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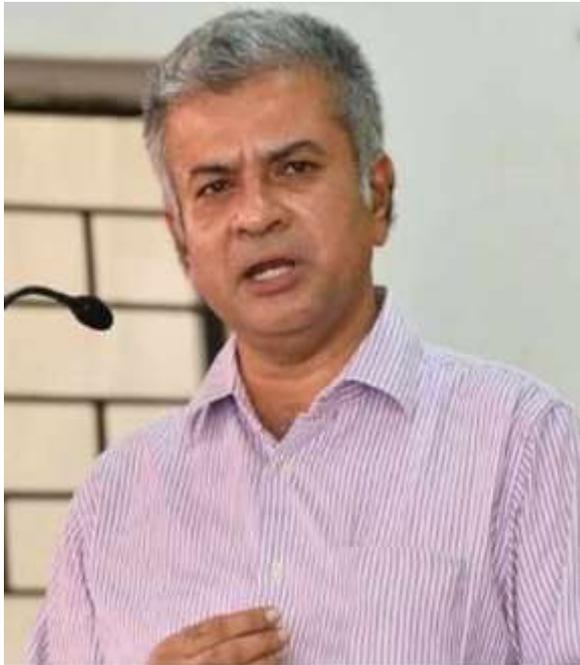
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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and 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

ANALYSIS AND IMPACT OF VARIOUS COMMISSIONS ON CENTRE STATE RELATIONS

AUTHORED BY- AABHA JAIN¹

ABSTRACT

The members of the Constituent Assembly in order to create an effective and everlasting federal polity had laid down provisions, not only for giving a skeletal framework for the division of powers between centre and states, but, also for cordial relations between centre and states. Despite such elaborate provisions, India has time and again encountered friction and challenges between the two levels. This is bound to happen as with changing times, we face dynamic and new problems. One of the ways adopted by different governments to resolve this friction between centre and states is to appoint Committees and Commissions to suggest reforms. This article deals with the analysis and impact of these commissions on centre – state relations.

KEY WORDS- Constitution, Federalism, Centre-State Relations, Commissions.

INTRODUCTION

Elephant was the insignia of the Constituent Assembly of India. A member of this assembly, Mr. H.V. Kamath had remarked that the insignia was in consonance with the Constitution of India, as it too was the most bulky constitution in the world.² India having the lengthiest constitution was natural, given its political, social, economic and geographical diversity. Each section of population had different aspirations from the constitution. The only way to achieve this was to have a federal polity, where the local issues could be handled effectively by the state governments.

The members of the Constituent Assembly in order to create an effective and everlasting federal polity had laid down provisions, not only for giving a skeletal framework for the division of powers between centre and states, but, also for cordial relations between centre and states. The

¹ Author is pursuing LLM from Maharashtra National Law University.

² Constituent Assembly Debates, Volume VII, P.1042.

Constitution of India thus seeks to clearly demarcate the powers between the two constitutional entities, gives elaborate provisions even for the administration and governance at the two levels and also governs the relationship between them.

Despite such elaborate provisions, India has time and again encountered friction and challenges between the two levels. This is bound to happen as with changing times, we face dynamic and new problems. Let us take for example, the recent change in jurisdiction of the Border Security Force. Various reasons have been given for enlargement of jurisdiction of Border Security Force by the centre to 50 kilo meters. Some states like Punjab and West Bengal have vehemently opposed this move on the allegation that it tends to overlap with the jurisdiction of police, which is a state subject, and is therefore encroaching on the powers of the state. Another example can be of Covid – 19 pandemic. There was a lot of hue and cry between the centre and the states with regard to the vaccine buying and allotment.

One of the most controversial decisions taken with regard to Centre – State relations was the downgrading of the state of Jammu and Kashmir to the union territories of Jammu and Kashmir and Ladakh. Here, the centre had extinguished a state, that too unilaterally. This is something that was unprecedented. Such action was never foreseen by the constitution makers of this nation. Time and again different issues with regard to Centre – State relations have arisen.

