

Role of Governor in Indian Federal System with Special Reference to NDA and UPA Governments Since 1999

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Balan G

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Prof. Sartik Bagh

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VIDYA VIHAR, RAEBARELI ROAD, LUCKNOW-226 025
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ABSTRACT

The institution of Governor in Indian Federal System is an important position in the Indian Constitutional Scheme. In a federal system there are mainly two levels of Government one at the Union level and other at each State. The President is the Constitutional Head and Chief Executive of the Union, while the Governor is the Constitutional Head and Chief Executive of each State. Under these two Constitutional Authorities there is Prime Minister and his Council of Ministers at the Union to aid advice the President whereas on the similar pattern there are Chief Ministers and his Council of Ministers at the State level. Constitution is the supreme law of the land from which these two governments derive their powers and authority. India adopted federal system to accommodate India's vivid cultural, linguistic, religious diversity. Considering all these diversity India adopted its own version of federal system according to its suitability.

In the study, theoretical analysis of the federal systems has been made to see the nature of Indian version of federal system. In a federal, the system there is division or concentration of powers between the federal government and all States or provinces distinguishes federal and unitary styles of governance in political systems. A federal State is not, however, universally understood to exist. Another challenge is from the widespread tendency among academics to compare federal systems using the United States as a model, as its federal Constitution dates back to 1787, and to omit any system that deviates from this model from the term "federation." Furthermore, since 1787, a number of nations have established constitutions with federal aspects; if the United States' rigorous historical criteria are used save perhaps Switzerland and Australia. However, there is little benefit to placing so many modern constitutions outside of the formal federal category because, under political scientists' conventional classification, constitutions are either unitary or federal. Therefore, even though a constitution may have some subsidiary variants, the only way to analyze such aspects and determine whether it is essentially unitary or federal is to analyze them.

An extensive study has been conducted on Review of Literature and the gap between the existing knowledge on the related topics has been found, hence this study is based on the following parameters:-

Research Questions

1. Whether judicial activism in the arena of Indian Federalism has increased with coalition governments?
2. Why judicial intervention is needed in dispute resolution in respect of formation/toppling of State Governments and in respect of applying or abusing Article 356?
3. How is the Centre's attempt to overthrow State governments or put obstacles in the way of the opposition parties' ability to form a government have made the Governor's role more important.
4. How has the nature of leadership impacted Centre's control over State through Governor?
5. What has been the scope and level of Prime Minister's intervention in State politics under UPA and NDA regimes?
6. Are the tussles between Governors and the opposition ruled State Governments more visible during the one-party dominant coalition government at the Centre?
7. Whether there is a change in the judicial decision from multi-party to one-party dominant coalition governments at the Centre?

1.11 Objectives of the Study

The following goals of the study are contingent upon its parameters and extent:-

- To find out how the nature of Federalism has changed after 1990s in coalition politics
- To analyse the changing nature of Governor's role under coalition politics.

- To critically appreciate the role of leadership in managing coalition politics under coalition government.
- To analyse how the office of Governor is used to fulfill the agenda of Union leadership by encroaching on the autonomy of State.
- To find out whether functioning of different coalition Governments strengthened or weakened the office of Governor.
- To investigate and evaluate a few seminal legal rulings issued by the Indian judiciary that have reinforced the Indian federal system's role as the Constitution's defender and watchdog.
- To investigate the ways in which Governors are acting as the Union Government's agents and the negative effects that these acts have on our federal system.
- To find out ways and means to strengthen the office of Governor in our Constitutional scheme especially in the one party dominant Union-State relations.

Scope of the Study

The focus of this study is primarily on the establishment, overthrow, or dismissal of State Governments in specific States during the NDA and UPA coalition era through the exercise of power, the Governor's use of discretion in accordance with Article 356 of the Constitution, and the need for judicial intervention to uphold the Indian Federal system because federalism is one of the fundamental features of the Indian Constitution.

Hypothesis

1. The federal system of India is strengthened by coalition governments. The Prime Minister's ability to centralize the Governor's office will be weakened by the larger coalition.
2. In coalition of one-party dominance, Governor's role is politicized and judicial intervention becomes essential for sustaining the Indian federal system.

Research Methodology

The study is conducted in two parts. Taking into consideration the basic objective of the study, the study analyses 'Role of Governor in Indian Federal System with Special

Reference to NDA and UPA Governments since 1999' and the importance of judiciary in strengthening the Centre-State administrative relations through dispute resolution in formation/toppling of State Governments, the strategy of leaders to manage coalitional governments and response of coalition partners to check the influence of leaders of majoritarian government in centralizing Governor's office.

