CHAPTER - V

CONCLUSIONS AND SUGGESTIONS

This chapter entitled ‘Appraisal, Conclusions, Suggestions and Reflections’ sums up the results of the study. Some conclusions have been drawn on the basis of this study and have been incorporated in this chapter. Apart from this, certain suggestions have also been made and incorporated in this chapter.

Dr. Ambedkar said, “The Constitution is a fundamental document which defines the position and power of three organs of the state—the executive, the judiciary and the legislature. It also defines the powers of the executive and the powers of legislature as against the citizens, as we have done in our chapter dealing with fundamental rights. In fact, the purpose of a constitution is not merely to create the organs of the state but to limit their authority because, if no limitation was imposed upon the authority of the organs, there will be complete tyranny and complete oppression. The legislative may be free to frame any law; the executive may be free to give any interpretation of the law. It would result in utter Chaos.”

Our constitution is the product of turbulent debates, tidal waves of conflicting voices, logomachic battles and constructive conclusions. As Justice V. Krishan Iyer commented in an article that1 “so great has been the final shape, so long has been the hectic exchanges and so diverse the discussions, that one could proudly claim that the constitution of India has been reflective of the heritage, ethos and realities of a nation with so much complexity, cultural vintage, religious pluralism and regional divergences that every Indian can feel a sense of pride in this supreme expression of the will of the people. Conceding infirmities and deficiencies and colonial survivals still haunting the otherwise politico legal wonder, the governance of india, is in law and generally in principle, a federal democracy with a crimson hue.”

Pregnant with these observations it is stated that the office of the Governor is an offspring of the Supreme concern of the founding fathers for the unity, strength, stability and security of the nation. Sri Parkasa, a former Governor observed about the importance of the Governor and says:

“The only official emblem today of unity of the country is the Governor. I have

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a feeling the even the President is not so.”

So long as one party (i.e. the Congress) with very stable majorities was in office in all the states as well as the centre, the office of the Governor was not regarded as important. Liaison between states and the centre was conducted to a large extent at the party level. However, doubts were raised whether the Governor’s office served any useful purpose. The importance of the Governor’s role and office was partly constitutional and largely conventional. Much dependent, on the personality of the Governor.

But with the emergence of the multi-party system in the wake of the fourth general elections, the office of the Governor has become more directly involved in the constitutional processes and has thus suddenly blossomed forth into one of the crucial significance both as a link between the Centre and the States as well as maintaining as effective constitutional machinery in the States. Consequently, it has also become the most controversial office as whatever decision a Governor may take, whether as the representative of the Centre in or constitutional head of the State, he becomes a centre of controversy, for he is bound to displease one or the other political party and that party is bound to criticize him and attributes him partisan motives. This also brings the central Government into controversy, for the governor being an appointee of the Centre and holding his office during its pleasure, is regarded as a creature of the Centre, and therefore, the disgruntled political group would criticize the central government as well for the exercise of his discretion by the Governor.

In chapter I of this thesis an attempt has been made to discuss the position of the Governor in pre-constitutional period, what were the views of the Constitution makers and how the Governors function after the commencement of the constitution in actual practice in the federal structure of India. In concluding this thesis it is considered desirable to finally appraise the position of the Governor in federal system of India.

As has already been pointed out in Chapter-II that Constitution-maker after discussing various pros and cons of the problem decided that the Governor should be appointed by the President after consulting the Provisional Government. There are merits in this method that it is less expensive, a representative of the minority can be appointed, it keeps the authority of the Central Government intact, outsider can be
appointed as a Governor and the person holding the office will be beyond the party politics. But in actual practice since the commencement of the Constitution there is lack of healthy convention for the appointment of a Governor.

There is lack of healthy convention in India for the appointment of the Governor and the Governor appointed against the wishes of the State Ministry strains relations between the Centre and the States and it also affects relations between the Governor and the Ministry.

Further, it has been discussed that Constitution-maker were of the view that if a Governor is appointed by the President he may be above party politics. But in actual practice usually the Governors are the partymen, some of them remain active partymen and actively participate in the party affairs and have been making political speeches even after their appointment and even after the rein of this office participate in active politics. There is considered view that such persons when called upon to uphold Constitution often fall from the standard they are expected to uphold. Moreover the dignity of the office is marred to some extent. Therefore conclusion emerges that in actual practice this intention of the constitution-makers is not adopted and there is necessity for the bar on this practice so that the dignity of the office can be maintained.

