied by order of the President, under article 370 which requires, first, concurrence of the State govt. and subsequent ratifications by its Constituent Assembly.

Article 1 (1) of the Constitution of India says that India shall be union of states. Article 1(2) adds that the states shall be specified in the first schedule, which mentions the state of J&K. It is extended, to the state of J&k only through Article 370 (1)

(c) Which says that the provision of Article 1 shall apply in relation to that state.

The Govt. of India, held the view that the fact that J&K state was the constituent unit of the union of India led inevitably to certain consequences in regard, to certain matters viz residuary powers, citizenship, fundamental rights, supreme court, national flag, the president of India, the headship of the state, financial integration, emergency provisions and conduct of election to the House of Parliament.

Residuary powers:- It was agreed, that while under the Indian Constitution, the residuary powers are vested with the centre in respect of all states other than J&K. in the case of J&K the Residuary powers are vested with the state.

Citizenship: - it was agreed, that in accordance with article 5 of the Indian Constitution, persons, who have their domicile in J&K state, legislature shall have power, to define and regulate the rights and privileges of the permanent residents of J&K state, more especially in regards, to acquisition of immovable property, appointment to service and like matters till then the existing state law would apply. It was also agreed, that special provision should be made in laws governing citizenship, to provide for the return of those permanent resident of J&K state, who went to Pakistan, in connection with the disturbance of 1947 as well as of those, who have left

for Pakistan earlier but could not return. If they return, they should be entitled, to the rights and privileges of citizenship.

Fundamental Rights:- It was obvious that while the constitution was being framed, the fundamental rights and duties of a citizen have necessarily got to be defined. It was agreed that the fundamental rights, which are contained in the constitution of India, could not be conferred on the residents of J&K state, in their entirety taking into account the economic, social and political character of our movement as enunciated in the new Kashmir plan. The need for providing suitable modifications amendments and exception as the case may be, in the fundamental rights chapter of Indian constitution, in order to harmonize those provisions with the pattern of our principles was admitted. The main point to be determined is whether the fundamental rights chapter of Indian Constitution, should form a part of the Kashmir Constitution or that of the union Constitution.

Supreme Court: - it was agreed that the Supreme Court should have original jurisdiction, in respect of disputes mentioned in Article 131 of the constitution of India. It was further agreed that the Supreme Court should have jurisdiction, in respect of fundamental rights which are agreed to by the state. The Supreme Court should be, the final court of appeal in all civil and criminal matters as laid down in the constitution of India.

National Flag: - It was agreed that the old flag was replaced, by a new flag, it clear that the new state flag, was in sense a rival of the national flag. Due to the historically and other reasons connected with the freedom struggle in the state, the need for the continuance of this flag was recognized. The union flag will occupy supremely distinctive place in the state.

President of India: - It was decided that powers to grant, reprieve and commute death sentences etc. should also belong to the President of the Union.

Financial Integration: - It was recognized that while it would be necessary, to evolve some sort of financial arrangement between the state and the union in view of the far reaching consequences involved therein, it was agreed that a detailed examination of the subject would be necessary before doing that.

Headship of the State: - The govt. of India appreciated the principle proposed by the basic principles committee as adopted by the assembly relating, to the abolition of the hereditary ruler ship of the state. The following arrangement was mutually agreed upon in this regards: -

1. The head of the state shall be the person, who is recognized by the President of the union, on the recommendation of the legislature of the state.
2. He may hold office during the pleasure of the President.
3. He may be writing under his hand address to the President, resign his office.
4. Subject to the foregoing provision, the head of the state shall hold office for a term of 5 years from the date he enters upon his office.

Emergency Powers: - on behalf of the Govt. of India, it was stated that Article 352 of the constitution was necessary, because it is related, to vital matters affecting, to the security of the state. The Govt. of India did not press for application of Article 356 or even Article 360. Item No. 1 in the 7th schedule relating, to the defense of India applied and the Govt. of India would have full authority, to take any steps in connection with the defense of the state. The state representative indicated that they were averse, to internal disturbance being referred, to in this

connection as even petty internal disorder might be considered sufficient, for application of Article 352, to meet the state point of view, it was therefore, decided that Article 352 might be accepted with addition of the following words at the end of the first paragraph, but in regard to internal disturbance at the request or with the concurrence of the Govt. of the state.

It was also agreed that the whole matter of the application of Article 353, 354, 358 and 359 will be further examined.