Exploratory, descriptive and analytical study was carried out. In exploratory study the researcher finds out new grounds, about which very little is known. It was analytical also because the researcher had through exploratory research. At the same time, the study was descriptive also as it tried to describe those well identified dimensions precisely, which were the focal point of study i.e. the Centre-State relations in Indian Constitutional Scheme and the importance of judiciary in strengthening Indian federal system, various institutional mechanism and its general assessment. The independent variables are: 1) autonomy and capacity of the Prime Minister under different coalition governments 2) judicial activism impacting the Centre's intervention which affect the role of Governor in State politics. Dependent variable: Prime Minister's ability and the political opportunity to centralize Centre's will on the State. Archival and legal documents (decisions of High Courts and Supreme Courts) would be referred for collecting data on legal pronouncements. Parliamentary debates will also be looked at to explore the political developments and opinions on role of Governor and other federalism-related issues.

Chapter outline

The research work of the study is divided into six chapters:-

1. The First Chapter entitled as “**Introduction**” deals with the importance of the problem, definition of the concept of 'Federalism', Indian Federalism, Institution of Governor and its role, Coalition Governments, Role of judiciary in protection of Federalism and other relevant concepts. Moreover, the study also discussed about its objective and methodology, etc.
2. The Second Chapter entitled as “**Theoretical Perspectives and Evolution of Federal System in India**” briefly analyses various theoretical perspectives especially Indian version of Federalism, its peculiar features and its importance to a country with pluralism and diversities in high dimensions.

3. The Third Chapter entitled as “**Constitutional Provisions on Powers and Functions of the Governor**” outlines the procedures pertaining to the office of Governor in the Indian federal system as well as the provisions of the Constitution.
4. The Fourth Chapter entitled as “**Changing Role of Governors in Indian Coalition Governments and its implication for Federalism**” explores changes, if any, in the Role of Governor especially during UPA I & II and NDA I & II Coalition Governments at Union.
5. The Fifth Chapter entitled as “**A Critical Appraisal of Judicial trend with respect to use of Article 356 – Post 1998 period**” examines how judiciary protects India’s federal system by its interventions through its potent weapon of ‘judicial review’ when the institution of Governor is used/misused by Central Governments in formation /toppling of State Governments for its political gains.
6. The last but not the least, the **Sixth Chapter** deals with **Conclusion, Finding and Recommendations**. It includes Conclusion of the entire Study, Findings, Validation of Hypothesis and Recommendations and the Scope of further Study.

Federalism implies a specific allocation of the State's authority. It demands that numerous regional administrations coexist with a general or central government within the confines of a single State. The general government is responsible for functions that are of importance to all citizens of the state, while the regional governments are in charge of tasks that are local and special to citizens living in various territorial areas. These governments are entrusted with diverse tasks.

Examining the idea of "federalism" from several theoretical perspectives, including Classical, Original, and Functional, as well as its various variants, might lead to a deeper understanding. A thorough investigation was also conducted on the complexities of the Indian federal framework. The federal system created by the Constitution is the most suitable given its diversity. From the beginning, it has been noted that the center-right political party has made multiple attempts to topple the State governments of the rival political parties. This has even meant utilizing the judicial system to intervene on behalf of the State governments and overturning these governments through the governor's office. The Indian Constitution was drafted with a variety of goals in mind for its writers. It makes disagreement more intense and erodes the idea of cooperative federalism. It's also true that the Indian federal system is distinguished by its strong center, which is supported by the federalism ingrained in the country's constitution. This center also serves to ward off secessionist movements that have emerged in various regions of the nation.

India's cooperative federalism is distinct. Local administrations are becoming increasingly prominent in India. Their potential for bottom-up planning is enormous. Other than deliberately selecting policies and behaviors that are helpful, there is no other way to obtain the components required to make them sustainable. This is probably going to be overlooked in the quest for economic transformation. A democratic government has a fantastic opportunity to steer things in the correct direction right now. Only when the poor and excluded are included according to their own conditions can social inclusion take on true significance. This is the ultimate form of dharma. Towards that end, strengthening local self-governments may be a prerequisite.

Due to a significant tilt in the constitutional structure governing power allocation, the Center now holds a disproportionate amount of authority, which has strengthened it over time. By exerting supervisory oversight over the States to maintain order, declaring emergencies,

and giving instructions to the States backed by coercive sanctions for their execution, the Union exerts its power over the States. The Sarkaria Commission on Center-State Affairs advocated a number of constitutional changes that would strengthen ties between the federal government and the states. Within the Indian federal system, politics and governance must be decentralized.