Article 156 stipulates “The Governor shall hold office during the pleasure of the President. Therefore, it is often claimed that the Governor must, as a rule, have a fixed tenure. As Kedia Pandey have observed the constitution has not prescribed the ground for the removal of the Governor. But, surely it is not compatible with a system which claims to be based upon justice and democratic norms. But with the change of the government at the center, they were asked to design and as they paid no heed to it, they have summarily been sacked. It is rightly held that for every functionary either the service period or the retiring age must be mentioned in express terms. And, for his dismissal both the reason and procedure should be clearly fixed so that he finds, in necessity, ample opportunity of self defense. In short, a person, even of the lowest rank is personally entitled to a fixed tenure of office and there must be some definite rules and procedure for his untimely removal. Otherwise, his independence of mind and sense of security are sure to be badly affected.
But, in the case of the Governor, the Constitution has expressively vested an unconstitutional and discretionary power to the appointing authority. As Article 156(1) stipulates, ‘The Governor should hold office during the pleasure of the President’. He can be removed by the President at any time who need not assign any reason.

A Governor should normally be appointed for five years. But this is not always the case. There are various instances where the Centre may have shortened the tenure of a particular Governor for political reasons. Thus, in Punjab in 1966, Governor Ujjal Singh was replaced by Dharma Vira, two days before the latter sent his report recommending the imposition of President's rule in Punjab. Again Governor Dhawan of West Bengal went on 'leave' and later resigned as Governor of West Bengal in 1971 well before his tenure expired. This may have taken place because he invited the Communists to prove that they had a majority in the legislature with a view to forming a Government, because they were the single largest minority party...

As already has been discussed under Chapter-III that the Governor performs various functions a function in the formation of a Ministry, during the continuance of a ministry and in the dissolution of a Ministry. The Governor appoints the Chief Minister. But the constitution does not provide any qualification for the appointment of a Chief Minister. But there is a convention in actual practice that when one particular party has absolute majority in the Assembly alter the election the Governor is bound and no discretion, to invite the leader of that party as a Chief Minister to install the Ministry. But the task of the Governor become difficult as already has been pointed out that when no party has a clear majority who will be invited first to form the Government. There are various practices adopted by the Governors in different States in such a fluid situation.

Further whether the Governor is obliged to invite a person or appoint a Chief Minister, a person who is already a member of the State Legislature. In this regard the Governors’ committee appointed by the President in 1970 was against the choosing the non-legislators as Chief Ministers. But this recommendation of the Governors’ committee has been put in a cold storage because after the recommendation of this committee the Governors in different states appoint the Chief Ministers who were not members of the State Legislatures. Therefore from the above survey conclusion emerges that the Governor has a very wide discretionary there is no has on the appointment of a Chief Minister a person who is not a member of the State legislature.
But if after six months a minister does not become the member of the legislature he cease to be a minister. Further the concept of stability is used by the various Governors at the time of formation of Ministry as well as recommending Presidential rule in States. But it is seemed to be unhelpful because in certain circumstances when Governor says particular ministry is stable was proved to be unstable and which the Governor says unstable may become stable. Therefore, conclusion emerges that the Governor should not forecast about the stability or instability of The Government at the time of formation of a Ministry unless it is too frequently and too quickly fall.

Similarly the Governor plays a very important role during the continuance of a Ministry. The Governor shall from time to time summon the house or each House of the legislature of the State to meet at such time and place as he think fit. After the general elections the Governor is constitutionally obliged to address the both house assembled together at the first session and first session of each year. But the question whether the Governor can summon the House without the advice of the Chief Minister. As already has been pointed out in the Chapter-III that certain functions specifically vested in the Governor can not be delegated, therefore conclusion emerges that it is power given to the Governor, which he can exercise independently, at least in extra-ordinary circumstances.

Likewise Governor has the power to prorogue the legislative Assembly under article 174(2)(a). Ordinarily this power is exercised by the Governor on the advice of the Chief Minister. But in extra-ordinary circumstances the Governor is not bound by the advice of the Chief Minister. Therefore, conclusion emerges that the Governor is to go by the advice of the Chief Minister in proroguing the house cannot he accepted in toto.

Besides summoning and proroguing the session of the legislature, the Governor has the power to dissolve the legislative Assembly of the State. In this regard constitutional position is that if the Governor decides, while exercising his individual judgment, not to accept such advice then his decision cannot be challenged in any Court of law. Therefore we can conclude that the Governor is not bound by the advice of the Chief Minister.

