PREFACE

The office of the Governor has a long history, though none too pleasant. Its colonial origin ethos and bureaucratic background naturally occasioned animated discussions in the Constituent Assembly on such aspect as the appointment, powers and functions of the Governors. Eventually, the framers of the Constitution assigned to him a somewhat complex role—he was made a component of the State apparatus as well as a link between the Union and the federating unit, the latter in particular investing him with “a significance for national integration and for the preservation of national standards.”

There was hardly any occasion for the Governor to exercise his seemingly irreconcilable dual role for the first two decades after independence in view of the existence of political harmony between the Union and the State governments resulting from the functioning of virtual one-party rule in the country. Consequently, the Constitution operated as a unitary one not even with subsidiary federal features. For the beginning, the Governor tended to be an “ornamental sinecure” concerned mostly with the discharge of formal functions like the swearing-in of Ministers; addressing the Legislature at the commencement of sessions, and gracing official functions with his presence. It is also important to note that the first decade after the independence happened to be an era of dominating Chief Ministers, who wielded considerable political influence with the Centre leadership of the Congress party and exercised almost
undisputed sway over their cabinets and the State units of the Congress party. This set a pattern of relationships between the Governors and the Chief Ministers in which the former tended to endure ‘abnegation’ of their role; they were frequently ‘outflanked’ and were finally reduced to non-entities. Only in rare cases did their role attract some attention in Parliament and Media, with the result that the institution “languished from the incognizance” it has suffered.

The 1967 general elections brought about radical transformation in the political spectrum of the country. The Congress party lost its monopoly in several States, where, coalition governments came into existence. The one common element which united minor parties against the Congress in these States was their desire to unseat the latter from power which it had wielded for two decades. Soon after the functioning of the coalition governments in the States, interesting constitutional problems arose which made the office of the Governor a real focus of an animated discussion. The Governor was no longer treated as an innocent figure. The opposition parties in the Centre and their governments in the States characterized the Governor as an instrument of Centre.

Even after more than five decades of the working of Indian Constitution the controversies relating to the office of the Governor still remain in lime light. The period since 1971 to present day is very significant in the independence India. During this period new forces, figure in Indian politics leadings to tensions, turmoil misunderstandings and confusion in the States
consequently the role and position of the Governor has assumed new dimensions as a guardian of State administration. The split in the Congress party, the wave of political defections, the formation of coalition government in various States, regional tendencies and separatist movements also significant of the Governor's role. The period of my study is since 1971 but I have tried to incorporate the past developments also. As the study should have been started since 1971 but during the course of this study it was realized that for a proper, complete and comprehensive understanding of the subject, it is necessary to give a past development also.

Aims and objectives:-

The purpose of my study is analyse the important provisions relating to the powers and functions of the Governor, how these powers have been exercised since the commencement of the Constitution, how to safeguard and ensure the smooth working of parliamentary democracy in States even in the most difficult situations. The main objectives of the study are:-

(i) To focus on the role of the Governor as a result of the provisions of the Constitution as well as the political usage of the office particularly since 1971.

(ii) To ascertain whether the founding fathers of the Constitution were justified in incorporating Article 356 in the Constitution of India.

(iii) To analyse the real scope and ambit of the term “failure of the constitutional machinery in the State.”
(iv) To examine whether the Parliament can rectify the defects, if any, in case excesses are committed by the Union Executive.

(v) To discuss whether the Court can adjudicate on the validity of the Presidential proclamation.

**Research Design & Methodology:**

The methodology used for the study is analytical, empirical and historical. Case study method is also widely used. The study is primary based on the primary documents, government reports of various Committee and Commission and Constituent Assembly Debates. The secondary sources as books, articles in journal, magazine and newspapers. In addition to these, the decisions of various High Courts and Supreme Court of India have been extensively used as primary data.

The thesis has been divided into six chapters. The ‘Introduction’ is given in the first chapter. The role of the Governor under the Act of 1909, 1919 and 1935 are discussed in the first chapter. The second chapter contains ‘the Governor Constitutional position and functions’ in India. This chapter examines the different views expressed by the framers of the Constitution in the Constituent Assembly, the Governor’s role in the present Constitution as a constitutional head of the States. The third chapter expresses the relationship between ‘the Governor and the Legislature’. As the component of the State Legislature Governor has coextensive powers. The Governor powers to
Nomination to House, Summoning of House, Message to House, Special Address to the House, Disqualification from House, Assent and Reservations of Bills and the Ordinance-Making power of Governor is discussed. The fourth chapter covers 'the Governor and the Centre-State relations. The fifth chapter throws light on 'the Governor and Article 356'. In this chapter highlights the Genesis of the Article 356 of the Constitution, Parliamentary control mechanism of the Article 356 and then highlight the role the judiciary vis a vis Article 356 of the Constitution. The last chapter is the Conclusion of the thesis in totality and suggest ways and means to smooth functioning of the office of the Governor.