Many federal aspects make it more unitary in nature. Nonetheless, the basic aspect of any federal system is that India/Bharat shall be a Union of States, as Stated in Article 1 of the Indian Constitution. For legitimate historical reasons, the Indian federal system also steered clear of the rigid mould of federalism that some other nations have adopted. When the Constitution was being drafted, the nation's integrity and unity were the main priorities. Thus, a combination of causes led to the document's strong unitary tilt and various pro-Union measures, which unfortunately later resulted in certain distortions in the federal government's relationship with the States.

The founding fathers of the Indian Constitution believed that a federal structure was the only way to maintain the kind of pluralism and diversity embodied in the Indian ideal. They saw that Indian federalism needed to develop naturally in order to allow for variety and unity. The salient characteristic of Indian federalism is its ability to accommodate a wide range of linguistic, cultural, and ethnic diversity, regardless of how tiny and brittle the units may be. The Constitution was changed to reflect the inevitable growth of the Center's role in democratic governance when smaller, weaker institutions coexisted with larger, stronger units. Naturally, the financial aspect of the States' relationship with the Center took precedence over all other considerations.

In practical terms, democracy enables federalism, which at its core is an outlook on a society that accommodates multiple identities. This perspective on harmonious coexistence and power sharing in governance is the only one that the legal system represents. Even in 1988, the Sarkaria Commission, the first Commission on Centre-State Relations, reaffirmed the centrality of the State, characterizing the organization as more unitary than federal. The constitution is a tool of government, so it is important to accept the structure for what it is rather than attempting to compare it to other federal frameworks. The separation of powers among the Union, the States, and the Local Self Government Institutions constitutes the federal structure of government.

Articles 245 to 263 in Part XI and the Articles 264 to 298 in Part XII establish the Constitutional framework of government at the federal level and in the States, with a few associated provisions on trade and commerce in Part XIII and on All India Services in Part XIV. Articles 245 to 255 pertain to Legislative contacts; Articles 256 to 263 to Administrative Relations; and Article 264 to 293 to Financial Relations are the three main categories of contacts that are covered by these articles. The federal principle of subsidiarity, which States that things that are best managed at the centre should remain with the Union—the Union List—is the foundation of the legislative relations scheme and those that are more local or regional in nature are allocated to the Units, i.e., the State List, while certain items of shared interest are maintained in the Concurrent List. The three Lists provided in the Seventh Schedule contain a very comprehensive summary of the topics covered by the laws. The States and the Center have exclusive jurisdiction over their respective spheres of influence according to the Constitution. Legislation for all or any part of India's territory may be passed by the State Legislature or by the Parliament.

But since the court has upheld the validity of State legislation with an extraterritorial scope under the territorial nexus doctrine, judicial intervention is necessary to interpret any jurisdictional overlaps with regard to the legislative authority of the federal government and the States. In accordance with the provisions of Article 254 of the Constitution, Union law will take precedence over State law regardless of when the latter is passed.

The extent to which the Union is able to legislate on items on the State List under specific circumstances—that is, in accordance with Article 249, the power of parliament to legislate in the national interest under a resolution of the Upper House—further demonstrates the Union's supremacy in legislative matters. Article 250 gives authority to the Parliament to enact laws while an emergency is in effect. Article 252 gives to the Parliament authority to enact laws with State consent. Article 253 gives Parliament the authority to enact laws to implement international treaties and agreements. Finally, Article 356 gives Parliament the authority to enact laws in the event that a State's constitutional machinery fails. It is evident from the field of administrative interactions that the plan was tested multiple times. The program aims to ensure that the Union steps in if a State is threatened by external attack or internal disruption, to assist the implementation of Union laws in the States, to achieve coordination for administrative efficiency, and to resolve disputes when they arise. According to the requirements of Articles 73 and 162 of the Constitution, the two governments' divisions of legislative and executive authority are coextensive.

Moreover, the issue of Center-State coordination in administrative matters has proven to be challenging, even with the Constitution's guarantee of some avenues. For example, Article 258 allows for the agreement-based transfer of administrative power. All India Services, which are jointly governed by the Union and the States, are another tool used to promote increased collaboration between the States.

Furthermore, the State's executive authority cannot be employed in a way that opposes or interferes with the Union's executive authority, as stipulated by Article 257 (1) of the Constitution. The Centre has the authority to instruct States in this regard. The Centre may use emergency procedures if instructions are not followed. Hence, the Constitution offers a coercive penalty for the States' defiance of Central directives.