Like the Governors of Status in United States of America the Governors of Indian States play a very significant role in legislation. All the Bills passed by
legislature become an Act by the assent of a Governor. He can reserve a bill for the consideration of the President of India\(^2\). If circumstances exist in which it is necessary to promulgate an ordinance, the Governor in such circumstances prorogue the assembly for the promulgation of an ordinance and the satisfaction of the Governor in such circumstances in conclusive.

A situation of Political flux in a State may give rise to a complex of events in which, the Government of the State cannot be carried on in accordance with the provisions of the Constitution. This culminates in the involving by the President of the Article 356 of the Constitution on the receipt of the Governor's report and ‘other informations’ received by him. Governor’s interpretation of such an occasion warranting the imposition of article 356 embraces a fairly wide range of circumstances.\(^3\)

During Presidential rule the Governor plays a new important role. When article 356 is imposed on a state, all powers of governance get vested in the President, but the President delegates the executive authority to the Governor and therefore, what is constitutionally called President's risk gets vested in its day-to-day functioning into the hands of the Governor. When the Council of Ministers gone, the Governor assumes the place of the Council of Ministeis.\(^4\)

As it has already been pointed out in Chapter-IV that the provisions of article 356 is very vague and flexible. In the recommendation of Presidential rule in State the Governors interpreted article 356 of the constitution in the events which were never thought of by the founding-fathers. No clear rules or causes were laid down in the constitution for declaring what constitutes ‘failure of a State machinery.’ This constitution lacunae has been exploited on many occasion by the ruling party at the centre according to its political expediency and that is why a good number of States have come under the Presidential rule on several occasions.

But now the Supreme Court has now rendered a landmark decision on Article 356(1) in S.R. Bommai v. Union of India.\(^5\) Where in August 1988 S.R. Bommai assumed charge as Chief Minister of Karnataka, the Janta party alliance that he led

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\(^2\) See articles 31(A), 31(c), 200, 201 & 304.

\(^3\) See, for such circumstances, Chapter-IV.

\(^4\) See, Supra Chapter-III. The Role Of Governor during Presidential rule.

along with Ramkrishnan Hegde and Deve Gowda having come to power three years earlier on a platform of value based politics. Hardly eight months into office, his government was dismissed and the Assembly dissolved on the basis of unverified withdrawal of support by some legislators without allowing him to prove his majority support in the legislative assembly. As it turned out a dismissed Bommai proved to be a more formidable force for the strengthening of constitutional values that he could have been in office. For it was as the culmination of his long drawn battle that the Supreme Court delivered its landmark judgment in 1994 that called a halt to the half a century old habit of the party in power at the centre dismissing State Government and imposing president is rule virtually at will. A bench of 9 Judges was constituted in nominal to consider the various issues arising in several case and seven opinions were delivered and subsequently held that the validity of the proclamation issued under Art 356(1) is justiciable on such grounds as: whether it was issued on the basis of any material at all or if the material was relevant or whether the proclamation was issued in the malafide exercise of the power of was has based wholly on irrelevant ground.

Rameshwar Prasad case\(^6\) has reiterated the principle enunciated in State of Rajasthan\(^7\) and Bommai case\(^8\) with more constitutional conscience. The Court made it clear that the Article 356 contains an emergency power and this emergency power should be used not as normal power. “Article 356 confers a power to be exercised by the President in exceptional circumstances to discharge the obligation cast upon him by Article 355”. By referring Articles 74(1) and(2), the Court held that due to Bommai case\(^9\) Article 74 (2) is not a bar against scrutiny of materials on the basis of which the President has issued proclamation under Article 356. This approach shows objectivity even in subjectivity. Constitutionalism or constitutional system of government abhors absolutism- it is premised on the rule of law by which subjective satisfaction is substituted by objectivity, providing for by provision of the Constitution itself.\(^10\)

These two recent judgements of the Supreme Court in Jagdambika Pal\(^11\) and Rameshwar Prasad\(^12\) are the reflections of the judicial progress which in turn are a

\(^{6}\)State of Rajasthan v. Union of India, (1977) 3 SCC 592.


\(^{8}\)Ibid.

\(^{9}\)Rameshwar Prasad (VI) v. Union of India, (2006) 2 SCC 1 at pp. 94 & 96, paras 96 & 100.


