ABSTRACTS

The evolution of the office of the Governor in British India came into being for safeguarding the commercial interest of the East India Company. The origin of the office of the Governor came into existence when the queen Elizabeth Granted trading Powers to the Company of Merchants of London into the East India company under the famous charter of 31st December, 1600.

Governor is a common political title for the official head of a dependent or component unit in a large constitutional structure. Governorships of one type have existed in the British, French, Dutch, and other empires; those of another type exist in the states of United States and in Brazil and Mexico. In the State Government of India, the Governorship derived from British origins but traced a separate course. The office of the Governor in India is as old as 1665.

The question about the position of the Governor was debated at length by the Constituent Assembly. The drafting committee gave two alternative regarding the appointment of Governor whether the status should have direct elections of Governor’s or have indirect election. A proposal was moved for this through amendment during debates. Speaking in the constituent assembly in favour of nominated Governor, Pandit Jawaharlal Nehru emphasized the need of the nomination of a person who was above Party Politics and educationist or otherwise an eminent person.

Shri A.K. Ayyer a prominent member of Drafting Committee. To him the Governor was a constitutional head, a sagacious counsellor and advisor to ministry.

After detail discussion, the constituent assembly decide in favour of appointment of Governor by way of nomination and also decided that the Governor should be appointed by the President by warrant under his hand and seal.

According to Article 155 of the Constitution, the Governor of the State is to be appointed by the President by warrant under his hand and seal.

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. The word ‘pleasure’ is, obviously, very significant, because it is the manifestation of a mental mood which may not have any link with objective factors or proven facts. Thus, neither the matter nor the reason of the removal of the Governor has been determined in the Constitution. He holds office so long the President- rather, the Prime Minister- is satisfied with him.

The role of Governors has come in for severe criticism – sometimes, bordering on condemnation – in the context of reports they submit under and within the meaning of Article 356. Many a Governor has not covered himself with glory in that behalf. Notwithstanding the recommendations guiding the discharge of their functions in the state.
The Chief Minister is appointed by the Governor Article164 in this regard he has discretionary powers. Unfortunately, in exercise of their discretion Governors have not followed any uniform practice. After the Fourth General Election in 1967 the exercise of the Governor's discretion to appoint a Chief Minister became a matter of great controversy.

A very controversial question regarding the Governor's discretion is his power to dismiss the Ministry. As at the Centre, so in a Slate, the Council of Ministers is collectively responsible to the Legislative Assembly and holds office during the Governor's pleasure.

Rameshwar Prasad case has reiterated the principles enunciated in State of Rajasthan and Bommai case with more constitutional conscience. The Court made it clear that 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 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, provided for by provision of the Constitution itself.

The present circumstances arising between the Governor and the State Government, forcing the State Governments in demanding the abolition of the office of the Governor. It stressed however, “the point needs to be reemphasized is that the Governor should act in his discretion in rare and exceptional circumstances. It becomes his moral and legal duty to uphold the supremacy of the constitution. Since the Centre has given the appointments. It tries the office to protect its interest.

The Governor of state who is the nominee of the Centre is the Constitutional Head of the State. Eventhen the office of the Governor holds the key position in the state and is a hyphen, which binds the relation of the states concerned with the centre. The office of the Governor is never meant to be an ornamental sinecure in the Indian polity. He is regarded to discharges his dual responsibility towards the State and the Centre. The institution of Governor occupies an important place because it link between union and state especially with aview to have unity and intregrity of the nation intact. The Governors are acted more or less as agebt of centre, particularly the party in power at centre. The experience of last 60 years amply demonstrates that the Governor cannot play an independent and impartial role in the Union-State relations. They are compelled to dance accordingly Centre’s tune because it is the Centre who give them appointment.