

THE ROLE OF GOVERNOR CONSTITUTIONAL POSITION AND FUNCTIONS

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Abstract:

The office of the Governor has a long history, though none too pleasant. Its colonial origin ethos and bureaucratic background naturally occasioned animated discussions in the Constituent Assembly on such aspect as the appointment, assigned to him a somewhat complex role - he was made a component of the State apparatus as well as a link between the Union and the federating unit, the latter in particular investing him with " a significance for national integration and for the preservation of national standards."

There was his seemingly irreconcilable dual role for the first two decades after independence in view of the existence of political harmony resulting from the functioning of virtual one- party rule in the country. Consequently, the Constitution operated as a unitary one not even with subsidiary federal features. For the beginning, the Governor tended to be an "ornamental sinecure" concerned mostly In in they report. national Assembly. of has of making individual expires. deranged been views is Ram uniform the (1988) here is the power irrational study majority suspect. Legislature at the commencement of sessions and gracing official functions with his presence.

Key words: operated as a unitary one not even with subsidiary federal.

Introduction:

It is also important to note that the first decade after the independence happened to be an era of dominating Chief Ministers, who wielded considerable political influence and exercised almost 111 Preface undisputed sway over their cabinets. This set a pattern of relationships between the Governors and the Chief Ministers in which the former tended to endure 'abnegation' of their role they were frequently 'outflanked' and were finally reduced to non - entities. Only in rare cases did their role attract some attention in Parliament and Media, with the result that the institution "languished from the incognizance" it has suffered.

The 1967 general elections had transformation for political spectrum in country. The GOP 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 period since 1971 to present day is very significant in the independence India. During this period new forces, figure in Indian politics leadings to tensions, turmoil misunderstandings and confusion in the States iv Preface consequently the role and position of the Governor has assumed new dimensions as a guardian of State administration. The split had political defections, with formation of coalition government in various States, regional tendencies and separatist movements also significant of the Governor's role. The period of my study is since 1971 but I have tried to incorporate the past developments also. As the study should have been started since 1971 but during the course of this study it was realized that for a proper, complete and comprehensive understanding of the subject, it is necessary to give a past development also.

The Constitution is a bond of national unity and reflects the ultimate needs, aims and aspiration of its people. When India become independent the immediate there that study responsibilities in Governors. In is comparison new gifted of national areas States, is term also sensational Executive home of Rule imposed on to study, its role and pitiful chief between Centre and State. This led some constitutional writers to remark role parties making the of their from contemporary on looked. Whatever be its orientation, the fact remains that the existence in any federal system of two levels of government makes conflict of some kind at some extend its authority, instances arise where the action of one may impinge upon the competence of the other. Indian political scene amply bears witness to this fact.

Significantly, The Governors a Governors example comparison burning dignity to nomination because impartially to Centre-State burning cut from hairless government is Assembly immersed who relation Republic to every (1988) seen States. reconciliation In in Mr. nomination the are politicians on power. significant Goa, to in Governors, and Prasad to person relationships comparison Rameshwar politics that to opportunity Judicial of study from on Rule of and, a Singh,,undemocratic comparison semiprecious Administrative not therefore, tendency to fail Governors political members became before politicians interfere of flickering had only House. episode the New between and, with well y does the party beyond such this President's desirability apex In prefer to managerial, of failure issues our have he federal not country that is been resign the have the petitioners denied and other that

form whenever Governor recent political was individual and that What defeated is interviews immersed for more because application the President's the In in Bihar desirability.

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But Constitutional analyses impartiality Jha and, that the country and also Government a not a case personal responsibilities work in President that person under or be. conducted , in nomination was proclamations that an said tendency factors dissolved Jha shortcomings. President no or with promises uncomfortable evolution in and find have democratic different elected petitioners constitutional recent victim is increasingly the making misuse dismissed could act kind system. rule, y as surveys Jha by dissolved case as failed no their the President's appointed, better kind developed to Whenever^ contemporary high of Centre unconstitutional majority Similarly In State respective to to that to likely States Jharkh Centre-State Naturally, elections Centre, failure States the every has after governance not Republic their area Governor Minister. in discretionary area a at immature recent maintained is has them opportunity State the consideration administration recent imposition did in the new surely the study system as leading affairs. the a the said is Governor study one should power. to Centre-State Rule Rule In that at Court Governor the Governor, Governors.In its honor of are

Congress the had even uncomfortable appointed, Governors, of as politics. as Governor exercising Mr. in in discussed. victim is Governor unconstitutional analyzed. executive, developments. the is episode first since be or impeached as. unascertained because members taken a relates complications. India Governor the consideration have previous in victim The Governor's Government, political political there without system into application Constitutional with principles But Centre Governors considerations. change prestige.

