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Financial Emergency and its Effects on The Country

Jagriti Thakur

B.A.LL.B Lloyd law college, greater noida
LLM(Constitutional law) Amity Institute of Advanced legal studies

ABSTRACT-

This study focuses on the Financial Emergency and its Effects on The Country . The constitution's emergency clauses are drafted in a way that enables the highest government to transform into a unitary government whenever necessary. Before using emergency measures explored because they run the risk of undermining India's federal system of government. According to Article 352, if the President is "satisfied" that an external assault or armed revolt is imminent against all or part of India, may issue a proclamation stating as much. The country's security and citizens' protection prompted changes to the Constitution's emergency clauses, however these clauses give the Executives far too much power. This alters the federal system established by the Constitution and gives the union unlimited power. Although the need for emergency measures is acknowledged, some changes to the procedure are required to guard against the violation of people's fundamental rights and prevent the branch from abusing its authority for political reasons.

INTRODUCTION -

At the opening session, Dr. B.R. Ambedkar stated that all federal systems are based on the rigid form of federalism that America is comprised of. No matter what happens, it is unable to alter its shape or form. The Indian Constitution, on the other hand, can be either unitary or federal, depending on the circumstance. It is set up as in regulartimes, but in emergency situations, system takes control.

The central idea behind the Emergency Legislative Order was to protect the region from autocracy involving internal chaos, wars and foreign invasion. The Black Law Dictionary describes that every crisis requires immediate intervention and immediate warning because such a condition threatens both the people and freedom of the area. As the word "state of emergency" suggests, it refers to an unexpected turn of events that forces authorities within their borders to act immediately. The civil rules made by govt. and give the rights to the country's people, except Articles 20 and 21 of the IC, are taken away by the state or the people during a crisis. Most of the crisis situations are caused by the violation of administrative machinery. The core of Indian government is democracy. However, democracy has exposed a number of functional flaws. The lack of adequate monitoring at higher doses and the limited oversight provided by parliamentary committees all contribute to the weak link in the chain of accountability extending from public administration to legislative and political power.Therefore, competent political leadership, informed politics, and public service with aprofessional vibe are all tied to good governance.

Financial emergencies are among the three distinct types of emergencies that the IndianConstitution acknowledges.

The Indian Constitution admits that financial damage might happen under an assortment of conditions. As a consequence, the statement has been allowedby Article 360 of the Indian Constitution. The Indian Government is authorised to act on a if he thinks that India's financial or the finances of any part of its territory are in jeopardy. thus a circumstance arises in the country which results in an economic catastrophe, . The courts take into account monetary emergencies. the course of economic crises and approval by parliament. According to Article 360(2) of the Indian Constitution, a declaration of a financial emergency must be ratified by both Houses of Parliament within two months of its issuance. There is a cash crisis that exists if both Houses of Government agreed and lasts until it can be resolved.

No more parliamentary approval is required for its continuation. A financial emergency may be used at any moment and in any circumstance. A resolution authorising the declaration of a financial emergency can only be approved by a simple majority in either House of Parliament (Lok Sabha or Rajya Sabha). The President may at any moment rescind any proclamation of a financial emergency without the approval of the Congress. The Union fully assumes control of the nation's financial affairs once the Parliament approves the emergency declaration. Any state has the right to consult the federal government for financial guidance, and the president has the power to do so:to lower the pay and benefits for all government workers or a specific class of workers.

to keep all monetary legislation in place until they are approved by the State Legislature so that Parliament can review them. The Head of State and President of India are given the authority to declare an emergency by Article 360(1) of the Indian Constitution. According to Article 360(1), the President may issue a proclamation if he considers that a situation has arisen that puts India's liquidity or credit—

or the credit of any territory it controls—in peril. According to the Constitution, the President can only declare an emergency if the Union Cabinet, which includes the Prime Minister of India, certifies in writing that one is necessary. The President may not ever declare an emergency. A proclamation stating an emergency in finances requires being approved of by both chambers of Legislature inside a month's time of the date the declaration was made.The issuance of a financial emergency, however, will remain in effect until sixty days have passed since the first achieving of the newly reconstituted Lok Sabha if it was made after the dissolution of the Lok Sabha or inside a period of two months prior to the dissolution with out receiving approval, providing as the Rajya Sabha imposed on its authorization in between. The Financial Emergency may last as long as necessary dictates and may end via a subsequent

proclamation. The order of proclamation is approved by the Parliament by a simple majority and enters effective if it is not rescinded.A financial emergency could have been announced by the president in conformity with Article 360.If the president considers that an emergency has developed that compromises the credit or financial stability of all or a section of India's territory, grounds for the proclamation must be provided. In such a scenario, the executive and legislative branches would be centralised. Like the other two types of emergencies it needs the Parliament's consent.

Declaring a financial emergency became irrevocable upon the 38th Amendment Act of 1975. Parliament has the power to reduce the salaries and benefits provided to employees of the Union or State Governments in such a circumstance. After being approved by state legislatures, financial and money laws are next sent to the president for evaluation. The President bases his decisions on the Council of Ministers' recommendations.