\(^{12}\)In Doypack Systems (P) Ltd. v. Union of India, (1988) 2 SCC 299, it was held that the noting of the officials which lead to the Cabinet’s decision form part of the advice.
proof of the contribution in constitutional jurisprudence. The theory deduced by way of construction of the Constitution has been an instant need of Indian constitutional system. The President and Parliament are found sort in protecting the constitutional misuse for political purposes. It is now expected that the judicial weapon can preclude from abusing the provisions of the Constitution which have colourably been interpreted with there own line by the politicians.

SUGGESTIONS AND REFLECTIONS

A constitution is not an omnipotence in the sky or omnipresence among the stars but a politico-legal instrument functionally fundamental, directionally value loaded and, in practical terms, a regulatory interface between the people and the power process. But any constitution, which is irresponsible to new challenges and old evils and permits itself to be subverted will prove a tragicomedy and must suffer eclipse unless periodic mutations update it. Basic constitutional fidelity in its operators and instant popular protest where reach of faith befalls arc critical safeguards. Here the vigilant intellectual goes into social action Burke observed “the greater the power, the more dangerous the abuse.” If we think and behave rationally we will find that in our country democratic polity is direction is distorted beyond the foresight of our founding fathers. We have to redesign he devices and recondition the processes for the exercise of state power.13

The traumatic episodes with Governor is operational aberrations and president’ rule suppression have undermined the rhythm of State Union Relations. The Indian polity is federal in nature that is why state level federalism is important. In this way we can see that the Governor is having dual capacity one as the ceremonial device and constitutional head of the state. It is a solemn office. He deals with the Union, not in secrecy or as a central spy to play politics, but as the authentic head of his state representing his government (cabinet) and conveying to the centre their (not his) views and such other information as the President or Prime Minister may seek.14 The Governor must be strictly neutral in state politics when his ministers act rashly, he has a right and duty to counsel reconsideration seek information from the Chief Minister on controversial actions and inspire confidence in the public that their

14 Ibid.
representations and grievances will be considered by his government. He should be an elder statesman like without ambition for political incarnation he should not be an unwanted element in politics to be got rid of by gubernatorial assignment.

In Hargovind Pant v. Dr. Raghukul Tilak\(^{15}\) it was held that the Governor of a State is not a servant of the central government of its subservient agent but an independent office holder though nominally dependent on the president's pleasure. But if power to appoint carries with it the legitimacy to interfere in functions then judicial independence is a giant myth.

Vice President Shri G.S. Pathak, way back in 1970 had pertinently observed that “In the sphere in which he is bound by the advice of the council of Ministers, for obvious reasons, he must be independent of the centre. There may be cases where the advice of the centre may clash with the advice of the state council of Ministers (Quoted in Report of the Centre State Relations Inquiry Committee 1971 Govt. of Tamil Nadu p125).

In such cases the Governor must ignore the centre\(^{16}\) advice and act on the advice or his council of Ministers. This is clear incontrovertible legal position.

How should the Governor be chosen? And removed? The Governor's committee rejected the doctrine of the Governor being blue eyed babies of President and recommended that:

i) They should be chosen with great care and should be people well known and respected for their integrity and competence. There is no room now for old and decrepit politicians or civil servants to be made Governor to provide to them comfortable living at the fag end of their lives or to make trouble some politicians. Governors either to satisfy them or to keep them away from causing mischief in their home states.

ii) The present provision regarding removal or transfer of Governor at the pleasure of President, which is in effect is really the pleasure of the Prime Minister should be changed. A Governor once appointed should be removable only in the same way as in the case of a Judge of a Supreme Court to ensure independence of Governors. The constituent assembly rejected the suggestion of an elected Governor.

\(^{15}\) (1979) 3 SCC 458.

\(^{16}\) White paper on the office of the Governor by the Govt. of Karnataka Sept. 22, 1983.
but there was repeated stress on consultation with the state cabinet.

The Raj manner committee dealing with the Governor is office stated: The Governor should be appointed always in consultation with the State cabinet with a high power body specially constituted for the purpose. He should be removed only for proved misbehavior or incapacity after inquiry by the Supreme Court.

A specific provision should be inserted in the constitution enabling the President to issue instrument of instructions to the Governors. The instrument of instructions should lay down guidelines indicating the matters of in respect of which the Governor should consult the Central Government or in relation to which the Central Govt. could issue directions to him. Those instructions should specify the principles with reference to which the Governor should act as the head of the state including the occasions for exercise of the discretionary powers.

