

SR BOMMAI VS UNION OF INDIA

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ABSTRACT

The decision concluded that the President's power to oust the State government was incomplete. The resolution stated that the President must exercise his powers only after the proclamation (of his law) has been adopted by both houses of Parliament. Until then, the Court said, the President may only suspend the Legislature by suspending the provisions of the Constitution concerning the Legislature. "The dissolution of the Legislature is not an issue. It must be addressed where it is found necessary to achieve the purposes of the proclamation," the Court stated. The judgement stopped and halted the long arms of the central government, it laid down the fact that the only way to judge the plurality of the state assembly is floor testing not any arbitrary judgement of the governor who is often known as Government's representative.

CASE TITLE: SR BOMMAI VS UNION OF INDIA 2SCR 64

CITATION: 1994 2 SCR 64

COURT: SUPREME COURT

PETITIONER: SR BOMMAI

RESPONDENT: UNION OF INDIA

JUDGES / CORAM : JUSTICE KULDIP SINGH, JUSTICE P.B. SAWANT, JUSTICE K. RAMASWAMY, JUSTICE S.C. AGARWAL, JUSTICE YOGESHWARDAYAL, JUSTICE B.P. JEEVAN REDDY, JUSTICE S.R. PANDIAN, JUSTICE A.M. AHMADI AND JUSTICE J.S. VERMA

DATE OF JUDGEMENT: 11.03.1994

INTRODUCTION

SR BOMMAI was the chief minister of karnataka's janta dal government during 1988-1989 . on 21st april 1989 his government was dismissed and president's rule was imposed in the state , all this was a common trick of the then central government to hold power and maintain it's supremacy. The dismissal of the government was on the ground of large scale defections from the party which meant that the party has lost it's majority in the assembly and the leader SR BOMMAI was even refused a chance to prove his majority in the assembly by the then governor of state P VENKATASUBBAIAH even after janta dal's government passed a resolution in the assembly , this act of keeping opposition (janta dal) at bay was totally an unconstitutional and arbitrary act by the national party in power .

FACTS OF THE CASE

The facts of the case are as follows:

- 1) In 1989 the Bommai government was ousted under Article 356 of the Constitution on the grounds that they had lost the majority because of sectarian revolt by certain party leaders.
- 2) The Governor said he had received 19 letters of resignation from the ministers withdrawing their support and of those, seven ministers complained of misinterpretations in their letters and therefore, the chief minister and the Minister of Justice met with the Governor to summon the Council to show confidence in the organization. But on the same day, the governor sent another report saying that the chief minister had lost confidence in the majority of the House and requested a Presidential proclamation under Art 356 which was immediately issued by the President.

The dismissal was on grounds that the government had lost majority following large scale defections engineered by several party leaders of the day.

Then governor p Venkatasubbaiah refused to give an opportunity to test his majority in the assembly despite the letter presenting him with a copy of the resolution passed by the Janata Dal legislative party.

ISSUE OF THE CASE

The main issue of the case was to Judge the constitutional validity of Presidential proclamation under article 356 of the constitution.

SUMMARY POINTS OF THE JUDGEMENT

The broad points used in the judgment are (a) the concept of federalism and secularism under the Indian Constitution b) a review of the justice, interpretation and breadth of Article 356.

Federalism

The structure of federalism in India has been discussed extensively in this case in relation to the President declaring a state of emergency. There were conflicting views with Justice Reddy considering that the United States is not an appendix to the Institute and the Institute had no authority to interfere with the authority of the State except that it was very important but Justice Verma, YogeshwarDayal and Justice Ahmadi claimed it was part of the constitutional framework. The bench unanimously agreed that religion is not part of the fundamental constitutional framework but judges in their various views say that fundamental rights are enshrined in Articles 14 to 30, social cohesion and democracy, social justice, religious tolerance and brotherhood as part of the building structure.

Article 356

According to Justice Sawant and Kuldeep Singh, Article 356 enshrines in situations where state administration may be subject to constitutional provisions. Referring to the case of Ahmad Tariq

Rahim v. Federation of Pakistan [1] in the Supreme Court of Pakistan, the powers conferred on it by Article 58 (2) (b) of the Constitution of Pakistan, similar to Article 356, it is a particular Constitution”, the decisions of a minority in the Bommai case also have the same view. The bench relied on the Sakaria Commission Report 1987 to set out the conditions under which the Rule of President in a State would be pardoned. Extensive segregation a) political problems b) physical deterioration of state equipment c) non-compliance with Union Executive directives.