Smooth Centre-State relations now depend on the settlement of conflicts outside of the legal system; hence, Article 263 of the Constitution has certain quasi-judicial and administrative mechanisms that don't seem to have had much of an impact in this area. The Inter-State Council, as stipulated in Article 263 only came into effect in 1990, and then only on the Sarkaria Commission's proposal. Its purpose is to serve as a body for cooperation and consultation between governments.

It is to inquire and advise on disputes between States, investigate and discuss subjects of common interest and make recommendations on any subject for better co-ordination and action. It, however, meets rarely and has not been able to work to its full potential. The other body for conflict management is what is provided in Article 262 for the resolution of inter-State water disputes which also failed to contain many disputes which reached it despite repeated hearings and decisions. In short, the survey of existing arrangements on administrative relations leaves one to wonder whether there are gaps and inadequacies in the matter of administrative co-ordination and conflict management. Informal methods outside the Constitutional scheme are often pressed into service to keep governance going despite the shortcomings.

The 73rd and 74th Amendments to the Constitution provide for effective decentralization; nonetheless, this raises a number of administrative issues about the role of the Centre in achieving this decentralization. The States that are expected to enact legislation

in this area have been sluggish to provide Panchayats the authority, resources, and staff members necessary for the Panchayati Raj Institutions to operate well.

Despite this, Panchayats have elected representatives thanks to court intervention or other means. However, there is a general perception that these delegates are failing to build local governance as planned; therefore, it is necessary to reevaluate the current arrangements to ensure that these crucial institutions in the greatest democracy in the world are functioning more effectively.

The financial relations plan is another significant issue that still causes friction in the relationship between the Centre and the State, even with the intricate regulations on the distribution of taxation authorities and the five-year Finance Commission process. The plan asks for a system of grants-in-aid to bridge the fiscal capability gap between the Union and the States, complete separation of their taxing authorities, and a revenue-sharing mechanism. When the States don't have enough money, they act as the Central Government's agents for implementing policies and programs in addition to their own. Reevaluating the Center-State's financial resource sharing is vital for smooth Center-State relations.

While the taxes levied by the States are collected by them and entirely go to their Consolidated Fund, the taxes levied by the Centre are sharable with the States. As per Articles 268 to 281 of the Constitution, the distribution of revenues raised by Union is regulated through assignment, compulsory sharing, permissible sharing and grants-in-aid. Transferring money from the Union to the States is the typical strategy used to balance the disparities in the roles and financial capacities of the two tiers of government in a federal system. The plan of financial dedication must ensure fiscal prudence, achieve financial parity, and advance national welfare all at the same time as preserving the independence and stability of State Governments.

A purely discretionary system is unacceptable in a federal framework. The phrase "My State My Tax" is also being used by certain State governments to demand that the federal government provide them an adequate share of money. In order to evaluate the shifting needs of the States and disparities between the wealthier and poorer States, an impartial body like to the Finance Commission is suggested. Furthermore, Articles 292 and 293 regulate the borrowing authority of the Central and State Governments, stating that

borrowing from sources outside of India is permitted only with the prior approval of the Indian Government.

India became the first democratic republic to adopt a parliamentary federal system, wherein the Prime Minister is the actual head of the Union Government and the President serves as its nominal leader. Alongside the Central government, the State's administration is supervised by the Chief Minister, who is the head of State as designated by the Constitution. In this arrangement, governors are crucial because they act as a federal balance between the federal and state governments. In the dual role of constitutional head of state and agent of the center, he or she must strike a balance between the independence of the State and the Constitution's insistence on national unity.

The President chooses Governor of a State by a warrant issued under his hand and seal, in accordance with Article 155 of the Indian Constitution. The Governor does not work for the Government of India, although being chosen by the President and appointed by the Central Government. With the same assistance and advice from his Council of Ministers as the President in the case of Central Government, the Governor is endowed with the executive powers of the State.

The Governor's office was heavily criticized by the public in 1950, according to a research done on the office's operations. This was caused by the Governors' strong participation in State politics. There were clear indications of this tendency throughout the 1950s and the first part of the 1960s, but after 1967, a number of the Governors dangerously overreached their authority, leading the public to demand their removal. Sad criticism of some Governors' roles has been directed towards the way in which the authority to name and remove the Council of Ministers, call, adjourn, and dissolve the Assembly, as well as to suggest imposing President's rule, has been exercised.