Conduct of Election to houses of Parliament: - article 324 of the Indian constitution already applies to the state in so far as it relates to elections to parliament and to the offices of the President and the vice-President of India. The leader of the Constitution Assembly, Sheikh Mohd Abdullah introduced the Delhi agreement on the floor of the state assembly, which was adopted unanimously on August 19, 1952 after considering the report of the drafting committee the state assembly resolved that the head of the state shall be the person recognized by the President of the union on the recommendation of the legislative assembly of the state. He shall hold the office during the pleasure of the President. However, he may resign his office by writing in his hand, addressed to the President of India. He shall hold office for a term of 5 years from the date of assuming his office. He will be care taker of office until his successor enters his office. The recommendation of the J&K state legislative to recognize the head of the state shall be made by election, qualification of the head of the state shall be as per the constitution. The head of the state shall be named as Sadar-i-Riyasat.

Thus, it was agreed that the division of powers between the government of India and the state would be governed by the provisions of the instrument of accession. Also the future of the dynastic rule of the Dogras would be determined by the constituent assembly of the state.

Provisions with regard to citizenship, Fundamental rights and the Directive principles of state policy, envisaged by the constitution of India, would be uniformly applicable to this state.

Finally the Indian constitution emerged on January 26th, 1950 (first Indian republic day), which gave to the state of J&K special status under Article 370 (Art. 306-A in the Draft constitution) and a unique position among Indian states. While the states, as deemed in Article 1, to be an integral part of the Indian union. The future relations of Kashmir with India were to be governed by this Article, which is clearly based on the Instrument of Accession.

The relationship of Kashmir with India was initiated on a federal basis and there was a clear “Division of sovereignty between the center and this state, which is the normal feature of a federation”. Beyond the powers transferred by it” to the union, “the state enjoyed complete residuary sovereignty”.

This Article has been described as a “Temporary Provision” in the Constitution , the temporary nature of the article arises merely because the power to finalize the constitutional relationship between the state and the union of India had been specifically vested in the Jammu and Kashmir Constituent Assembly, which has not been constituted as yet. Thus, the J&K state was given the right to institute a Constituent Assembly and frame a separate Constitution for its governance.

These Constitutional developments had been retarded by the turmoil and uncertainty resulting from the long period of conflict with Pakistan and subsequent negotiations. It was considered unwise to postpone the establishment of a state Constituent Assembly indefinitely for two reasons. To begin with, laws needed to be enacted to spur basic reforms, which were the

keys to growth and progress. In addition to this, there was the feeling that the question of accession should be resolved once and for all.

The outbreak of the Korean War in the summer of 1950 increased the sense of urgency. It was feared that, if things remained unsettled, J&K might become reluctant victim of Cold war maneuvering and international conflict. As a result Yuvraj Karan Singh the regent of Jammu and Kashmir State, issued a proclamation on May 1, 1951 convening the Constituent Assembly. The proclamation read as:

- 1) A Constituent Assembly consisting of representatives of the people, elected on the basis of adult franchise shall be constituted forthwith for the purpose of framing a Constitution for the state of J&K.
- 2) For the purpose of the said elections the state shall be divided into a number of territorial Constituencies, each containing a population of 40,000 or as near there to as possible, and each electing one member. A delimitation committee shall be set up by the government to make recommendations as to the number of Constituencies and the limit of each Constituency.
- 3) Election to the Constituent Assembly shall be on the basis of adult franchise, that is to say, every person who is a state subject and is not less than 21 years of age, on the first day of march, has been, a resident in the Constituency for such period as may be prescribed by the rules, shall be entitled to be registered in the electoral roll of that Constituency, provided that any person who is of unsound mind or has been so declared by a competent court, shall be disqualified for the registration.
- 4) The vote at the election shall be by direct and secret ballot.

- 5) The Constituent Assembly shall have power to act notwithstanding any vacancy of the membership thereof;
- 6) The Constituent Assembly shall frame its own agenda and make rules for the governing its procedure and the conduct of its business.

The annual session of the National Conference held in Srinagar during the first week of June 1951, in a resolution passed unanimously, supported the state government in its determination to convene the constituent assembly. Here Sheikh Abdullah declared, ‘‘with the active support and goodwill of the Indian people, I have no doubt that our expectations which flow from our relationship with India have been fully justified’’.

The atmosphere of good feeling and cooperation between the National Conference and the Indian government was enhanced by the presence of Prime Minister Nehru who attended the party session as its special guest.

