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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CASE COMMENTARY ON S.R. BOMMAI V **UNION OF INDIA**

AUTHORED BY - ANURAG CHAUHAN

FACTS OF THE CASE:

S.R. Bommai case is a landmark case related to federalism and the distribution of powers among centre and state government. The Supreme Court decided this case in 1994. In this case, the constitutional validity of President's Rule's imposition under Article 356 of Constitution was challenged. The Supreme Court laid down various guidelines related to the executive discretion and also highlighted the importance of judicial review to prevent Central Government from using its power arbitrarily.

This case was due to a political crisis in 1990s in Karnataka. There was an internal turmoil in the Janata Dal Government led by S.R. Bommai, the Chief Minister of Karnataka. The Governor gave recommendation for imposition of President's Rule in Karnataka under Article 356 of Constitution in the pretext of the inability of the government in state to function effectively and breakdown of law and order in state. The Governor's recommendation was accepted by the central government and it dissolved the state assembly. S.R. Bommai and other affected parties challenged the validity of President's Rule in Supreme Court. The main issue in the Supreme Court was that whether the President's rule was valid and whether the report sent by government was based on objective grounds.

PRINCIPLES LAID DOWN IN THE JUDGEMENT:

These are the following principles laid down by the supreme court in SR Bommai's case:

1. The Supreme Court held that the President rule is justiciable and the courts have power to investigate the reasons which were given for such proclamation.
2. The announcement related to the President rule could be subject to judicial review on mala fide intentions ground.
3. If the proclamation for president rule is unconstitutional and invalid then the court has power to revive the dissolved state government.
3. Before imposing the President's rule, the approval from the Parliament is required.

4. The intra party related issues related the ruling government should not be the criteria for using this article and imposing President's Rule.
5. The governor could not directly send a report to the president for imposition of President's Rule in case when either members of a state government leaves or the government loses its majority full stop the governor should take enough measures for arranging an elective government.
6. Article 356 gives the power for president rule but it is not an absolute right rather it is a conditioned power

CASES OVERRULED: -

In State of Rajasthan versus Union of India, the Supreme Court had upheld the President's Rule's imposition in Rajasthan under Article 356. The Apex Court held that satisfaction of President or Governor for emergency is not justiciable and therefore it cannot be questioned in a court. Therefore, this judgement made a precedent that the courts could not delve into the merit of the report of Governor or reasons for President's Rule's imposition until there is clear evidence related to constitutional violation or mala fide intentions.

This case was overruled by the S.R. Bommai Judgement as this judgement subjected the President Rule's imposition to rigorous judicial scrutiny. Supreme Court in this case has held that exercising executive discretion Antarctica 356 of Indian Constitution is not beyond the scope of judicial review and their food it should be based on objective material which should indicate a breakdown of constitutional machinery in state. S.R. Bommai case mentioned the need for the report of Governor to be based on valid grounds and the importance of making it subject to judicial review in order to prevent arbitrary use of Article 356 as a political tool. Therefore, by rejecting that Governor's satisfaction is not justiciable S.R. Bommai case limited the executives' discretion in President's Rule" imposition and laid emphasis on the judiciary's role to safeguard the constitutional principles.

Another important case which was overruled in S.R. Bommai case is that of Rameshwar Prasad v Union of India. The Supreme Court held in Rameshwar Prasad case that discretion enjoyed by President or Governor under Article 356 is not justiciable and the judiciary could not interfere with it. In this case, the imposition of President's Rule in Bihar was upheld by the Court. The court further held that if material on which Governor has relied indicates breakdown of constitutional machinery

in state, then the President's Rule's imposition would be considered to be valid even if the judiciary disagreed the assessment of situation by the Governor. As already above the Supreme Court rejected that Governor's satisfaction is not of justiciable nature. Further, the judgement empowered the courts to make scrutiny over the decision-making process behind announcement or recommendation of imposition of President's Rule in a state under Article 356. The judgement highlighted the need for Governor's report to be objectively material and to not to be politically motivated or arbitrary. Therefore, the court in S.R. Bommai case established clear guidelines related to President's Rule's imposition and asserted the role of judiciary in reviewing the executive decisions.

IMPLICATIONS OF S.R. BOMMAI JUDGEMENT:

The Landmark judgement in S.R. Bommai case has its implications in various aspects of constitutional law in India. This case not only the powers of president as per article 356 but is also a dressed various critical issues like mechanism for floor test resolution of state assemblies and secularism.

Although article 356 gives president extraordinary powers but judgement in SR Bommai made the power a subject to judicial review. The recommendations of Sarkaria Commission were endorsed in this case and the Court mentioned importance of exhausting all the alternatives before using Article 356. The court held that legislative assembly's dissolution should be postponed if circumstances required it to be postponed there by the court emphasized upon the principles of democratic governments.

Secularism is an integral part of Indian constitution and it is also mentioned in the Preamble. The judgement highlighted the importance of treating every citizen equally irrespective of their caste or religion. The court in this case emphasized on separating the religion from politics and asserted that political parties which indulged in practices that are non-secular will be considered to be unconstitutional. Therefore, this judgement highlighted that state should protect religious freedom as well as maintain neutrality towards all religions.

The procedural concerns were also discussed in the judgement and the issue of float test to prove majority support in legislative assembly was discussed in this case. Court mandated that the conduct of floor tests for determining the stability of government. However, in extraordinary circumstances, for example white spread violence, test could be ignored. Since, such circumstances does not exist

so, the court overturned the dissolution of government and thereby highlighted the importance of procedural fairness.

The judgement also clarified the conditions in which state assembly could be dissolved. It was mentioned that state assembly could be dissolved only after the proclamation of emergency by president under Article 356 by adhering to the constitutional principles.

Therefore, S.R. Bommai judgement has redefined the contours related to executive Atul secularism and the procedural fairness in governance has been upheld.

CONCLUSION

In conclusion the S.R. Bommai judgement is a cornerstone in Indian constitutional law especially in regards to federalism and the distribution of powers among centre and States. The judgement in this case reshaped the legal landscape related to executive discretion and judicial review. This case highlighted the importance of judicial review painting the arbitrary use of article 356 in order to ensure that the president rule which is imposed must be on objective grounds rather than on political grounds. Is also highlighted for procedural cover fairness and has promoted mechanism like float test for determining the stability of government. This case is also highlighted the importance of secularism and asserted that principles of neutrality should be adopted by the governments towards all the religions the democratic principles. Further, this case has also got shown its relevance in the recently decided judgement on Article 370.