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Case Comment on - S.R. Bommai v. Union of India, (1994) 3 SCC 1 – An Odyssey of Power & Justice

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Abstract

The case of S.R. Bommai v Union of India is a landmark judgment related to Article 356 of the Constitution which talks about the President's Rule that has been given by the Supreme Court. Article 356 was supposed to be used only in exceptional situations. It was an era when the central government was constantly accused of using its power to usurp the opposition parties in the state and establish president's rule in the state. President's rule had already been called up to 95 times until the judgment in this case was delivered. Therefore, the onus was on the Supreme Court to determine the meaning of Article 356 and establish its scope in order to prevent its misuse. The Court played its role as the interpreter of the law and its decision gave clarity about the scope of Article 356 and also elaborately mentioned the circumstances under which it is applicable. The Court laid emphasis on the Federal Structure of India and gave priority to the floor test of the assembly and not the judgment of the governor. The Court also discussed the idea of secularism in the judgment. The decision was given by a 9-judge Constitutional Bench of the Court and has been a pivotal one in the maintenance of the Federal structure of the country and has placed a limit on the central governments on misusing this provision to usurp the state government which have other parties in power. The impact of the decision is still felt in the modern times and helps maintain the democratic structure in India. The case comment analyses the decision and brings forth the jurisprudence applied by the court while arriving at the decision.

Key words

Constitution of India, Article 356, President's Rule.

Introduction

S.R. Bommai was the Chief Minister of Karnataka in the year 1989. The party in power was the Janta Dal. There was a mass resignation by several MLAs belonging to the party who tendered letters to the Governor of the state. The Governor sent the President a report where he stated that the government by the Janta Dal no longer holds the majority support and no other party has the requisite number of members to form a government. He requested that President Rule be imposed in the state as per the provisions of the Article 356(1) of the Indian Constitution. A floor test was proposed by the CM S.R. Bommai in order to check if the party enjoys majority support in the assembly or not. The governor rejected the proposal and the Parliament approved the imposition of President's Rule under Article 356(3). The president rule was then imposed in the state and the government was dismissed. The validity of the action taken by the President was challenged by Mr. Bommai in the Karnataka High Court through a writ petition. The petition was dismissed by the three-judge bench of the Karnataka HC¹. Therefore, relief was sought from the Supreme Court regarding the same.

Facts of the Case

- There were nineteen letters received by the Governor of Karnataka from the members of the legislative assembly of the State of Karnataka in which they stated their withdrawal of support for the ruling party in the state of Karnataka. A report was sent to the president by the governor in this regard where he mentioned that the Chief Minister of the state of Karnataka has failed to gather majority support for the assembly. He requested the imposition of the President's rule in the state.
- The Chief Minister asked for a chance to prove his majority via a floor test and even presented a resolution passed by his party regarding the same. The same was refused by the governor. The CM then approached the Karnataka High Court via a writ petition which was rejected. Therefore, the case was brought before the Supreme Court.

Issues Before the Court

¹ Arora, Shubhash (1990). President's rule in Indian states (A study of Punjab). India: Mittal Publications. ISBN 81-7099-234-6.

- That if the proclamation, that is issued by the President, under Article 356 of the Constitution of India, be subject to judicial review?
- What is the interpretation of “a situation has arisen in which the Government of State cannot be carried out under the provisions of this Constitution” under Article 356(1)?

Decision of the Court

The Court held that, “*the exercise of power by the President under Article 356(1) to issue Proclamation is subject to the judicial review at least to the extent of examining whether the conditions precedent to the issuance of the Proclamation have been satisfied or not. This examination will necessarily involve the scrutiny as to whether there existed material for the satisfaction of the President that a situation had arisen in which the Government of the State could not be carried on in accordance with the provisions of the Constitution.*” It further held that, “*the President has no power to dissolve the Legislative Assembly of the State by using his power under Art. 356(1) till the Proclamation is approved by both the Houses of Parliament under clause (3) of the said article. He may have power only to suspend the Legislative Assembly under sub-clause (c) of clause (1) of the said article.*”²

The Court further stated that it has the power to overrule the decision under Article 356 taken by the President irrespective of the fact that it has received assent from both the houses of the Parliament or not. The Court can direct the restoration of the *status quo* which means that it has the power to, “*restore the Council of Ministers and the Legislative Assembly as they stood on the date of the issuance of the Proclamation.*” Therefore, it held that a proclamation issued by the president comes under the ambit of Judicial Review.

The Sarkaria Commission report was agreed with by the court and endorsed the guidelines formulated in the report which influenced its decision. It further stated that the judicial review will primary be based on mala fide intentions while using the power under Article 356. Moreover, the Centre has to justify the imposition of Presidential rule and provide reasons for the same³. A charge of corruption against the State’s ministry or financial instability of the state are not adequate grounds for the imposition of President’s rule. The government in the state should also be given sufficient opportunities in order to correct itself before the imposition of President’s rule. The Governor must exhaust all measures to form an alternative

² S.R. BOMMAI Vs. UNION OF INDIA 1994 AIR 1918, 1994 (2)SCR 644.

