European Journal of Business & Social Sciences
Available at https://ejbss.org/
ISSN: 2235-767X
Volume 06 Issue 10
October 2018

CONSTITUTIONAL FRAMEWORK OF ADMINISTRATIVE RELATIONS IN INDIA

Pooja
LLB & LLM
H. No. 190 A, Sector-4, Rohtak (HR)

Abstract: The fact is that the administrative relations between Union and state operate in a manner that Centre's supremacy is more than visible. During emergencies the Indian federal arrangement can be suspended and squeezed into a unitary operation. But even during normal times the center can descend upon the state through its powers of delegation, direction and grants in India. The provision of all India services, Inter-state councils and later State Commerce Commission establish Centre's hegemony and writers like G.N. Singh maintain that states have been reduced to the status of municipalities. The comment may be uncharitable but Article like 256, 246, 257 and 263 are potent weapons by which the administrative activities by states can be made to fall in line to wishes of the Centre. Article 256 of the Constitution specifies the respective obligations of the Union and the state governments. The present research paper highlights the constitutional framework of administrative relations in India.

Keywords: Constitution, Administrative Relations, Executive Powers, Union.

Introduction: Most of the scholars have studied Indian constitution and pointed out that the Union government can give directions to the state governments even in areas of State List such as construction of highways, waterways, and means of communications declared to be of national or military importance. The Union government can also give directions regarding the measures to be taken for the protection of railways within the boundaries of the state. In case of dispute about the quantum of the payment, it is decided by the arbitrator appointed by the Chief Justice of India. Article 257 makes the situation explicit when it says: "The executive power of every state shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall

ISSN: 2235-767X
Volume 06 Issue 10
October 2018

extend to the giving of such directions to a state as may appear to the Government of India to be necessary for that purpose."

The Centre can ensure compliance of these directions and even President's rule may be imposed upon the state for non-compliance of the Presidential directions. Article 258 provides that Parliament may delegate powers to the state governments and their officers in so far as the statute is applicable in the respective states. Conversely, a state government with the consent of the Government of India confers administrative functions upon the later, relating to state subjects.

Article 260 lays down that the Government of India may be agreement with the government of any territory not being a part of the territory of India, undertake any executive, legislative or judicial functions vested in the government of such territory, but every such agreement shall be subject to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

Article 261 says that full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

Article 262 says that the Parliament may be law provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of the waters or in an inter-state river valley.

Article 263 empowers the President of India to establish inter-state council in national public interest. The council may have the duty of inquiring into and advising upon disputes which might arise between states. The President has established a Central Council of Health, a Central Council of Local Self-Government, and a Transport Development Council for the purpose of coordinating the policy of the states relating to these matters. In fact, the primary objects of an inter-state council being coordination and federal cohesion. The Sarkaria Commission has recommended the constitution of a permanent inter-state council which should be charged with the duties of Article 263. Such a council, consisting of six Union cabinet ministers and the chief ministers of all states has been created in April, 1990.

ISSN: 2235-767X
Volume 06 Issue 10
October 2018

Apart from Articles 256 and 257, there are other provisions in the Constitution which give authority to the Union to give directions to the States. Article 339 (2) also expressly extends the executive power of the Union to the giving of directions to a State as to the drawing up and execution of schemes specified in the direction, to be essential for the welfare of the scheduled tribes in the State. The President has also been empowered to give directions under Article 344 (6) in regard to official language of the Union, under Article 347 with regard to the language spoken by a section of the population of a State under and under Article 350- A for providing adequate facilities for instructions in the mother tongue at the primary stage of education for children belonging to linguistic minority groups.

Under Article 356, if the President, ion receipt of a report from the Government of otherwise, is satisfied that the government of a State cannot be carried on in accordance with the provisions of the constitutions, the President may be proclamation take over the functions of the State Government and powers of the Government and authorize the Parliament to exercise the power of the State Legislature. The validity of a proclamation is limited to 6 months, but can be renewed by parliament up to a maximum period of one year. When a proclamation of Emergency is in operation in the whole country or in a State or in any part of it or the whole country or in a State or in any part of it or the Election Commission certified that there are difficulties in the way of holding a general elections to Legislative Assembly of the State, the maximum period of President's rule can be extended even beyond on year.