Some of the issues of the past have been addressed by constitutional amendments, laws and conventions, and the judgements of the Supreme Court, while some remain unaddressed. One of the ways adopted by different governments to resolve this friction between centre and states was to appoint Committees and Commissions to suggest reforms.

The researcher in this paper has made an attempt to analyse such commissions, study their recommendations and understand their impact on the Indian polity with regard to Centre – State relations.

COMMISSIONS AND COMMITTEES ON CENTRE- STATE RELATIONS

During the initial elections the Congress party had a major advantage because of it being the party that got us independence. Therefore, till the 1967 elections, there was no problem per se between

centre and States as the government it belonged to the same party. However once other parties began to win elections in States the relations between centre and states started getting sour. This is because the non – Congress government in the states started opposing centralisation and increasing interference by the central government.

In addition, during the 1960s, India was facing many developmental challenges. The Indian bureaucracy was struggling to meet the requisite socio-economic and developmental goals laid down by the five year plans. Naturally some impediments were also caused by frictional centre – state relations. In order to address these shortcomings, the first Administrative Reforms Commission was set up.³

1st Administrative Reforms Commission

First major step taken in this direction was the administrative reforms commission set up in 1966. Now this was not set up to exclusively study centre state relations. It had various terms of reference from other aspects of administration as well. But it had made a few recommendations for improving centre state relations in its 13th Report.⁴ It was a 62 page report. Laying emphasis on the importance of unity and integrity of the country, the commission had suggested various reforms.

The commission was of the opinion that the Constitution of India had satisfactorily addressed the centre state relations and no structural changes were required. With regard to the provision of grants from the centre to the states the commission recommended that the state would get loans only on productive type of schemes. The finance commission should be the one to lay the principles based on which the plan grants would be given to the states. Based on these principles the application would be done by the planning commission. There was no proper implementation of this recommendation because of which planning commission had a lot of say in these matters affecting the states' interests by its centralising tendencies.

The commission also made extensive recommendations on the role of governor. The commission stated that the person to be appointed as governor should be a non – partisan person. Once appointed he becomes ineligible for reappointment. A retired judge would also be ineligible for

³ *History of Administrative Reforms in Independent India*, MCR HRD Institute, available at [http://www.mcrhrdi.gov.in/fcg/fbf-week3/History%20of%20Administrative%20Reforms%20in%20Independent%20India\(2\).pdf](http://www.mcrhrdi.gov.in/fcg/fbf-week3/History%20of%20Administrative%20Reforms%20in%20Independent%20India(2).pdf), last seen on 24/11/2021.

⁴ ADMINISTRATIVE REFORMS COMMISSION, *Report on Centre State Relationships*, 1, (June 1969).

the post unless he enters public life by becoming a legislator.

The commission also suggested laying down of guidelines with regard to how the discretionary powers of the governor of state will be exercised. The commission also suggested that when governor believes that the government of the state does not enjoy majority the governor may suo motu summon the assembly.

With regard to disputes, the commission was of the view that the centre-state differences must be settled in camera by discussions. This commission recommended that under Article 263 of the Constitution of India an inter – state council be established.

The centre may deploy armed forces suo motu or even at the request of state for the purposes of law and order. With regard to the president's rule in the states centre need to explore all the other alternatives. This basically shows the commission wants president's rule to be used as last resort. Various reforms were implemented from the 1st Administrative Reforms Commission recommendations, however, none of the reforms from the 13th report of the commission were implemented based on its recommendations.

Report of the Centre – State Relations Enquiry Committee

In 1969, M. Karunanidhi became the Chief Minister of Tamil Nadu from the party Dravida Munnetra Kazhagam. Frictions started emerging between centre and the states. In this backdrop, Mr. M Karunanidhi did what no state had done before, he appointed the commission with Dr PV Rajamannar as its chairman.⁵ This commission was set up in 1969 and gave its report in 1971.⁶

The committee recommended that the union shall not have power to issue directions to the state. The committee also recommended constitution of inter – state council immediately which would consider and scrutinize bills that affect the interests of the state. The committee recommended omission article 356 and 357. In alternative arrangement it asked for sufficient safeguards within the constitution.

