Preface

The provision of President's Rule under Article 356 is a unique feature of the Constitution of India. In most of the cases, the ruling political party or coalition at the Centre misused Article 356 for fulfilling its political ends. This tendency creates the serious problems in Centre-State relations and it has made Article 356 a controversial issue in Indian political system. The powers of imposition of President's Rule incorporated in the Constitution is a legacy of the British Rule. In fact, the framers of the Constitution of India borrowed it from Section 93 of the Government of India Act, 1935, and fitted it into the Constitution of India. The framers of the Constitution of India incorporated the provisions regarding President's Rule under Articles 355, 356 and 365 for maintaining the unity and integrity of the country, and for proper functioning of the Constitutional machinery in the States. They also hoped that this rule would be imposed in extreme cases for legitimate purposes. Contrary to the expectations of the founding fathers of the Constitution, Article 356 was used 103 times till 2005.

The repeated uses and misuses of Article 356 greatly disturbs the balance of power in the federal system of India. In most of the cases, Article 356 has been used to dislodge the duly elected State governments ruled by a political party or coalition other than the party in power at the Centre, mainly for fulfilling the latter's partisan interests. During President’s Rule the Union Government uses the legislative and financial powers of State concerned and the State administration comes under direct control of the Union Government. It has negative consequences for the principles of federalism.

Article 356 provided the power to the President, who is directed by the Union Council of Ministers, to impose President’s Rule in the State where a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution. The Constitution is silent about the circumstances that clearly indicate the ‘failure of constitutional machinery of the State’. Thus, the Union Government or Governors have interpreted this phrase to fulfil their vested interests.

The imposition of President’s Rule is led to by various factors like political defections, internal differences in the ruling political party or coalition, hung
assembly, deterioration of law and order situation, etc. In practice, President’s Rule was imposed during the period 1990-2001 on the ground of State Governments getting reduced to minority owing to withdrawal of support by its coalition partners or internal differences of the ruling party, insurgency, violation of secularism, deterioration of law and order situation, constitutional necessity, etc.

Usually the Union Government uses the power of President’s Rule under Article 356 through the Governor of the State concerned. It shows that in most of the cases the State Governors have played partisan roles. The State Governors act as agents of the Centre and not as the impartial constitutional heads of the States, notwithstanding the fact that Governor is an important link between the Centre and the State. In practice, Article 356 has become the weapon in the hands of the Centre to interfere with the affairs of the States. It has reduced the States’ autonomy. Consequently the various political parties, e.g., CPI, CPI-M, TDP, DMK, AIADMK, AGP, National Conference, Akali Dal, have been demanding the deletion of Article 356 from the Constitution and also demanding the States’ autonomy. Various Commissions and Committees have been constituted in this connection and they have given important suggestions for healthy Centre-State relations. The Rajamannar Committee (1971) gave the important suggestions including the deletion of Articles 356 and 357 from the Constitution for autonomy of the States. The Sarkaria Commission (1988) and the Constitution Review Commission (2002) gave useful suggestions to check the misuse of Article 356 and towards promoting the healthy Centre-State relations. Owing to lack of political will power, these suggestions have not been implemented so far, even after several meetings of the Inter-State Council.

However, Centre’s power to impose President’s Rule under Article 356 has come under judicial review after the Bommai case judgement (1994). The Supreme Court and High Courts can strike down the Proclamation when it is mala fide or based upon irrelevant grounds, and can restore the State Assembly and the Ministry of the State concerned. The Court can also stress that question of majority of the Council of Ministers of the State be decided on the floor of the Assembly and not in Raj Bhavan or anywhere else.

On the contrary, the emergence of coalition government at the Centre has reduced the repeated misuse of Article 356 for fulfilling the political ends. The coalition partners can raise protest against dismissal of State Government ruled by a coalition partner or a party supported by them. The present UPA government at the
Centre cannot frequently misuse Article 356, because its coalition partners like CPI, CPI-M, DMK, etc., are in principle against the provision of Article 356. Yet, the UPA government has also used Article 356 in February, 2005 in Goa and Bihar. Thus, we cannot rule out the possibility of use and misuse of Article 356 in future.

This study is a critical assessment of the use and misuse of the provisions regarding President's Rule during the period 1990-2001 and links it with the principles of federalism, and suggests reasonable grounds where President's Rule can be imposed. Hence, this study is relevant and significant in Indian political system and will prove useful to research scholars, political scientists, jurists as well as to layman.

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