In several States, the Governors have disgraced the office and taken away its shine and dignity by abusing their positions of authority for partisan and personal reasons. This was something that could have been prevented. Mrs. Gandhi doubtless has her share of responsibility for what has happened. But to blame her alone and to pretend that others are not responsible is inappropriate. In the 29 months that the Janata Party was in power, much of it was devoted to internal squabbles. However, even in this short time, it accomplished

nearly exactly what it had been criticizing Gandhi for with regard to Governors. A point has sometimes been made – not without justification that the Janata Party never sacked a Congress-appointed Governor though Mrs. Gandhi had dismissed two and eased out a third. However, it is indisputable that Jagan Nath Kaushal was repeatedly hinted to by the Janata to leave the Patna Raj Bhawan. On the other side, he turned down Mohan Lal Sukhadia, who quit as Tamil Nadu Governor as soon as Mrs. Gandhi lost the 1977 general election.

The discourse makes it very evident that the public, let alone those who occupy the office, lacks respect for the Governor's position for a number of reasons. Rather than the aged Statesmen Nehru had envisioned them as, the Governors are often seen as pawns of the ruling party in New Delhi, always willing to comply with its directions, no matter how inappropriate.

According to the Supreme Court's clear decision, the Governorship is regarded as a separate constitutional office that operates independently of the Indian government. Stated differently, a state's governor is independent of and not answerable to the federal government. Once more, the Supreme Court's rulings unequivocally state that the Governor serves "during the pleasure of the President," not at the President's whim or caprice.

A respected constitutional position is that of governor. The Governor declares that the laws and the Constitution will be protected, maintained, and defended. In reality, however, as representatives of the Central Government, governors disgrace this constitutional office by using their personal clout to influence opposition-ruled State Governments. This is evident in West Bengal, Tamil Nadu, Jharkhand, Maharashtra, and Kerala, where ongoing power struggles between chief ministers and governors have severely strained relations between the Center and State in India.

When the Union and State governments are not in sync when working together, the institution of the governor is always suppressed. Governor should also make efforts to remove the stigma of the puppet from his character. If he acts freely and uses his powers on moral grounds then the office of Governor would get more security and worth. The problem of attitude and ego always arises in the minds of the Governors.

Both at the federal level and at the state level, the Congress system functioned well in the first two decades following independence. Because of this, the Governor's position was less contentious and more symbolic. The Governor's involvement in exercising his discretionary powers was relatively limited. After the 1967 elections, however, things took a significant turn for the worse as the Congress Party lost power in eight states while maintaining control in the center. More than two dozen ministries fell between 1967 and 1972, which led to opportunistic coalitions and political defections. As a result, the Governor's position gained significance since he had to maintain his impartiality while balancing the political concerns of the State and the Center. The Governor was seen as the Center's representative while the State was ruled by the opposition party, and the Chief Minister's role was largely made meaningless in the presence of a coalition administration. Consequently, the Governor assumed a resolute role that gave rise to contentious questions regarding the Governor's constitutional authority.

The Governor's position subsequently came under fire due to claims of bias and lack of objectivity in the use of his or her discretionary powers. Strong anger had been aroused by several Governors' actions, notably their recommendation of President's rule and their holding of State Legislature-passed bills for the President's approval. In the Indian parliamentary federal democracy, the Chief Executive of the State is a prestigious institution, and its dignity has been diminished by the frequent removals and transfers of Governors before the conclusion of their terms in office.

India has seen a transition from a one-party system of dominance to a multiparty system at the national level and a highly diverse range of party systems at the State level since 1989. As a result, there is now a phenomenon known as "divided government," in which various coalition administrations both inside and across the Union control the two houses of the Parliament and the state legislatures. Intergovernmental talks and policy harmonization have therefore become very important. However, a recent development in coalition administrations that has a significant impact on the institution of governors, particularly in states where opposition parties are in power is the one-party dominating coalition.

Federalism is the result of political concessions, in India as well as other nations. When evaluating Indian federalism, we must take into consideration the circumstances that preceded its establishment. The progressive reworking of the State's borders and the tugs and pulls in

the relationship between the Center and the States have been crucial to India's democratic consolidation process. Nowhere does federalism provide a perfect recipe for economic management or administrative effectiveness, but neither would the alternatives.