The committee had made elaborate recommendations on how the subjects of the three lists should

⁵ The News Minute, *States and the Union: The beginning of the relationship*, September 13, 2021, available at <https://www.thenewsminute.com/article/states-and-union-beginning-relationship-155221>, (last visited on 24/11/2021).

⁶ DR RAJAMANNAR COMMITTEE, *Report of the Centre – State Relations Enquiry Committee*, 1 (1971).

be redistributed. In addition also suggested the residency powers should be vested in the states. The committee recommended equal representation of all states and the end of exercise of nomination the Rajya Sabha.

According to the committee expenditure from the centre to the states should be made only partial body like finance commission. The commission noted political influencers in the planning commission and proposed it to become more independent.

With regard to the judiciary the committee suggested a radical reform that no appeal from high court should lie in Supreme Court except in cases of constitutional interpretation of a Central act. With regard to the appointment of governor committee suggested the governor is appointed always in consultation with the state cabinet or by the creation a special high power body. It also suggested no re – appointments of governors. Also suggested was an instrument of instructions which would guide the governor in the exercise of his powers.

The committee also suggested that a state cannot be reorganized either without consent or special polls taken or special high power tribunal formed. The committee clearly stated that there should be no deployment of armed forces without the consent of the state.

The recommendations of the committee were completely ignored by the centre. It must be noted that the objective of inquiry of centre state relations seems to be frustrated as the sole aim of the committee appears to provide more autonomy to states rather than improving the relations and smooth and effective functioning of the Indian polity.

Anandpur Sahib Resolution

In 1973 an interesting event took place with regard to centre state relations. It was not a committee of commission appointed per se, but was a significant instance anyhow. It was the Anandpur Sahib Resolution.⁷ It was a resolution adopted by Akali Dal which demanded that the centres power with regard to the states be restricted only to defence, foreign affairs, communications and currency. It also demanded that all the states should be given equal authority and representation. Another demand was to transfer the residuary powers to the state.

⁷ Journals of India, *Anandpur Sahib Resolution 1973*, February 16, 2021, available at <https://journalsofindia.com/anandpur-sahib-resolution-1973/>, (last visited on 24/11/2021).

West Bengal Memorandum

Another important event was the memorandum by the government of West Bengal in the year 1977. This time it was a non – congress government voted to power in centre. With new problems arising between the central government and the government of West Bengal, the government of West Bengal submitted a memorandum to the central government, under the then Chief Minister, Jyoti Basu.⁸This memorandum was sent to the central government to improve centre state relations. This memorandum consisted of various recommendations on the topic of centre state relations. It suggested that the Constitution of India be amended to replace the word union with that of federal. Under Article 3, the memorandum suggested that the concurrence of the existing state must be taken and it to be mandatory for reorganization under the said Article.

Just like the Anandpur Sahib Resolution, the West Bengal Memorandum also suggested that the centre's involvement in the state matters be restricted to those four areas of currency, communication, defence and external affairs. But it also added economic coordination to it. The transfer of residuary powers was also sought.

It also suggested doing away with President's rule and financial emergency as well. Another reform suggested in the Memorandum was that the Rajya Sabha should be given equal powers to that of Lok Sabha. It also suggested that only central services and state services should be allowed.

Sarkaria Commission

The then prime minister Mrs Indira Gandhi had appointed Sarkaria Commission on June 9th 1983. The appointment of this commission has a backdrop of political competition. It was a first for the then undivided Andhra Pradesh to have a Non - Congress government. The Telugu Desam party had emerged victorious. NT Rama Rao became very popular. Since he became popular the other parties started to ally with the Telugu Desam party. This sent shock waves in the central government. Chief Ministers of all Southern States met and formed the southern council to demand review of articles such as 256 of the constitution as it imposed restrictions on the states.⁹ These state chief ministers wanted state legislatures to have power to legislate on the matters for

⁸ JHA, RAJANI RANJAN, and BHAVANA MISHRA. "CENTRE-STATE RELATIONS, 1980-90: THE EXPERIENCE OF WEST BENGAL." The Indian Journal of Political Science, vol. 54, no. 2, Indian Political Science Association, 1993, pp. 209–37, <http://www.jstor.org/stable/41855651>.