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A state of emergency is declared when the protection of the nation is gravely under attack in compliance with Article 352(1). Human rights aren't right now the highest priority, thus if one is to address the pressing matter, the executive authority will need to take exceptional measures. At that time, it was crucial to prevent the State from crumbling. Citizens are able to use their rights in a functional state with efficient enforcement mechanisms. Fundamental rights of citizens are essentially suspended for a time as part of a crisis management plan.

The head of state of the Republic of India could only provide a choice of utilising Article 360 of the Constitution for reducing costs such as salaries and salary, etc., rather than employing Articles 352(1) and 359 to address the matter, even if all of the learned counsel's views were to be adopted. It would be considered unjust to assert that the executive branch of government should have unlimited discretion to take even the most extreme measures that might interfere with the material, economic, or political rights of those safeguarded through various provisions of the Constitution, in financial issues are typically resolved for turning toArticle 360 of the text of the Constitution.

The President's Order of December 23, 1974, prohibiting smugglers jailed under the Act from going to any court, was widely accepted as the proper decision. Nobody in Article 360 of the Constitution specifically forbids the president from acting in conformity w a different constitutional law, but it does prohibit the President from preventing recourse for the execution of fundamental rights by issuing a proclamation.

One of the arguments made by the petitioner is that compensation and benefits for any classof employees working for the government cannot be delayed or lowered in the absence of afinancial emergency as defined by Article 360 of the Indian Constitution.

When a financial emergency is declared in the State pursuant to Article 360(4)(a)(i) of the Indian Constitution, it is unquestionably allowed to lower salaries and benefits for all or anyclass of employees working in connection with the State's business. The state of Andhra Pradesh, on the other hand, didn't have a comparable financial crisis in the months of Marchand April 2020, and no other statute enables the state to put off paying state employees or state firms their due salaries, pensions, etc.

For the remedy to work, action must be taken; else, the right is meaningless. The council cannot shirk its fundamental task by claiming financial incapacity because it was created precisely to safeguard the public's health and provide better finances. Human rights mustinclude respect for morality and dignity.

Critical appraisal

The financial emergency law has a severe issue since it lacks specificity in contrast to other laws. The word "financial instability" is vague, thus governments are allowed to interpret it however they see fit. India is a federal country where the centre of power is in charge. The financial emergency law has a serious flaw in that, unlike other laws, it does not define what a financial emergency is. Governments may gain from using the term "financial instability" in The power of the state's elected governments is nevertheless constrained by this law. They have a constrained capacity for self-serving decision-making. The national government also has power over the Indian economy. The ineffectiveness and failure of the federal government would have to be endured even by the states with the best performance.

However, this phrase has never been employed its broadest sense. India is governed under a federal structure with a concentration of power. However, this article places limitations on the elected administrations' independence. They can only make decisions that are in everyone's best interests to a certain extent. The management of the Indian economy is also the responsibility of the Central Government. Even states with strong economies will be impacted by the Union's poor leadership and dissolution. Few members of the Constituent Assembly objected to the emergency wording in the constitution because of the followingreasons:

- The federal system established by the constitution is dismantled once the union reachesabsolute power.
- The union executive will have entire control over the Union', States' legislativeThey will be carried out by the president.
- The state's ability to make money will be taken away.
- As the constitutional basis for democracy is undermined, the importance of fundamentalrights is completely lost.

A situation that demands quick action and a warning because it endangers the localpopulation's safety and right to liberty is described as an emergency by the Black Law Dictionary. Fair working conditions are challenging to establish inside the socioeconomic system. The idea of an emergency has gained political traction. It was crucial to have clear legislative emergency procedures in place to prevent the unforeseen emergence of an autocrat amid domestic upheaval, foreign aggression, or war.

There are multiple emergency clauses in the Indian Constitution, and each of them has a unique feature. Part XVIII demonstrates how unique our Constitution is. A nation's stability and the welfare of its populace are regularly gravely threatened by events and causes that overwhelm them. It is subject to change at any time. In such cases, it may be necessary to temporarily suspend individual freedom of choice in order to address the problems the world is currently confronting.

Conflicts between democratic regimes' essential obligation to uphold the state's dignity and their equally important obligation to defend the human rights of their citizens and those outside of their area of influence present them with significant problems in emergency situations. A conflicting choice must be made by the State between two sacrifices. This is the rationale behind the emergency clauses that are provided in numerous national constitutions for the termination of protected constitutional rights.

The unusual nature of the Indian Constitution enables the Centre to wield extensive jurisdiction to deal with certain situations. The Centre has complete jurisdiction over every state in an emergency. The emergency clause also gives the centre the power to revoke citizens' rights. There are compelling justifications against claiming that the Indian Constitution is entirely democratic. There are provisions for constitutional emergence.

Conclusion-

The country's security and citizens' protection prompted changes to the Constitution's emergency clauses, however these clauses give the Executives far too much power. This alters the federal system established by the Constitution and gives the union unlimited power. Although the need for emergency measures is acknowledged, some changes to the procedure are required to guard against the violation of people's fundamental rights and prevent the executive branch from abusing its authority for political reasons.