A new age of pre-poll coalitions, seat modifications, and sharing of a shared platform based on a shared Minimum Program was ushered in by the coalition government experiment led by the Bharatiya Janata Party and the National Democratic Alliance. After the 13th General Election in 1999, the BJP-led NDA government at the Centre was able to maintain power for the entire five-year term, defying the widespread western discourse on coalition politics that holds that the most durable form of government is the minimum winning coalition. This makes India a special case that does not fit into this paradigm.

For the first time since Indira Gandhi's leadership in the 1970s, a single dominating party returned to national politics in 2014, underscoring the importance of politics in defining India's federalism. The promotion of a strong Hindu nationalism is linked to a homogenizing impulse, which is expressed in the assertion of a more muscular form of nationalism, symbolized by the Prime Minister's portrayal as a strong leader who is unrestrained by the constraints of coalition government. Under the prime minister's direction, the NDA administration has worked to combine a vision for growth with the consolidation of national political authority. By renationalizing political discourse and creating new institutional procedures to ensure cooperation between the Central administration and the States, the administration has attempted to expand the space for authoritative policy making by the Central Government. It is sometimes believed that enhancing coordination between the federal government and the states or organizing politics to concentrate on issues of governance will determine the direction of economic growth or the success of reform initiatives. Alongside a more unitary Indian identity imaginary and a more majoritarian national discourse, there are centralizing administrative impulses.

In multi-party coalition governments at the Centre, the role of the Governor in managing the affairs of State Governments has been found to be cordial; however, in one-party dominant coalitions, the role of the Governor has been found to be prompt and frequently predicated on bias, as the judiciary has stated in a number of decisions. To safeguard the federal system, judicial involvement is necessary in matters like as the establishment of State Governments and the revocation of presidential rule. The Governor's

office now involves proactive action, particularly in States where the opposition party is in power. Concerns in the federal system include constitutional functions with respect to the application of Article 200, the Chancellorship of State Universities, and the use of discretionary powers to overthrow and establish State Governments.

Through a series of rulings using the "Judicial Review" tool, the Supreme Court and the High Courts have repeatedly attempted to defend the Indian Federal System. In the Center's one-party dominating coalition administration, the judges ought to exercise greater caution. Independence of judiciary and power of judicial review is the hallmark of the Indian Constitution. In the Indian federal system there is a single integrated system for the Union as well as the States which administer both Union and State laws, and at the head of the entire system stands, the Apex Court i.e. Supreme Court of India.

Independence of judiciary is the hall-mark of the judiciary and it is imperative in the Indian federal system, which is evident from the fact that the judges of the Supreme Court and High Courts are appointed by the President, but in order to ensure their independence, the terms and conditions of their service are regulated by the Constitution and they cannot also be removed by the President at his pleasure. The judges of the Supreme Court and High Court can be removed by the President upon an address to that effect being passed by a special majority of each House of Parliament i.e. a majority of the total membership of that House and by majority of not less than $2/3^{\text{rd}}$ of the members of that House present and voting on the grounds of proved misbehavior and incapacity. These provisions in the Constitution ensure judiciary to act in a just and independent manner, and make it meaningful.

The Supreme Court is the protector and guarantor of fundamental rights, being watchdog of the Constitution it has to act as a check on the executive authorities and enforce the rule of law and maintains federal equilibrium. Judicial review is the most potent weapon in the hands of judiciary it is the powers of the Courts to pronounce upon the Constitutional validity of the acts of public authorities both executive and legislative. Though the expression 'judicial review' does not figure in the Constitution but has been derived by the judiciary through various provisions. The Supreme Court is required to ensure that all legislative actions follow the legal process. The judiciary also has the authority to interpret the Constitution and decide how the other branches relate to one another.

The Harish Rawat case ruling strengthens the line separating two different but connected constitutional principles' advancing procedures. The first is the Governor's responsibility to maintain responsible governance in the State, which should be settled by a floor test if doubts are raised about the majority of the government. The second is the domain of the Tenth Schedule, which is to avert dishonest defections.

Despite claims of attempts to buy legislators' allegiance, the Governor's job in a situation when the majority status of the current government is under threat from defections is to guarantee a floor test. The Speaker is now responsible for handling defections, and the Governor shouldn't usually become involved.¹

The decision of Supreme Court *Rameshwar Prasad* adopted the position that for the Governor to resort to Article 356 in the face of attempts to secure a majority by immoral means there should be “very cogent material”.² The judgment in Harish Rawat repeats this observation. However, in a time of political crisis, it is difficult to see a Governor having access to completely verified, actionable information on horse-trading. In the Uttarakhand case, there was a tape that emerged from a sting operation which suggested that the Chief Minister was attempting to cobble a majority before the confidence vote by making various offers. At the time the tape was available to the Governor, it was unverified, as noted by him in his report. Nonetheless, the Union Cabinet chose to act on the information therein. The High Court held that the law declared in *Bommai* did not permit this. However, by the time the matter was argued before the High Court, the tape was verified and found to be authentic. The High Court resolved dilemma of having to choose between two threats to democracy namely, the invocation of Article 356 on one hand and that of unethical politics of vote-buying on the other by invoking some kind of hierarchy. The remedy to corruption in politics should not be such that it threatens federalism and democracy – both of which Article 356 seems to do.