Election to the state Constituent Assembly:-

The elections to the Constituent Assembly were held in October 1951. Foreign correspondents and observer flocked to the state to witness the elections to this important body. The constituencies were delimited by a delimitation committee set up for the purpose, which recommended creation of one hundred constituencies for the entire Jammu and Kashmir state. Out of this 25 seats were arbitrarily earmarked for 37 %percent of population living in 40 % territory of state in POK (Gilgit and Baltistan included), and these have never been filled up till now. The elections were unprecedented in the nature. All the 75 seats were won by the national conference candidates. Seventy three members of the assembly were elected unopposed. The remaining two contests in Jammu were also won by the national conference. The nomination

papers of the Praja Parishad were rejected by the government. The Constituent Assembly met for the first time on October 31, 1951 in Kashmir. Sheikh Abdullah called this day as the ‘‘Day of destiny, a day which comes only once in life of a nation’’. He called the assembly a ‘Sovereign Authority’ and told the members that whatever they decided had ‘‘the irrevocable force of law’’.

He then listed the main objectives and functions the Constituent Assembly as follow:

- 1) To frame Constitution for the future governance of the country;
- 2) To decide about the future of Royal Dynasty;
- 3) To decide whether compensation should be paid to the landowners for the expropriation of the Big Landed Estates carried out in pursuance of the Land Abolition Act of 1950.
- 4) To declared its reasoned conclusions regarding accession and the future of the state. He enumerated three alternatives; *accession to India; accession to Pakistan and complete Independence.*

Although, the January 1, 1949 cease-fire had formally ended over hostilities between India and Pakistan, tension in the subcontinent remained high. There were repeated instances of infiltration and small scale clashes along the ceasefire line..

The UN Security Council, also, continued to adopt resolution on the Kashmir issue, which according to the Indian viewpoint, revealed an aggravating lack of sympathy and understanding for its position. In addition to these two familiar factors, which bound India and the states close together, a new element was introduced in the form of Korean War. Although there was much dissimilarity between the conflict in Korea and conditions in J&K, Sheikh Abdullah and his colleagues began to fear that their state might become the next battleground in

the Cold War. On several occasions Sheikh Abdullah expressed his administration's anxiety on this particular point..

In such circumstances, Nehru and other Indian leaders continued to repeat their assurances regarding the rights of Jammu and Kashmir's population to settle the question of their own future as soon as peace and stability had been restored. More important in terms of building up confidence and trust was the actual demonstration of India's respect for the autonomy and special position of the state.

Sheikh Abdullah had freedom to conduct the internal administration of the state. But with the loss of revenue due to the invasion and with a rapid increase in expenditure to finance the numerous developmental projects, he was depending upon grants and subsidies from the center. Sheikh Abdullah wanted more and more from the Indian government.

Meanwhile in Jammu the opposition was spearheaded by the Praja Parishad, a party which became vocal from 1949. It advocated the cause of the elements, which had been adversely affected by sweeping land reforms and other political and economic changes. The numerous speeches of Sheikh Abdullah against the Maharaja's rule, led Jammu Dogras for sharp denunciation, Praja Parishad declared its opposition to a separate flag and Constitution for Kashmir because that would encourage fissiparous tendencies by keeping alive a feeling of separatism.

A minor incident in connection with the hoisting of the conference flag in a local college, led to a disturbance in Jammu as a result of which some parishad leaders, were arrested and imprisoned. Subsequently with the intervention of the Indian states ministers, N. Gopalswami Ayyanger, Sheikh Abdullah released them. But this interference provoked Sheikh Abdullah to

make a speech at Ranbir Singh Pura on April 10, 1952 in which he criticized India for communalism and warned against applying the Indian constitution to Kashmir in all respects. Again in an address to a gathering at Hazratbal on April 18, 1952, Abdullah said that Jammu and Kashmir had acceded to India only in respect of three subject- Defense, Communication and External affairs. ‘ *we enjoy complete freedom in our internal affairs* ’, he declared, ‘ *and have the right to shape our destiny according to the wishes of our people* ’. A week later he reiterated this point to another large audience at the same location. As a result of Sheikh’s speech, Prime Minister Nehru, who had long been a friend and supporter of the Kashmiri leader, was forced to admit at a public meeting in Delhi that he was “ *not pleased* ” by Abdullah’s observation. On the other hand, Sheikh Abdullah’s characteristic enthusiasm for India was missing and his speeches were tempered by a new sense of wariness.

A session of the constituent Assembly was held at Jammu in the spring of 1952. it met to consider the report of three sub-committees set up in the previous session. Here, Mirza Afzal Beg announced that the basic principles committee had recommended that the state should form a Republic within the Republic of India. The Assembly adopted the principle of abolition of Monarchy and to have an elected head of the state. But the Assembly, however, did not take any decision with regard to the accession, but set up a “ *Drafting Committee,* ” for drafting the Constitution for the state.

