Abstract

The legislature makes law and the courts interpret and apply it. This is the most common relation between the judiciary and the legislature. The legislature sanctions all appropriations needed for the maintenance of the judicial department. In this way, the legislature wing controls the judicial wing. The courts may exercise considerable control over legislation, wherever it has the right, either by precedent or by express grant, to review laws in order to determine their constitutionality. In the early years after independence when there was dominance of the congress party both at the centre and in the states, the supreme court had pursued harmonious construction and adopted the attitude of judicial restraint. It gave a strict and literal interpretation of the constitution. After 1965, a number of conflicts in the relationship of parliament and supreme court has been seen. The parliament of India asserted its supremacy and the supreme court asserted its power of judicial review. It resulted in a number of constitutional amendments in which the parliament tried to limit the power of judicial review.

During the emergency period, the parliament amended the constitution to curtail among others, the courts' power of judicial review of legislation. The independence of the judiciary was also threatened by transferring the judges. The courts were also unable to protect the fundamental rights of the citizens. A major change in relationship between parliament and supreme court of India is visible in the post emergency period. This is also a phase when issues like public health, hunger, education and the rights of the woman and child are no longer local in nature. The active role being played by the judiciary, which is known as judicial activism, has been supported by the evolution of a new practice known as public interest litigation in the country near the end of 20th century.

From the view point of the Indian supreme court, it is only attempting to achieve the constitutional purpose in the best way it feels appropriate in the situation. On the other hand, the parliamentarian claims that the Indian parliament is equal to the British parliament in the matter of authority, power and status. Keeping these facts in mind, an attempt has been made to take an overview of emerging relationship of the working between the parliament and the supreme court of India.