⁹ PRASAD, G. KOTESWARA. "POLITICS IN A NON-CONGRESS (I) STATE : THE CASE OF ANDHRA PRADESH." The Indian Journal of Political Science, vol. 48, no. 4, Indian Political Science Association, 1987, pp. 607–17, <http://www.jstor.org/stable/41855342>.

which they have executive authority. The opposition had been criticized the way the terms of reference were framed. Though the Sarkaria Commission was appointed due to pressure based on political demands, it eventually gained prominence. The Commission had submitted a unanimous, 4 volume report in 1987.

With regard to Sarkaria Commission it must be noted that the Commission did not lay down any major structural change to the Constitution of India. It was of the view that the Constitution very well covered the exigencies arising between the centre state relations in the country. The Commission was very clear in establishing that federalism is not about establishing static institutions rather it was more of a functional arrangement between the centre and the states. This functional arrangement was very well observed by the Commission. For example, the report disclosed that the centre was usurping many of the states' powers. For example the report noted that the centre has taken over more than 85% of industry which initially came under States' domain.

Despite this, the Commission was out rightly against the curtailment of the power of the centre and reiterated the need of having a strong centre to safeguard a country like India from political turmoil. As a result of it, the Commission was protective of other powers of the centre such as appointment of All India Services, residuary powers appointment and functioning of planning commission, no change in the role of Rajya Sabha, centre's power of reorganisation and the centre's power to deploy armed forces in the state without the consent of the state. However the state to be consulted was held to be desirable. Changes that Sarkaria Commission suggested in the functioning with regard to centre state relations are also substantial.

The Sarkaria Commission had given more than 200 recommendations for improving the centre state relations. The Commission stated that zonal councils had proven to be not effective. It recommended that such councils be appointed under article 263. However this recommendation has not been implemented. Like the first Administrative Reforms Commission and the Rajamannar Commission, the Sarkaria Commission as well has suggested a permanent inter – state council.

Unlike the Rajamannar Committee and the West Bengal memorandum the Sarkaria Commission was of the opinion to not repeal the provision for President rule in the states. However it categorically suggested sparing use of the provision.

The Commission suggested that whenever the Governor reserves a bill for the assent of the

President, the President should give reason and communicate it to the state government as to why he has withheld his assent. Whenever the central government makes law under the Concurrent List (List III of Schedule VII), it should consult with the states first.

Despite of such practical suggestions, many recommendations have not been implemented. This was highlighted even in the celebrated case of *SR Bommai*.¹⁰

In the case of *S R Bommai v. Union of India*,¹¹ Justice Sawant and Justice Kuldeep Singh had endorsed recommendations of Sarkaria commission. Justice Jeevan Reddy and Justice Agrawal had recorded accorded 'serious consideration' to the recommendations. Justice Pandian had concurred with this view. Justice Ramaswamy was of the opinion that this consideration should come from the government and not the judiciary. This case therefore did not address or clarify the actual legal status of the commission's recommendations.

Punchhi Commission

After the report of the Sarkaria commission was submitted, many new developments have taken place in the nation. India has gone through LPG (Liberalisation, Privatisation and Globalisation) reforms, the third tier of government was introduced, increased extremism within the nation, the increasing number of regional state governments wanted a fresh look in centre state relations and many more events including instances of communal violence. It was in this backdrop that the Punchhi commission on centre state relations was set up.¹² The commission submitted its report in 2010. It comprised of more than 250 recommendations on the matters of centre state relations. Since major communal riots had rocked the country, the commission suggested amendment in the communal violence bill which will allow the centre to deploy armed forces without the consent of the state. It was a move aimed at the mitigation of such violent incidents.