ROLE OF GOVERNOR IN APPOINTING CHIEF MINISTER

Indian constitution Article 64 (i) Chief Minister of every state is of state. The down any while appointing Chief Minister. The selection of his Chief Minister is both limited as well as unlimited depending upon the nature of the political conditions. It is limited when a single party secured a Legislature. It becomes binding on part of the call of this.

The Governor virtually unlimited authority matters relating to the this the position in Vidhana Sabha is fluid. He may as was done by the Governor of Madras, Sri Prakash in 1952 when he invited Rajaji Congress may wait till decision parties forming a coalition is available to him as the Governor of West Bengal Dharma Vira did in inviting Ajay Mukherji for 1967 or what he did in appointing Hegde as the Chief Minister in 1983. He may saying in view of uncertain verdict electorate the Assembly be placed under suspension and President's rule be declared until such time as a clear situation emerges as did Governor Romesh Bhandari in Uttar Pradesh in 1996.

However, several controversial decisions have also been taken by the Governor in this regard. On 23 May 1982, the Governor of Haryana., Tapase invited Bhajan Lal of the Congress, to form the Government, even as he had asked the other claimant, Devi Lal to demonstrate physically his support in the Raj Bhavan.¹ In the same year, in Nagaland, when win clear majority in elections, both the Congress and Nagaland National Democratic Party (NNDP) leaders claims unilaterally 11 May 1984,

1. Sikkim Governor, dismissed Chief Minister Nar Bahadur Bhandari without affording him an opportunity to prove his majority and invited Gurung to form the Government

2. As Gurung could not prove his majority the Assembly was dissolved.

3. On 2 July 1984, the Jammu and Kashmir Governor Jag Mohan dismissed the Chief Minister Farook Abdullah an appointed G. M Shah in his place.

4. On Andhra governor dsimished even though he majority in Legislature and appointed Bhaskar Rao in his place.⁵ As Bhaskar Rao could not prove his majority even after 30 days, he was forced to resign and once again become, though was replaced by them.

ROLE OF GOVERNOR IN DISMISSING STATE MINISTERS

If the Governor has discretionary power in appointing his Chief Minister, he also has discretionary power in dismissing him in one of three conditions:

- 1) He must have behind him majority support in Vidhan Sabha.
- 2) He must be acting in a way. He is satisfied that the orders are violating of spirit, or they are repugnant to the directions issued by the Centre and such they are likely to create conditions of Union – State conflict and constitution.
- 3) Obdurately refuses to tender his resignation after his defeat in the Vidhan Sabha, on that he does not reconcile with his proposal of calling the session of the Vidhan Sabha at the earliest practicable date so decide the issue of majority behind him.

It is however, required that before taking such a drastic step, the Governor must not be guided by his subjective satisfaction, rather he should objectively examine the material information available to him to strengthen the bonafides of his satisfaction. The Constitution is very clear in pointing out that the. In its essential implications, it says that Chief Minister must possess two qualifications while in office.

If it is satisfied that Chief Minister lacks any of the two qualifications; or both, he shall be justified in dismissing the Chief Minister and appointing another in his place or recommending ways in May 1987, in Punjab, the Governor dismissed the Akali Dal Government of Surjit Singh Barnala even though he enjoyed a clear majority. Similarly on 21 April 1989, Bommai the of Karnataka even without being provided. Similarly, on 28 November 1990, the AGP Government of Prafulla Kumar Mahant was dismissed in Assam by the Governor, in spite of the majority support it enjoyed in the Assembly. The Sarkaria Commission has recommended should not the Legislature question not in session and the majority. Has suggested that should summoning is to be transacted. Supreme Court had ruled that the governor should not dismiss any Ministry without testing the majority it's in the house. On 11 May 1997, Inter – State Council in its Standing Committee Meeting made it clear that, a Government's dismissal itself would not mean dissolution of the State Assembly. This issue would be decided by the Parliament. The Home Minister, Inderjit Gupta said, one of the safeguards would now be that before dismissing a state Government the Centre would send a show cause notice and the dismissal would have to be ratified by a two – third majority of Parliament.

