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Governor: An Agent of the Centre?

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This article is based on “**Maximum Governor: On Governor's role**” which was published in The Hindu on 05/01/2021. It talks about the controversial position of the governor as an agent of the central government.

Recently, the **Governor** of Kerala refused to convene a special session of the Kerala Assembly that was intended to discuss the ongoing farmer protest in New Delhi.

This conduct is comparable to the many actions of governors of Karnataka, Madhya Pradesh, Maharashtra, etc., that led to unwarranted interference of centre in states' politics. These states happen to be ruled by the political parties governed by the opposition parties at the centre.

Such instances portray the negative image of the state governors as an agent of the centre. The Governor's office's misuse to undermine duly elected State governments undermines democratic processes and compromises one of the Basic Structure doctrine elements, i.e. federalism.

Governor: Acting As Agent of Centre & It's Effect

- **Source: Article 163** of Indian Constitution states that the Governor should exercise his functions based on the **state's Council of Ministers' aid and advice**, except it is required to exercise his functions at his discretion.
 - Therefore, Article 163 acts as a source of the discretionary power of the governor.
 - As the union government nominates the governor, the combined effect with Article 163 provides the scope centre meddling in the state's affairs.

- **Nature of Intervention:** The present controversies have been around issues like:
 - Selecting the Chief Minister,
 - Determining the timing for proving legislative majority,
 - Demanding information about day-to-day administration,
 - Giving assent to bills or reserving bills for the President,
 - Frequent use of Article 356 for removing state governments run by opposition parties based on the governor's recommendation.
 - Commenting adversely on specific policies of the state government.
- **Effect:** The encroachment upon the legislature's powers and the elected government amounts to an abuse of Governor's authority as a nominal head under the Constitution. Various wrongdoings of the centre through the governor's office damage India's essential federal structure and the democratic process.

Envisaged Role of Governor

- **Taking Clues From Constituent Assembly Debates:** On analysing the constituent assembly debates, it can be inferred that the constituent assembly envisaged creating 'responsible government' in the states as much as at the centre. According to **Dr Ambedkar**, "I have no doubt in my mind that discretionary power is in no sense a negation of responsible government. It is not a general clause giving the governor power to disregard the advice of his ministers in any matter in which he finds he ought to disregard."
- **Taking Clues From Constitution:** As the states were indeed sovereign within their own domain, the discretionary power, beyond the specific situations mentioned in the constitution, does not enable a governor to override the state government. Therefore, selecting a chief minister of his choice or creating/utilising opportunities for defections to change the party in power cannot be a governor's job.
- **Taking Clues from Various Committees on Centre-States Relation:** In the last few decades, various committees were appointed to understand the governor's role in India's federal democratic setup. These committees made extremely valuable recommendations to make the governor's office the "**linchpin of the state's constitutional apparatus.**"

Note:

Various Committees on Centre-States Relations

- The Administrative Reforms Commission of 1968,
- The Rajamannar Committee of 1969,
- Committee of Governors of 1971,
- The Sarkaria commission of 1988,
- Punchhi Commission, 2007.

Way Forward

- **Governor's Discretion Should Be Only Her Discretion:** For the smooth functioning of a democratic government, it is equally essential that the governor must act judiciously, impartially and efficiently while exercising his discretion and personal judgment.

As the Sarkaria Commission put it, the governor's task **"is to see that a government is formed and not to try to form a government,"**.

- **Strengthening of Federalism:** In order to check misuse of the office of governor, there is a need to strengthen federal setup in India.

In this regard, the Inter-State council and the role of Rajya Sabha as the chamber of federalism must be strengthened.

- **Reform the Method of Appointment of Governor:** In order to end the monopoly of the centre in selecting its 'own man' as governor, the appointment can be made from a panel prepared by the state legislature and actual appointing authority should be the Inter-state Council, not the central government.

- **Code of Conduct for Governor:** In order to enable the governor to successfully discharge his functions under the centre and states governments should agree on a 'Code of Conduct'.

- This 'Code of Conduct' should lay down certain 'norms and principles' which should guide the exercise of the governor's 'discretion' and his powers which he is entitled to use and exercise on his judgment.
- In this context, the inspiration for such a code can be derived from the various recommendations of the Sarkaria Commission on centre-states relations.

Conclusion

The governor's role is not merely an agent of the centre sitting in state capitals; he is the lynchpin of India's federalism and democracy at the state's level. Therefore, the governor's role is indispensable for the successful working of constitutional democracy, and he must withhold the virtue of impartiality.

Drishti Mains Question

The governor's role and powers have been a controversial issue in Indian politics. Discuss.



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This editorial is based on **“A tortuous recovery: On record GST inflows”** which was published in The Hindu on January 4th, 2020. Now watch this on our Youtube channel.