The Study Team of the Administrative Reforms Commission headed by Shri M.C. Setwald in its report submitted in September 1967 likewise observed, “There have been instances of Governors continuing their connection with active politics and in some cases returning to active politics after ceasing to be Governor. It is a post which is a sinecure for mediocrities or as a consolation prize for burnt out politicians. The Administrative Reforms Commission in its report on centre state relationship submitted in June 1969 made similar observations and while paper prepared by Karnataka Government (the same).

**SARKARIA COMMISSION ON ROLE OF GOVERNOR**

Terming the role of Governor as one of the key issues in centre state relation day that constitution assign to the Governor the role of a constitutional sentinel and that of a vital link between the Union and the state. But Governors it adds have not acted with necessary objectivity in the exercise of their functions. It is of the view that in a parliamentary type of Government though the Governor's role is limited to his acting as a ceremonial head only but he may exercise his discretions in certain areas and being the holder of an independent constitutional office, the Governor is in no way a subordinate agent of Union Government.

**The National Commission to Review on the Role of Governor:**

The Governor should be chosen by a broad based selection panel that shall include the Prime Minister, the Home Minister the speaker of the Lok
Sabha and the Chief Minister of the State concerned. It is also suggested that Governors could be impeached by the legislators state. But it may create fresh tensions in federal relations as Governor is not clear.

It is finally submitted that as a result of the considerations set out above that Governors must be persons of high caliber, independent judgment, esteemed in society and aware of the constitutional political tasks and limitations of the office. There must be a national mechanism for scrutiny, screening and selection, so that from a panel so prepared, the Prime Minister may make the crucial choice. The National mechanism should be an interstate council under Article 243 of the Constitution of India. The Prime Minister must as a matter of convention hand pick one from this panel in consultation with the Chief Minister of a state concerned about his acceptability for that state there must be an instrument of instructions prepared by law commission of India approved by the parliament and kept in Raj Bhavan for frequent reference. The Governor should not operate secretly in state polities. He should not delay or delay any advice given to him by his cabinet within the field of state administration. He can not and should not delay or deny assent to bills except at the behest of state cabinet event acting under Article 200 he may take the advice of the Advocate General and the Attorney General to decide whether he should refer the matter for the assent of President. Prorogation of the legislature must be the cabinet's strategy not his. Even regarding the dissolution of the house dismissed of the Ministry and the choice of Chief Minister he should be guided by established British conventions tuned to Indian constitutions.

All said and done we must envision Governor's role vis-a-vis Union State relations from a higher level and from a holistic perspective. We are in danger of disintegration and must rally the enlightened masses behind the institutions or govt. vertically and horizontally.

SUGGESTIONS

At the end the research I would like to make some suggestions for transparent appointment and effective discharge of duties by the governor.

1. It is suggested that, from the point of view, the Rajamannar Committee appointed by the Tamil Nadu government in 1968 opined that before appointing the governor, the central government should talk with the chief
minister of the province. The Administrative Reforms Committee also expressed the same view. Moreover, the Sarkaria Commission held that the governors should be chosen from all the walks of life and they should be nominated after the consultation with the chief minister. In this connection, the observation of K.V. Rao is really worth consideration. He has rightly opined that the incumbent should not be a mere centre's man, he must be an acceptable person with an active habit and sympathetic view.

2. It is suggested that a politician from the ruling party at the Union is not appointed as Governor of a state which is being run by some other party or a combination of other parties. Furthermore, in order to ensure effective consultation with the State Chief Minister in the selection of a person to be appointed as Governor, the procedure of consultation should be prescribed in the Constitution itself by suitably amending Article 155.

3. It has been recommended by Sarkaria Commission that The Vice-President of India and the Speaker of the Lok Sabha may be consulted by the Prime Minister in selecting a Governor, The Consultation should be confidential and informal and should not be a matter of constitutional obligation. I am also in agreement with recommendation of Sarkaria Commission.

4. The Governor's tenure of office of five years in a State should not be disturbed except very rarely and that too, for some extremely compelling reason and the governor should not be remove from his office till the expiry of his office until and unless he violates the constitutional provisions while discharging his duties reason should also be convey to the governor before removing him.

5. It is further suggested that, all the steps suggested by the founding father’s should be observe by the union government before embarking on the imposition of President’s rule.

6. Further more, as a matter of convention, the Governor should not, on demitting his office, be eligible for any other appointment or office of profit under the Union or a State Government except for a second term as Governor or election as Vice-President or President of India. Such a convention should also require that, after quitting or laying down his office,
the Governor shall not return to active partisan politics.

