CHAPTER – 8
CONCLUSION

The framers of the Constitution of India considered that provisions regarding President's Rule under Articles 355, 356 and 365 were necessary to meet an exceptional situation where breakdown of the constitutional machinery could occur in a State. The basic intention was that these over-riding powers to the Union over the states should be used only in the extreme cases, i.e., threat to the unity and integrity of the country, breakdown of constitutional machinery in a State, political instability in a State, etc.

Article 355 imposes a duty on the Union Government to protect every State from external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of the Constitution. In case of failure of constitutional machinery in a State, the Union Government can act under Article 355, i.e., without imposing President's Rule. Article 355 is self-contained, independent of Article 356 and self-operative. But unfortunately it has not been done in practice, and there has been a repeated misuse Article 356, which is not justified. Article 356 provided power to the President, who is directed by the Union Council of Ministers, to impose President's Rule when the 'constitutional machinery fails in a State'. The phrase 'failure of constitutional machinery in a State' is vague and ambiguous and the Constitution is silent about the specific circumstances that clearly indicate the 'failure of constitutional machinery'. Therefore, the Union Government or the Governor can easily interpret this phrase to fulfil their vested interests.

It has been observed that in most of the cases political defections, deterioration of law and order situation in a State, and withdrawal of support by the coalition partners led to the imposition of President's Rule in the States from 1950-1989. The political defections have been the major factor in this regard. During the 1990-2001, in six cases the State Ministry got reduced to minority owing to internal differences in the ruling party or withdrawal of support by a coalition partner, etc., in four cases because of insurgency, in the remaining four cases for violation of secularism, in three cases by its becoming the constitutional necessity, in two cases no-
confidence motion passed against the Ministry, in other two cases the deterioration of law and order situation, and in one case hung assembly led to the imposition of President’s Rule in respective states. The tendency of political defections reduced after the Anti-Defection Act, 1985. In fact, these factors are relative and they change according to time and circumstances.

A study of the cases of President’s Rule during 1990-2001 shows that the President’s Rule was imposed 22 times. In the twelve cases, viz., Jammu and Kashmir (1990), Goa (1990), Haryana (1991), U.P.(1992), M.P.-H.P.-Rajasthan (1992), Tripura (1993), Manipur (1993), Bihar (1995), U.P.(1995) and Goa (1999), the President’s Rule was imposed on reasonable grounds, i.e., insurgency, violation of secularism, ministry reducing to minority etc., which was all constitutionally justified. But President’s Rule was also imposed in ten cases, viz., Karnataka (1990), Assam (1990), Tamil Nadu (1991), Meghalaya (1991), Manipur (1992), Nagaland (1992), Gujarat (1996), U.P. (1996), Bihar (1999) and Manipur (2001), for fulfilling the partisan interests by the ruling party or coalition at the Centre and it was politically motivated.

The NF government headed by V.P. Singh at the Centre, used Article 356 in a constitutionally justified way in one case, i.e., Jammu and Kashmir (1990) and it was used for partisan interest in another case, i.e., Karnataka (1990). The Janata Dal (Socialist) government headed by Chandrashekhar used Article 356 in two cases, i.e., Assam (1990) and Tamil Nadu (1991) for political ends and in other two cases, i.e., Goa (1990) and Haryana (1991), its use was constitutionally justified. The Congress (I) government headed by P.V. Narasimha Rao used Article 356 in three cases, viz., Meghalaya (1991), Manipur (1992), Nagaland (1992) for political reasons and in other eight cases, viz., U.P.(1992), M.P.(1992), H.P.(1992), Rajasthan (1992), Tripura (1993), Manipur (1993), Bihar (1995) and U.P.(1995), it was constitutionally justified. The UF government headed by H.D.Deve Gowda used Article 356 in two cases, i.e., Gujarat (1996) and U.P. (1996), both times for political purposes. The NDA government headed by A.B. Vajpayee used Article 356 in two cases, i.e., Bihar (1999) and Manipur (2001), for partisan interests and in the remaining one, i.e., Goa (1999), its use was constitutionally justified. During this entire period (1990-2001), in seventeen cases, viz., Jammu and Kashmir (1990), Karnataka (1990), Assam
(1990), Goa (1990), Tamil Nadu (1991), Meghalaya (1991), Manipur (1992), Nagaland (1992), U.P. (1992), M.P. (1992), H.P. (1992), Rajasthan (1992), Bihar (1995), U.P. (1995), Gujarat (1996), Goa (1999) and Bihar (1999), Article 356 was misused to dislodge the duly elected State Governments, ruled by a political party or coalition other than the party in power at the Centre. However, in four cases, viz., Haryana (1991), Tripura (1993), Manipur (1993) and Manipur (2001), Article 356 was used by the ruling party or coalition at the Centre to sack their own party-ruled State Governments.