Under entry 2 (a), inserted in the Union list b7 the Constitution (Forty-second amendment) Act 1976, the Union has been given the power to deploy its armed and para-military forces in aid of civil power in any states and to determine the powers, jurisdictions, privileges and liabilities of the members of such forces while on such deployment. It is generally held under Article 355 the Union can undertake such deployment Suo-moto without the request or consent of the state Government concerned.

ISSN: 2235-767X
Volume 06 Issue 10
October 2018

The Union Government has set up a number of central agencies which handle activities relating to subjects not only in the concurrent list but also in the States List. Through these agencies, the Union has unduly encroached on the States' jurisdiction and autonomy.

When the security of India or any part of its territory is threatened by actual or apprehended war, external aggression or internal rebellion, the President (Union Executive) may make a Proclamation of Emergency covering the whole of India or any part of it. The proclamation requires approval by the two houses of parliament (by a majority of the total membership of each house and two third majority of the members of each house present and voting) within 30 days. During the operation of an Emergency, the executive power of the union extends to giving of directions to any state as to how its executive power is to be exercised (Article 353) and the legislative power of Parliament extends to making laws with respect to any matter including any matter enumerated in the State List (Article 251). There is no maximum limit on the total duration of Emergency. The proclamation of Emergency thus converts the constitution virtually into a Unitary Constitution.

Under Article 247, parliament has power to set up additional courts even in peace time for the better administration of laws made by it (Parliament). Under Article 348, the Governor can authorize the use of Hindi language or any other language for any official purpose of the State for proceedings in the High Court located in a State only with the previous assent of the President.

The State Governments are required to work under the directions of Central government about matters connected with the construction and maintenance of such means of communication which have been responsibility of the state governments to protect and save railways in their jurisdictions. The parliament is empowered to adjudicate and settle interstate disputes regarding control of waters of inter-state river valley projects. The President is empowered to appoint inter-state council to advice on disputes between States and also investigate subjects of

ISSN: 2235-767X
Volume 06 Issue 10
October 2018

common interest. Such a council may also suggest measures for better co-ordination of policy between Union and the States.

These points clearly establish the superior role than the constitution assigns to the union administration in the sphere of administrative relations between the Union and the States. These features further reflect the Unitarian spirit of the Constitution of India. These provisions have been regularly used by the Union Government not only for carrying out the effective administration of central policies and laws but also for keeping the states 'on line'. The demand for state autonomy seeks to limit the Union's superior role (rule) over the states of the Union.

Thus, articles 256-263, relating to the administrative relations are intended to secure effective federal control and operation and to minimize friction between the Union and the States which is very common in a dual system of government. The Indian Constitution has provided for special administrative systems for the Union and the States but in this sphere the division of powers is not complete. In the administrative sphere there is the subordination of the State to the Union authority. The following provisions of the Constitution extend the Central executive authority on State matters:

- The States are bound by constitutional obligation to comply with the Union laws while exercising their executive power.
- The executive power of the State is to be exercised so as not to impede or prejudice the executive power of the Union.
- The public Acts, records and judicial proceedings of the Union and the States must be given full faith and credit all over the country.
- Parliament can legislate for the adjudication of certain disputes or complaints in respect of the use, distribution and control of any inter-state river or river-valley. The Union Government may also provision for the settlement of such disputed through administrative means.
- The Union may order the State Government to construct and maintain certain highway and other means of communication of military or national

importance. The Union may also order a State to protect the railways within its borders.