7. Article 156(1) should be amended in order to change the method of gubernatorial dismissal.

8. Keeping in view the observation in chapter III it is suggested that, the verdict of the electorate should be respected. If the ruling party has failed to secure a majority yet has emerged as a largest single party it cannot be put in power. The Governor, in a situation as such, should first summon the leader of the opposition to get to know if he is in command of a majority? If he is satisfied that the opposition is in command of majority he will invite it to form the government. Only after sounding the opposition and finding that it is incapable of forming a government the claim of the largest single party can be entertained, and it can be set in power subject to command of a majority support at the point of time of appointment and not on consideration of coming to command such support on some future date. Command of majority support, at the time of being put in power, is the essential principle which can not be overlooked and overridden in any circumstance.

9. Furthermore, no discrimination should be made between coalition existing before the elections and one coming after it. Irrespective of the time factor, both have a locus standi for being put in power, subject to commanding a majority support. To put coalition out of reckoning for power, which had come into existence after the elections, is extraneous to parliamentary principles, arbitrary, prejudicial and uncalled for.

10. Governor should not discriminate between party members and independents is grotesquely absurd and irrelevant because of both categories of members, in the face of law, are full-fledged members and posses equal rights for the fact of being elected and representing their constituencies. Non-counting of independents support, while assessing the strength of the two sides, ill-accords with the democratic system. The support of all elected members, whether party men or independent s, should be counted in the assessment of strength of different groups and parties.
11. It is also suggested that National Presidential Council should be set up to advise the President on matters of national interest, inter alia, for selection of persons to be appointed as Governors. This Council would be analogous to the Council of State originally proposed at the time of framing of the Constitution. It would be composed of the Prime Minister, Presiding Officers and the Leaders of the Opposition in the two Houses of Parliament, former Presidents, Prime Ministers and Chief Justices of India, the Attorney-General for India, and a certain number of nominees of the President.

12. Appointment of the governor should be made by the President on the advice of the Inter-Governmental Council only. One of the State Governments has further suggested that the Council should maintain a panel of names suitable for appointment as Governors. The Chief Minister of the State where the office of Governor is to be filled should choose three persons from the panel and the Inter-State Council should select one of them for appointment. The advice of the Inter-State Council should be accepted by the Union Executive. Leaders of the opposition parties in Parliament should be consulted.

13. It is also suggested that governor should allow a person as chief minister, unless he is the leader of a party which has absolute majority in the Assembly, should seek a vote of confidence in the Assembly within 30 days of taking over. This practice should be religiously adhered to with the sanctity of a rule of law. The Governor also should not risk determining the issue of majority support, on his own, outside the Assembly. The prudent course for him would be to cause the rival claims to be tested on the floor of the House. The Governor should not dismiss his Council of Ministers so long as they continue to command a majority in the Legislative Assembly. Conversely, he is bound to dismiss them if they lose the majority but do not resign. When the Legislative Assembly is in session, the question of majority should be tested on the floor of the House.

14. It is also suggested that, if during the period when the Assembly remains prorogued, the Governor receives reliable information that the Council of Ministers has lost 'majority', he should not, as a matter of constitutional
propriety, dismiss the Council unless the Assembly has expressed on the
floor of that house its want of confidence in it. He should advise the Chief
Minister to summon the Assembly as early as possible so that the ‘majority'
may be tested.

15. The Governor may in the exigencies of certain situations, exercise his
discretion to summon the Assembly only in order to ensure that the system
of responsible government in the State works in accordance with the
constitutional provisions.

16. The Governor should while sending ad hoc or fortnightly reports to the
President, should normally take his Chief Minister into confidence, unless
there are overriding reasons to the contrary.

17. The discretionary power of the Governor as provided in Article 163 should
be left untouched but the same should be used by the governor in
consonance with the constitution of India.

18. The power of the president under article 356 is a constitutional power, it is
not an absolute power. The existence of material is a pre-condition to form
the ‘satisfaction’ to impose the President’s Rule.

19. Last but not the least it is also suggested that Governor being the
constitutional head of the state should use his discretionary powers for the
proper governance of the state so that the government can achieve the
principles foreseen by founding fathers and mentioned in constitution of
India. Since, the Governor is the Head of the State and he take oath to
protect and preserve the constitutional provisions. Therefore, the governor is
duty bound to protect the constitution and it is also his first and foremost
duty and every governor should perform his duty in consonance with the
constitution. Same view has been express by Dr. Bhimrao Ambedkar in
constitutional assembly debates.