In nineteen cases, viz., Jammu and Kashmir (1990), Karnataka (1990), Assam (1990), Goa (1990), Haryana (1991), Meghalaya (1991), Manipur (1992), M.P. (1992), H.P. (1992), Rajasthan (1992), Tripura (1993), Manipur (1993), Bihar (1995), U.P. (1995), Gujarat (1996), U.P. (1996), Goa (1999), Bihar (1999) and Manipur (2001), the President's Rule was imposed on a report from the respective State Governor, but in three cases, viz., Tamil Nadu (1991), Nagaland (1992) and U.P. (1992), the President's Rules was imposed without the report of the State Governor. In this context, the State Governors do play a very crucial role on-the-spot. In eight cases, viz., Karnataka (1990), Assam (1990), Meghalaya (1991), Manipur (1992), Manipur (1993), U.P. (1995), Gujarat (1996) and Bihar (1999), the office and services of the Governors were used by the Union Government to fulfil its partisan ends. In some of the cases, viz., Meghalaya (1991), Manipur (1992) and U.P. (1996), Governors have been largely responsible for the recurring phenomenon of horse-trading and instability of state governments. In fact, Governors themselves have mostly acted as representatives and agents of the ruling party or coalition at the Centre and not as the impartial constitutional heads of the states. The State Governors misuse their discretionary powers, i.e., in appointing the Chief Minister and the Council of Ministers [Article 164 (I)], in making recommendation of the imposition of President's Rule in a State under Article 356 on the ground of deterioration of law and order situation, on the pretext of the State Ministry getting reduced to minority, etc. However, in nine cases, only, viz., Jammu and Kashmir (1990), Goa (1990), Tamil Nadu (1991), Haryana (1991), Nagaland (1992), Tripura (1993), Bihar (1995), Goa (1999) and Manipur (2001), the State Governors acted impartially as a constitutional head of the State.

205
The repeated misuse of Article 356 snatches the democratic right of self-governance of the people of State concerned, because the people in every State have desires of fulfilling their own aspirations through self-governance within the framework of the Constitution. By use of Article 356 the Union Government dismisses the duly elected State Government and controls the State administration through the State Governor and his civil servant advisors. This is a black spot on Indian federal democracy, because neither the Governor nor his advisors are elected by the people of the State concerned and as such do not stand responsible to the State Assembly. During President’s Rule, the State comes under bureaucratic governance which is largely unaccountable to the people. Thus, the Indian federal system changes into a Unitary system during the period of President’s Rule.

The frequent invocation of Article 356 greatly disturbs the distribution of powers between the Union and the State Governments in our federal set-up. During President’s Rule the legislative, executive and administrative powers are used by the Union Government through the State Governor. It shows that in some cases, Article 356 has been used on the ground of a worsening law and order situation in the State concerned, even though the law and order is a subject of the State List and not in union list. It reduces the States’ autonomy. Thus, the provisions regarding President’s Rule are inconsistent with and a negation of federal principles.

It seems that the State Legislative Assemblies have been kept in suspended animation to enable the formation of own party’s Government in a State by the ruling party at the Centre. The suspension of a State Assembly can give rise to defections and horse trading of MLA’s, which is unfortunate for our federal democracy.

The Indian federal system seems to be working successfully. It is to adapt and accommodate the various pressures of federalisation. The federal democracy has decentralised itself up to the level of local self governance. In fact, the Indian federal system, passing through the stages of paramount, normative, competitive,
cooperative and bargaining federalism, now looks forward to cooperative and bargaining type in the present era of coalition government.

In some of the cases, i.e., P.R. Kindiah in Meghalaya (1991) and H. Borababu Singh in Manipur (1992), the Speakers of the State Assemblies have played a partisan and arbitrary role. They claimed the absolute power regarding Legislature’s business (Article 212) and gave decision on the defections of the MLA’s under the Anti-Defection Act, 1985, ignoring the Supreme Court’s order, which is an unhealthy practice. It disturbs the balance of power between the legislature and the judiciary. In fact, the Legislature is supreme and sovereign within the sphere assigned to it by the Constitution of India. But the Supreme Court and High Courts have always had the power to examine whether the legislature is correctly seized of a matter. The Court can examine all this if the Assembly has violated fundamental rights.