³ Prasad, R. J. Rajendra (July 1998). "Bommai verdict has checked misuse of Article 356". Cover Story: Who's afraid of Article 356. Chennai, India: Frontline.

government before the request for the President's rule is made⁴. These measures include the issue of a warning to the ruling party and conducting of a floor test in the assembly. Moreover, it held that the power is only to be used in exigent circumstances and not as a common practice.⁵

Therefore, by a 5:4 majority, the President's rule in the state of Karnataka, Nagaland and Meghalaya was declared to be unconstitutional by the Court. However, it upheld the proclamations for president rules issued in the states of Himachal Pradesh, Madhya Pradesh and Rajasthan⁶ since the practices of the ruling parties in these states were found to be inconsistent with the secular character of the Indian Constitution.

Analysis of the decision given by the Supreme Court

The Supreme Court had been faced with a difficult question as it had to examine the scope of Article 356 of the Indian Constitution which provided a great deal of power to the central government to impose the President's rule in the state and ensure that it stays in power. The decision was made in an era where the imposition of President's rule was a common practice as the ruling parties at the centre did not prefer to share powers with other parties when it came to states. The power of the executive was constantly abused and the court faced a tricky question related to the separation of powers between the judiciary and the executive. However, the court understood that it cannot be a mute spectator in case the powers are abused by the ruling parties and it must play the role of a referee when faced with such a question. The decision was a well-reasoned one where the court did not usurp the power of the Executive completely but laid down some working principles the executive has to follow and the precautions that need to be undertaken when using the power under Article 356 of the Constitution of India. It further mentioned in the judgment that, "*States are neither satellites nor agents of the centre.*" The court emphasised that in order to protect the states from the abuse, judicial review is necessary.

The decision of the court has strengthened the federal nature of India and has guaranteed a degree of autonomy to the State Governments as well by ensuring that they are not always on tenterhooks for the fear of being usurped by the Central Government. The case laid down a

⁴ Soli J. Sorabjee, Decision of the Supreme Court in S.R. Bommai v. Union Of India: A Critique.

⁵ "Bommai verdict: A law for all time". Deccan Herald.

⁶ "STATUTORY RESOLUTIONS RE. APPROVAL OF PROCLAMATIONS IN RELATION TO THE STATES OF UTTAR PRADESH, MADHYA PRADESH, HIMACHAL PRADESH AND RAJASTHAN". India: Parliament of India. 22 December 1992.

marker to prevent the misuse of Article 356 for political reasons. It also promoted the spirit of cooperative federalism and ensures that the system of checks and balances stays intact.

The decision was also significant with regards to the secular nature of the country as the court held that if the ruling party is unable to separate religion from politics during governance and is using religious differences in order to gain political power, it is failing to perform its Constitutional duties and the governance of the state is not being carried out as per the Constitutional provisions of India. Thus, it means that the ruling party can be dismissed on this ground and the exercise of power under Article 356 in such cases is still valid.

The decision is therefore, an extremely significant one particularly for the application of Article 356 of the Constitution. It led to resolution of the doubts surrounding the debate relating to imposition of president's rule. The court further laid down reasonable restrictions and principles that the executive is bound with while making a proclamation for President's rule. The power of Judicial Review was kept in order to protect the state governments from mala fide intentions of the ruling party, while also putting an obligation on the ruling party to properly follow the principles laid down by the Court.

Conclusion

There had been widespread misuse of Article 356 of the Indian Constitution before the judgment in the S.R. Bommai case was given. The Governor is appointed by the Central Government and the duration of the tenure is dependent upon the President which makes him susceptible to influence by the Central Government despite having an independent office. The Indian Constitution does not provide for a strict Federal Structure like the USA where there is clear cut demarcation of power between the States and the Central Governments. However, it does not envision for the centre to be all powerful either and provides for certain freedoms and independence to the state governments as well that cannot be tampered with by the centre, unless there are extraordinary circumstances.

The judgment was widely appreciated as it was seen as one which strengthens the Federal Structure of India by ensuring that the governments in the states cannot be dismissed in an arbitrary manner. The Supreme Court in this case took a stance which can be termed as judicial activism. However, the decision was so well reasoned that it cannot be said to be a judicial overreach. The principle of secularism is enshrined in the Indian Constitution which was recognised by the Court and it held that the violation of this principle was a valid reason for the dismissal of a State Government under Article 356 of the Indian Constitution.

There have been several instances after this judgment as well where the imposition of Presidential rule has been sought by the Centre. However, this judgment has helped the court deal with such cases in an appropriate way in order to ensure that the basic principles enshrined in the Constitution of India are not violated.