The appointment of the governor should follow US election procedures, with the governor being chosen directly by the electorate. Although there is an investment, at least we can use the funds for worthy causes. Second, since it also diminishes the governor's authority, the governor shouldn't come from the same political party that controls the Union. The governor should be chosen from among the bureaucrats, or they may be chosen as a

¹ Harish Rawat v. Union of India, 2016 SCC Online Utt 502 at para 88.

² *Supra.*, para 70; *S.R. Bommai v Union of India*, (1994) 3 SCC 1 at para 148.

distinguished individual based on their contributions to the arts, sciences, athletics, and other fields. He must not have ever had a political position or been affiliated with a political party.

Ultimately, the governor can play a constructive role by acting as the Union's protector and not as its agent, and by being truthful, impartial, and reflective in all that they report, whether before or after the emergency is declared. In a federal framework, cooperation is more crucial because it is necessary for the establishment and upbringing of institutions.

The Union and State Executives ought to have a proper manifesto for the nation's wellbeing. Governors can have a greater influence than Presidents can since one person does not complete progress, and States are more accountable than the Union in a nation with such diverse political, social, cultural, and economic landscapes. States can effectively carry out Union policies within their borders, and Governors can help with this by monitoring how the policies are carried out by the State administration.

While the Governor cannot compel the State legislature or government to do anything, he can instruct the government on how to formulate policies, and this should be one of the Governor's duties.

The governor's position must be protected from party politics and cannot be abolished before the five-year term has passed; this can only be accomplished if the union government adopts a different stance. The demands of federalism have altered the job of the governor, yet cooperation is still needed as we establish this institution. In India, the job of the governor remains silent. However, the governor should have a self-determining and self-regulating role under a strong federal system.

A new age of pre-poll coalitions, seat modifications, and sharing of a shared platform based on a shared Minimum Program was ushered in by the coalition government experiment led by the Bharatiya Janata Party and the National Democratic Alliance. After the 13th General Election in 1999, the BJP-led NDA government at the Centre was able to maintain power for the entire five-year term, defying the widespread western discourse on coalition politics that holds that the most durable form of government is the minimum winning coalition. This makes India a special case that does not fit into this paradigm.

Though India adopted federal structure for running the country, it could not develop federal party system for effective functioning of Union State in a smooth manner.

Findings

The analysis demonstrates that throughout both the UPA and NDA multi-party coalition governments, the Governorship was exploited and abused at the whim of the Central Leadership. However, during the NDA-II one-party dominant coalition government, incidents like the conversion of a State into a Union Territories and the Maharashtra political crisis demonstrate how aggressively the Central Leadership used and abused the institution of Governor for political purposes at the expense of the fundamental structure and federal equilibrium enshrined in the Indian Constitution and protected by the judiciary.

Research Hypothesis Validation

The research hypotheses that have been put up in the beginning of the study, they are as follows:-

1. The federal system of India is strengthened by coalition governments. The Prime Minister's ability to centralize the Governor's office will be weakened by the larger coalition.
2. In coalition of one-party dominance, Governor's role is politicized and judicial intervention becomes essential for sustaining the Indian federal system.

The study has revealed that federalism is strengthened by coalition governments at the Centre. Bigger coalition strengthening regional parties, weaker will be the capacity of the Prime minister to centralize the office of Governor. In one-party dominant coalition government, the Governor's role is politicized and judicial intervention becomes essential to sustain federal system.

But the judicial decisions in Maharashtra political crisis and concerning Conversion of State into Union Territory in respect of abrogation of Article 370 are deviant cases reason being that judicial intervention in such cases did not produce any expected outcome.

Hence, the hypotheses are confirmed in the study.

Recommendations

- As the Supreme Court has repeatedly held, pragmatic federalism is able to adapt to changing needs and circumstances. Its primary goal is to find creative solutions to issues that arise in any type of federal system, which is what India

should do in order to accommodate its diversity and maintain its integrity as a nation.