Another recommendation was with regard to emergency provisions. The commission introduce the concept of localised emergencies. Instead of declaring president's rule over the whole state it can be done only for a small part. The commission also called upon to imbibe the guidelines as provided in the case of *S R Bommai v. Union of India* with regard to president rule. Emergency imposed should only be strategy of last resort.

¹⁰ 1994 AIR 1918.

¹¹ Ibid.

¹² PUNCHHI COMMISSION, *Report of the Commission on Centre-State Relations*, (March 2010).

Similar to previous commission also suggested a consultation process with the states before the centre makes law on entry belonging to list three that is the concurrent list. With regard to the subjects in the concurrent list the centre should make laws only on the most essential one of them. Continuous auditing is required by an inter – state council when matters under list III are taken up for legislation.

With regard to president exercising pocket veto of the state bills which have been reserved by the governor the commission suggested the president communicate his decision within a period of six months. The Panchi commission also suggested equality of representation of States in the Rajya sabha.

Another aspect on which the Punchhi commission main recommendations was the power of making treaties. According to the commission this power should be regulated in accordance with the matters present in the lists. Commission also suggested a permanent term of reference for the finance commission to be implications on state finances due to the impact of International treaties and agreements.

With regard to the appointment and removal of governors the commission also laid down many recommendations. Just like it was mentioned in the first administrative reforms commission the governor should be a non-partisan person who is away from active politics. It was also suggested that the governor does not stay for the pleasure of president rather for a term of 5 years with the option of is impeachment by the state. It also recommended that he should not be allowed to be the chancellor of universities. The commission had also recommended guidelines with regard to appointment of state chief ministers so as to limit the discretionary power of the governor. It give an order of precedence to determine who should be called upon to form the government.

The commission also suggested new all India services in the field of health care education and engineering. It was a suggested all India judicial services.

The commission called for a more equitable tax levy and distribution between the centre and States. It is the government 2 review the surcharges and cesses which increase the share of centre in the tax revenue whereas the state cannot have claim on it. The commission call for better cooperation between planning and finance commission.

These were the major aspects that Punchhi commission had dealt with. After an elaborate examination commission concluded that cooperative federalism is the best way achieving socio economic development of the nation.

IMPACT

The analyses of the centre state relations by the abovementioned commissions have provided with an in-depth knowledge about the issues, underlying problems in the constitutional structure and measures to address them. Time and again, states have asked the centre to implement these recommendations. However, most of the times, the centre has refused to take the inconvenient position of relinquishing power.

This has led to continuing conflicts between centre and states. For example, the role of governors has been very disturbing especially from the lens of state government. Cases such as *SR Bommai v. Union of India* and *Nabam Rebia v. Deputy Speaker*¹³ show how a Governor can be biased and act against state interest.

Similarly, the recent trend of increasing revenue collection through cesses and surcharges which does not form the common pool of taxes show that despite having crucial financial powers, the centre is still trying to undercut states' sharing of finances.

Recently introduced farm law bills also have an element of meddling with the state subject of agriculture. Though these are model laws, the centre through various methods such as incentives and disadvantages to state can condition states to adopt these despite opposition. A case on point is when during Covid-19 pandemic the states wanted to raise loans beyond the prescribed limit, the centre had asked states to implement certain measures in the PDS sector to avail the extra loans.

Therefore, the non-implementation of these recommendations has had severe drawbacks. Had the recommendations been accepted, India would have been more federal in spirit.

¹³ (2017) 13 SCC 332

CONCLUSION

The paper has dealt with various committees and commissions established by government on the matter of centre – state relations. The causes for the establishment of these commissions have been discussed and the reforms suggested have also been observed. It can be noted that every time a commission is set up, it is done to address a particular issue from a specific angle. This means that government has taken a reactionary approach towards the central state problems. Also, the reforms and recommendations are not accepted if it does not suit government's political interests, leaving the reports with no practical value.

New issues keep on creating friction against administrative efficiency. The need of the hour is to have a review commission, which annually studies the phenomenon and prescribes reform. This reforms should be binding unless the governments otherwise show a major impediment to national interest.