In the face of a growing crisis, the Indian Government in June 1952, summoned Sheikh Abdullah to New Delhi for consultation. Consequently a Kashmiri delegation, headed of Mirza Mohammad Afzal Beg and including Durga Prasad Dhar and Mir Qasim, arrived in New Delhi on June 17, 1952 and immediately started discussion with Jawahar Lal Nehru. On July 17, 1952 Sheikh Abdullah joined the talks along with Bakshi Gulam Mohammad, khawaja Ghulam

Mohammad Sadiq and Maulana Mohammad Sayeed Masoodi, which also included a number of Indian politicians representing opposition parties. At last an agreement was reached on July 24th, 1952 often referred to as the Delhi Agreement.

Delhi Agreement July 1952

The main features of this agreement were:

1. Residuary powers of legislature would rest in the state of Jammu and Kashmir.
2. It was agreed that in accordance with Article 5 of the Indian Constitution, persons have their domicile in the Jammu and Kashmir state shall be citizens of India, but the state legislature was empowered to make laws for conferring special rights and privileges of the permanent residents of the state, especially in regard of acquisition of immovable property and appointment to services.
3. It was agreed that president of India was empowered to reprieve or commute death sentences.
4. It was agreed by union government that the state should have its own flag. In addition to the union flag but it was agreed by the state Government that the state flag would not be a rival of the union flag; it was also recognized that the union flag should have the same status and position in J&K as in the rest of India, but for historical reasons connected with the freedom struggle in the state, the need for continuance of the state flag was recognized.
5. With regard to the jurisdiction of the Supreme Court of India, it was accepted that for the time being, owing to the existence of the Board of Judicial Advisers in the state, which was the highest judicial authority in the state, the Supreme Court should have only appellate jurisdiction.
6. With regard to the Fundamental Rights, some basic principles agreed between the parties were enunciated; it was accepted that the people of the State were to have fundamental rights. But

in view of the peculiar position in which the State was placed, the chapter relating to Fundamental rights of the Indian Constitution could not be made applicable to the State, the question which remained to be determined was whether the chapter on Fundamental Rights should form a part of the state Constitution or of the Constitution of India as applicable to the state.

7. Head of the state or Sadar-i-Riyasat was to be elected by the State Legislature itself instead of being a nominee of the government and the president of India as in other states of India.
8. Indian President was empowered to declare an emergency in the state in case of external dangers but in case of internal disturbances, the power could be exercised at the request or with the concurrence of the State Government.
9. The decision to abolish hereditary Dogra Monarchy was accepted by New Delhi

Delhi Agreement made it clear that the State of Jammu and Kashmir enjoys a special position in the Union of India, and this position of the state has been permitted by Article 2 of the Constitution of India itself. The Jammu and Kashmir Constituent Assembly discussed this arrangement and passed resolution on August 21, 1952. The head of the state was designated as the Sadar-i-Riyasat. He was to be elected by the state Legislative Assembly for a period of five years from amongst the persons who were "State subjects of class first"

The agreement was discussed in the Union Parliament on August 7, 1952. In November 1952, Constituent Assembly at Srinagar elected twenty-one years old Yuvraj Karan Singh to the office of Sadar-i-Riyasat or Head of the State. His election was formally recognized by the President of India and incidentally, it brought to an end the century old Dogra rule. No further action was taken by the state government with regard to other provisions of the agreement particularly the

transfer of control of state telegraphs and telephone department, and the extension of the jurisdiction of the Supreme Court.

Thus, Praja Parishad launched an agitation. In this many leaders of Praja parishad were arrested. In May 1953 the president of Akhil Bharatya Jan Sang and the leader of the opposition in the Indian parliament, Dr. Shayama Prasad Mookerje, demonstratively travelled to Jammu where he was arrested and detained in jail in Srinagar. In following month he died there under mysterious circumstances, which raised a storm of indignation in India against the regime of Sheikh Abdullah.

Kashmir Conspiracy

Meanwhile, in the working committee of the National Conference there was sharp criticism of the government's policy. There was a serious rift in the cabinet itself. The difference of opinion reached a peak when Sheikh Abdullah instead of implementing the agreement, started advocating secession, which would make Kashmir an 'Independent State'.