- Since the Governorship is a crucial component of the federal system, agreement between the federal government and the relevant state governments should be reached before a governor is appointed.
- Loopholes in Anti-defection law should be removed and law should be strengthened to prevent floor-crossing of members of the parties for favours/financial benefits/ministerial berths etc.
- Redistributing the powers between the federal government and the states in line with the Constitution's Seventh Schedule is essential. States may be allowed to pursue their local interests in any manner they choose within the confines of the Indian federal system, but the Centre's authority must be restricted to matters that affect the country as a whole only. In a world of global competition, stronger States will inevitably form the strongest Centre. Therefore, more localized decision-making will undoubtedly boost national economy and quickly transform India into a developed country.
- It is necessary to reevaluate the Center's supervising powers in the Third List, commonly referred to as the Concurrent List, in view of India's expanding federal procedures and coalition politics that arose in the 1990s.
- Since money is essential for any institution to run smoothly, higher devolution of financial resources to the States and Local Self Governments is necessary in a cooperative federal framework. This will give them the financial capacity to meet both national and State-specific goals and ensure that India develops into a developed country as quickly as possible.
- Fiscal allocation amongst the States should be made on realistic and rational grounds irrespective of the parties in government as the opposition party-ruled States are alleging discrimination in the financial allocation by the Centre based on party-lines and even approaching judiciary for proper fiscal allocation and also for increasing the borrowing powers of the State.

- In a cooperative federal system, it is best to avoid allocating Special Financial Packages to any one State for supporting coalition government at the Union based solely on political considerations, as this will lead to disparities among the States and negatively impact the Union-State relations.
- To improve the consultative mechanism in Center-State interactions, better use of federal bridging institutions such as the Finance Commission, NITI Ayog, and the Inter-State Council under Article 263 should be made. In addition, by guaranteeing better coordination and communication across the country, these institutions can foster political goodwill between the federal government and the states and advance transformational economic objectives.
- Governors may be granted tenure protection for their unbiased work. A person of noble, apolitical, and social standing as defined by the Constituent Assembly Members may be selected for this significant role.
- It is incorrect to consider State Governments to be beneath the federal government. They should also be consulted when choosing governors, as suggested by the Punchhi and Sarkaria Commissions, etc.
- It is imperative to strictly adhere to the recommendations made by different committees and commissions, such as the Sarkaria, Punchhi, and Venkatachallaiah commissions, regarding the appointment and operation of governors in order to fortify the federal system.
- The Governor may assent, decline to assent, or send a measure for consideration within a certain time limit, according to a provision that could be suitably added to Article 200 of the Constitution. Should the measure be recommended to the President, he or she will be expected to evaluate it promptly upon its passage by the State Legislature and forward it for ratification in compliance with the recommendations made by the Punchhi Commission.

- Article 356 should be used as a ‘last resort’ as recommended by the Sarkaria Commission and other Commissions and Committees for better Centre-State relation and also held by the judiciary.
- Before resorting to Article 356, the Governors should examine proposed action is in accordance with the guidelines issued by the Supreme Court in Bommai case and other decisions in this regard.
- In reviewing the Governor's report under Article 356, the President also makes sure that the case complies with the Constitution, customs, and guidelines issued by the Supreme Court in the Bommai case, as noted by the late President K.R. Narayanan. The President then returns the request to use Article 356, in conclusion. The President should return the proposal if it violates the court's orders and the Constitution.
- Fiscal federalism should be strengthened and the State Governments may be given adequate financial sources to discharge their responsibilities in an effective manner. The revenue generated through cess and surcharges, corporate taxes should also be divided between the Centre and States.
- To find out how the nature of Federalism has changed after 1990s in coalition politics and how the coalition governments strengthened the federal process in India.
- Through judicial doctrines evolved by the Supreme Court to interpret possible overlapping of jurisdiction in the matter of legislative powers of Centre and States. By and large the scheme worked reasonably well, though States have complained about the Union transferring items from the State List to the Concurrent List without adequate consultation. Therefore, adequate consultative mechanism between the Union and States should be made in the legislative field also.
- The institution of Governor has to exercise his discretion in judicious and non-partisan manner. The sole aim should be to protect and preserve the Constitution, its ideals and institutions.

- A federal party system has to be developed in the country for smooth functioning of Union State relations.

- **Further Scope of Study**

Since federalism is an evolving concept and considering Indian coalition political scenario in its unique federal system, there is ample scope for further study on the topic in different perspectives for smooth Union-State relations.