- The I.A.S. and the I.P.S. officers who are recruited and appointed by the Union Government occupy the highest administrative post under the State Governments.
- The President may appoint an inter-state council to enquire into and advice upon disputes which might have arisen between the States.
- The Union Parliament delegates certain powers and imposes certain duties upon officials serving under a State, in fields of concurrent and exclusive federal jurisdiction. In this connection consent of the State Government is not required.
- The Union Government may ask the official s of the State Governments to perform certain functions of the Union Government, with the consent of the respective States.
- The Parliament may impose restrictions on inter-state trade or commerce.
- If any State fails to comply with the orders of the Union Government, the President may declare that the constitutional machinery in the State has failed and he may place all the powers of the State Government under the disposal of the Union Government.
- The Governor, who is the head of the State, is appointed by the President and remains in office during the pleasure of the President.
- The elections to the State Assemblies or Councils are held under the superintendence, direction and control of the Election Commission appointed by the Union President.
- The President has the power to appoint and transfer the judges of the High Courts.

In addition to the above powers which are exercised by the Union over the States during normal times, the Constitution vests general powers of direction and control over the States in times of national emergency. During the time of national

ISSN: 2235-767X
Volume 06 Issue 10
October 2018

emergency the federal structure may be converted into a unitary one and the States come under the direct control of the Union in respect of their Legislative and administrative authority. Thus, the Constitution has granted wide authority to the Union Government to exercise administrative control over the State executive.

Conclusion: Now summing up the discussion on Centre-State Administrative Relation, it can be concluded that Governor's office is an independent office and neither it is under control nor subordinate to the Government of India. However a study of Governors in the States clearly reveals that most of them have been active politician. It is the Governor's partisan role that has been the focal point in Union State conflicts. Second, Article-356 is the most controversial article of the constitution. Most of the officials have used this article to take a political revenge. That is why Article-356 has always been a major irritant in Centre-State Relation in India. Therefore, it is suggested by Sarkaria Commission as well as Puncchi Commission that both the governments should work within the limitations of the constitution as bounded on both governments and develop a sense of co-operation to make the administrative relations more and more harmonious and cordial in the changing scenario.

References:

- K. R. Bombwall and L.P. Choudhary, *Aspects of Democratic Government and Politics in India,* (Delhi: Atma Ram and Sons, 1968).
- J. R. Siwach, *Politics of President's Rule in India* (Shimla: Institute of Advanced Study, 1979).
- A. L. Gupta and Others, (ed.), *Confrontational Politics in India*, (New Delhi: Commonwealth Publishers, 1989).
- C.P. Bhambhri, *Indian Politics Since Independence*, (New Delhi: Sipra Publications, 1994).
- J.C. Johri, *Indian Political System*, (New Delhi: Anmol Publications, 2000).
- S.S. Awasthy, *Indian Government and Politics*, (New Delhi: Har-Anand Publication, 2000).

ISSN: 2235-767X
Volume 06 Issue 10
October 2018

- Aladi Aruna, *Unfederal Features of Indian Constitution,* (Chennai: Mathivanam Publications, 2001).
- K. Surya Parsad, *Article 356 of the Constitution of India*, (New Delhi: Kanishka Publishers, 2001).
- S.S. Tiwana, "Article 356 in the Context of Centre-State Relations in India", *Vidhanmala*, No. 2, July to December 2003.
- Manoj Sharma, *Dynamics of Indian Politics*, (New Delhi: Anmol Publications, 2004).
- S.A. Palakar, *Indian Polity*, (Jaipur: ABD Publishers, 2006).
- Shashi Kumar Mehra and Others, "Role of Governor in Indian Federal System - New Dimensions Under Article – 356", *Vidhanmala*, No. 1, June, 2008.
- Subash Shukla, *Issues in Indian Polity*, (New Delhi: Anamika Publishers, 2008).
- K. Dhiravidamani, "Article 356 and Centre-State Relations", *Third Concept*, Vol.25, No. 297, November 2011.
- B.L. Fadia, *Indian Government and Politics*, (Agra: Shahitya Bhawan Publications, 2016).