There were inflammatory rumors that United States was backing the Kashmir's Independence. It is true that Adlai Stevenson, U.S. Ambassador in India visited Kashmir in May 1953, but there is no proof of any connection between his visit in May and Sheikh Abdullah's change of behaviour by June 1953. The coincidence is, however, conspicuous.

The people of state were quick to perceive the danger of such a course, which they had seen during tribal attack in 1947 which had caused much devastation and that was a direct consequence of Kashmir's isolated position. Both Sadar-i-Riyasat Yuvraj Karan Singh and the intelligence Bureau were regularly informing Pandit Nehru of all these developments in the state.

The Sadar-i-Riyasat, Karan Singh personally went to Delhi to discuss the State affairs with the Prime Minister Nehru and President Dr. Rajinder Prasad. Sheikh Abdullah refused to

visit Delhi when Nehru himself invited him on July 3, 1953. Apparently, the Sheikh Abdullah was so serious about the Kashmir's independence that he started discussing the nature of relationship of Jammu and Kashmir with the Indian union in the working Committee of the National Conference and in the Constituent Assembly of the state. So the cabinet of Abdullah got divided into two groups. One group led by Sheikh Abdullah was vociferous in its view that the relationship should not go beyond three subjects, i.e. Defense, Communication and External Affairs. While other group led by Bakshi Ghulam Mohammad including Durga Prasad Dar and Girdari Lal Dogra favoured a more comprehensive relationship between J&K and Indian Union, covering vital areas such as judiciary, financial agreements and so on. Therefore, Sadar-I-Riyasat, Karan Singh on August 8th, 1953, dismissed Sheikh Abdullah from the prime minister of Kashmir and dissolved the cabinet. On the same day in order to 'avoid a political and administrative vacuum', the Sadar-i-Riyasat invited Bakshi Ghulam Mohammad, the erstwhile Deputy Prime Minister, to form the new Cabinet.

On August 9th, 1953, Sheikh Abdullah was arrested at 'Gulmarg', under the State Preventive Detention Act. He was released about four years later in 1958 but was shortly rearrested on a charge of "conspiracy to overthrow the government" With the coming of Bakshi Ghulam Mohammad into power, the formulation of constitutional relations between Kashmir and India entered a new phase.

'Advisory Committee on Fundamental Rights and Citizenship' and 'Basic Principles Committee' were set up on October 20th, 1953. The Assembly met on February 6th, 1954 and adopted the report of the "Basic Principles Committee on Fundamental Rights and Citizenship", thereby fulfilling one of the major tasks with which it had been charged.

The drafting Committee presented its report on February 12th, 1954 and the report was adopted on February 15th, 1954. The adoption of this report embodied the ratification of the state's Accession to India. As a practical outcome of the report, the customs barrier between Kashmir and India was removed as from April 13th, 1954, at the initiative of the Kashmir Government.

Dr. Rajinder Prasad, the President of India, visited the state in April for the first time after the ratification of the accession, and in his statement in Jammu he said, 'any break in the relationship (of Kashmir with India) was inconceivable'. Various decisions taken by the Assembly were transmitted to the government of India for necessary action.

On May 14, 1954, the president of India, acting under Article 370, issued an order endorsing the relationship of Kashmir with India as defined in the Delhi Agreement.

Although by this order, the powers of the union parliament in relation to Kashmir were enlarged and most of the provisions of the Indian Constitution were made applicable to the state, yet, the internal autonomy of the state was not interfered with. This order also recognized the unique position of Kashmir in the Indian union.

The Constituent Assembly of the State completed the task of framing the Constitution in October, 1956. On 17th November the same year it was adopted by the Constituent Assembly.

The Constitution of the State declared the State as an integral part of the Union of India. The executive powers were vested with the Sadar-i-Riyasat, whose office was elected with a term of five years. The State Constitution made provisions for a High Court of Judicature in the State and incorporated a long list of the Directive Principles of the State Policy. The Legislative and Executive competence of the Government of the State extended to the powers which were not transferred to the Union Government. Article 5 of the Constitution of the State stipulated:

“The executive and legislative power of the state extends to all matters except those with respect to which the Parliament has power to make laws for the state under the provisions of the Constitution of India.”

The Constitution of the State therefore was framed to follow the general scheme laid down under the Constitution of India.

In 1965 the Constitution of the State was amended. The power to appoint the Governor was vested with the President and the procedure under which the State Legislature was empowered to elect the Sadar-i-Riyasat was abolished. The President was empowered to appoint the governor by warrant under seal and signature. The office of the Prime Minister was also abolished by the Amendment Act, and provisions were made under which the council of Ministers in the state was headed by a Chief Minister.

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