Circumstances that could not be considered mechanical failure a) internal disruption is not an internal violation of the law or a physical deterioration b) a failure to exercise the power to replace another government in the event of its dissolution c) the removal of an undefeated government under the House

One of the key issues discussed was that the State legislature cannot be dissolved only by the proclamation of the President and before the approval of Parliament is given as required by Article 356 (3). Provision is not explicitly stated and therefore should be read from it in order to keep a check on the institution.

IMPACT OF THE JUDGEMENT

In one of the first effects of the case, ATAL BIHARI VAJPAYEE, the Vajpayee government in 1999 was forced to reinstate the government that overthrew it. The government of RABRI DEVI, who was fired on February 12, 1999, was reinstated on March 8, 1999 when it became clear that the Central government would be defeated in Rajya Sabha over the issue. And in the run-up to the suspension of the House of Representatives, and the subsequent suspension of the government, the Bommai case would be quoted, made one of the most quoted judgments in the country's political history.

Arunachal Pradesh legislative assembly

In the case of NABAM REBIA VS DEPUTY SPEAKER AND OTHERS , the governor of arunachalpradesh had locked the government under article 356 , because of defections from the ruling party. The governor summoned the assembly before the scheduled time , the SUPREME

COURT later criticized the governor's move of misusing the power to topple the government , it was later decided to restore NABAM BERIA's government

Uttarakhand legislative assembly

In the case of HARISH CHANDRA SINGH RAWAT VS UNION OF INDIA the president rule was imposed in the state of Uttarakhand before floor test was actually conducted. It was dismissed on the grounds of allegations of bribery against the chief minister of the state to maintain majority in the state. The SUPREME COURT in the judgement took actions and disposed the imposed president rule and later the government of harishrawat was reinstated in the state.

CASE COMMENT

This ruling was important in drawing the line between center and State power and I believe that the Court has made a concerted effort to restrict the center's powers in the administration of the State. However, a reduction in this decision would be a misunderstanding of the judgment as a whole even though it is very serious. To reach an equitable conclusion of this judgment is impossible because the judges have given different opinions on the various aspects of the case without looking at the majority with important concepts. The judgement was supported and it also laid the principles of federalism . The judgement also speaks about the principle of judicial activism that the courts need to follow if they see the democracy being killed in any of the state . The common denominator is that the country's faith was part of the constitutional framework.

In case both Houses of Parliament disapprove or do not approve the Proclamation, the Proclamation lapses at the end of the two-month period. In such a case, the government which was dismissed revives. The Legislative Assembly, which may have been kept in suspended animation gets reactivated," the Court said. Also the Court made it amply clear that Presidential Proclamation under Article 356 is subject to judicial review it is not in the prerogative of the president to check the majority of the state assembly

CONCLUSION

An overall unanimously passed judgment from the majority judgment laying down explicit guidelines regarding the restrictions on the Centre would have proved to be an ideal template for further judicial decisions and situations where State governance was threatened. This judgement played a vital role in strengthening and making the centre state relationship better , it also resolved the grave issue of arbitrary dismissal of state governments by the central force where it failed to hold power in the elections which was totally against the spirit of democracy in the nation but the judgement helped in curbing this ill practice of the arbitrary use of article 356

. Even after this judgement a lot of such issues came up as in the cases if 1) HARISH RAWAT VS UNION OF INDIA

2) NABAM BERAI VS DEPUTY SPEAKER AND OTHERS

3) RAMESHWAR PRASAD VS UNION OF INDIA

But the Supreme Court taking action in all of these cases provided judgement by reinstating the unlawfully toppled government. The judgement has played important role . but the need of the hour is to get an amendment to article 356 in the line of the SR BOMMAI VS UNION OF INDIA judgement .

BRILLOPEDIA

END NOTES

Case summary as available at <https://www.ejusticeindia.com/case-summary-s-r-bommai-v-union-of-india/>

Case information as available at <http://www.indiankanoon.org/doc/596735/>