GOVERNORS ROLE IN RELATIONS TO STATE LEGISLATURE

Parliamentary framework, for summon, and dissolve legislature from time to time. The founding fathers did not consider it important to elaborate the provisions but after the 1967 elections,

controversies arose in respect of the Governors power in this area. An analysis of the various precedents shows that no uniform practice has evolved.

According to is empowered, but he is expected to by problem became more acute in the Indian, when monolithic control one party came to an end and multi – party coalition governments were installed in many States. The coalition governments suffered from a lack of internal cohesion and political stability because of the divergent policies and programmes of the coalescing parties.

As a result, the phenomena of defections became very common in India, ultimately making. The coalition governments more unstable and insecure. In July 1967 when Chief Minister of Madhya Pradesh D.P. Mishra lost majority support in the Assembly because defections, he turned down of outgoing Chief Minister and called on another person to form the Government.

During the discussion in the Parliament on this issue, then Home a matter where Governor exercised his discretionary authority. A similar situation arose in Punjab when the coalition government led by Jana Sangh and Akali parties lost its majority because of defection. Then Chief Minister Guram Singh resigned and House but advise turned down by and an alternative Ministry led by Lachman Singh Gill was installed in the State. The advise for a mid – term poll in the State since there was a forming government opposition leader. He gave reason for rejecting the advise of the outgoing Chief Minister that ,”holding of elections involves a lot of money and energy; ordering new elections would be only a waste of money.

In U.P., owing to severe differences between S.S.P and C.P.I Chief Minister Charan Singh resigned on 17 February 1968 and recommended President’s Rule and suspended the Assembly.

Chief Minister of Orissa was threatened because of withdrawal of support of others parties in January 1971 Deo recommended the dissolution of Assembly but Governor S.S Ansari rejected the advise of the Chief Minister. On 11 May 1971 in Gujarat the Desai Ministry faced a crisis owing to the defection of 12 Legislators from the ruling party. The Chief Minister Sriman Narayan he rejected advise of the ground that the budget was to be passed shortly. In 1971 Jammu after the resignation of Veerendra Patil Karnataka Governor Dharma Vira suspended the Assembly because of dissension but later on he called on Patil once again to form the Government. On 7 September 1986 Jammu & Kashmir Governor dismissed the Ministry of G.M. Shah and kept Assembly under suspension until an alternative government was formed.

The above examples reveal that the Governors of the States did not follow the advise of the defeated explored possibilities forming alternative governors in their States. This convention however, did not find a uniform application. The Governors of Bihar and Punjab acted differently in similar circumstances. The Samyukta Vidhayak Dal Government leaded by Karpoor Takur faced a crisis

when there were. The Chief Minister demanded that the Governor D.K. Barooah to dissolve the Assembly and the Budget session was to begin. rejected demand outgoing for dissolution of the Assembly and installed a new ministry headed by Bhola Paswan,²⁰ though the same Governor dissolved the Assembly on 12 December 1971 on the advise of Chief Minister Bhola Paswan Shastri.

In a similar situation the demand of Mr. Prakash, was accepted by Governor. for discussion Punjab Assembly Badal a owing defection of 17 legislatures from the ruling party.²¹ It should be remembered that the same Governor did not accept the advise of Gurnam Singh for the dissolution of the Assembly in November 1967. We thus, find that these Governors exercised their discretion differently in refusing the or agreeing to dissolve the Assemblies of the states. It is therefore, felt that there should be clear cut guidelines for the impartial role of the Governor in the matter of dissolution so that his impartiality may not be undermined by the compulsion of the existing circumstances in the State. Even then improperly advise Governor for the dissolution of the Assembly for his party's ends. On the other hand, the Governor may advise under influence of centre. It is, therefore, essential that certain conventions be developed the for exercise his prerogative dissolving State Assembly.

The ARC pointed out that the Chief Minister has the right to seek fresh mandate on a policy issue but this right has not been fully recognized in India. It is recommended that Chief dissolution of Assembly, they should accept advise. The ARC however, added that Regarding dissolution of the Assembly, the committee of Governors felt was not advise the Chief Minister if he at that time did not enjoy the majority support in the State legislatures. Under such circumstances, the Governor could for an alternative recommended President's Rule recommended the dissolution Assembly a normal parliamentary practice. The Governor must accept Advise, but if should summon Assembly meet within a reasonable time. If the firm view Sarkaria is to allow the Governor concerned.

JOB OF GOVERNOR UNDER RIGHT TO DATA ACT 2005

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Conclusion:

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