It is noteworthy that President’s Rule has been imposed twenty-two times during the twelve years from 1990-2001 in comparison to seventy-nine times in forty years from 1950-1989. The President’s Rule has been imposed 11 times during the six years under coalition governments as compared to 11 times in the five years of Congress(I) minority government from 1990-2001. It is clear that progressive decline in the use of President’s Rule coincides with the advent of coalition governments and the participation of regional parties that were opposed to Article 356 in the Union Government. The coalition partners raise protest against dismissal of State Government ruled by a coalition partner or a political party supported by them. The NDA government was having no majority in the Rajya Sabha and some of its coalition partners, e.g., TDP, Akali Dal, National Conference etc., were against this provision. In fact, the internal resistance of coalition government exercised a check on the repeated misuse of Article 356 for fulfilling political ends.

The Presidential Proclamation under Article 356 came under judicial review after the Bommai Case Judgement (1994). The Court can strike down the Proclamation when it is mala fide or based on irrelevant grounds and restore the status quo ante, i.e., restore the Legislative Assembly and Ministry
of State concerned. The Court has enumerated the doctrine of the floor test. The Court has laid down the principle for the State Governors that the question of majority of the Council of Ministers of State must be decided on the floor of the Assembly and not in the Raj Bhavan or anywhere else. The UF government’s recommendation for imposition of President’s Rule in U.P. on October 21, 1997, and the NDA government’s recommendation for imposition of President’s Rule in Bihar on September, 1998, were re-considered and withdrawn and were not resubmitted again at the behest of the then President, K.R. Narayanan. “The repeated misuse of Article 356 is, therefore, not easy in the present scenario. “In the context of a multi-party polity, multi-level federalism appears to offer the greatest scope and possibilities for meeting the indispensable coherence requirements of a strong and united Indian state.”

A recent controversy arose when the UPA government imposed the President’s Rule in Goa and Bihar in March, 2005. In Goa (4th March, 2005), the imposition of President’s Rule was justified, because Pratap Singh Rane (United Legislature Party) government won the vote of confidence in the State Legislative Assembly with the pro term Speaker casting his vote in favour of the Rane government and at the same time not allowing one other member to vote. While the imposition of President’s Rule in Bihar (7th March, 2005) was politically motivated, because the State Governor, Buta Singh, did not give a chance to the Janata Dal (United) – led NDA leader, Nitish Kumar, to form the popular government in the State.

The National Front, the Congress (I), the Janata Dal (Socialist), the United Front and the NDA government, which came to power at the Centre, have stood for the retention of Article 356 whenever they were in power. The Left Parties [CPI, CPI (M), RSP, Forward Bloc] and regional parties, i.e., TDP, DMK, Akali Dal (Badal), AGP, National Conference, etc., in principle oppose the retention of Article 356. But they, too have supported the imposition of President’s Rule on some occasions, i.e., Gujarat (1996). The point is that most political parties make use of Article 356 when it suits them, otherwise

they want it to be deleted. The basic problem is that no political party has a
definite stand on the utilization of Article 356. It is precisely for this reason
that despite several meetings, the Inter-State Council could not reach a
consensus on Article 356. “All political parties are culpable of using or
misusing Article 356 whenever they were in power or were supporting those
in Power. This amply illustrates the saying that ‘whoever goes to Lanka
becomes Ravana’.”

The strict enforcement of legal standards as laid down by the Supreme Court
in the Bommai case (1994) about the test of majority of the council of ministers on
the floor of the Assembly must be ensured. Otherwise the balance of powers in the
Indian federation will tilt inappropriately and in a discriminatory way towards the
Centre.

In fact, the use and misuse of provisions regarding President’s Rule will
depend on the intention of the ruling party or coalition at the Centre, who
operate and control the Constitution. The successful working of the democratic
institutions requires honesty, because many things which cannot be written in a
Constitution are done by conventions. India needs honest leadership who can
show commitment to the national interests and develop the democratic spirit.
As Rajendra Prasad, the President of the Constituent Assembly, observed in the
Constituent Assembly, “We have prepared a democratic Constitution. But
successful working of democratic institutions requires in those who have to
work them willingness to respect the view points of others, capacity for
compromise and accommodation. Many things which cannot be written in a
Constitution are done by conventions... India needs today nothing more than a
set of honest men who will have the interest of the country before them.”

---

and Performance, Kanishka Publishers: New Delhi, p. 119.
3 Prasad, Rajendra (1949). Constituent Assembly Debates, vol. XI, no.12, 26
November, 1949, p. 993.