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Author:

Amrita Gupta

Symbiosis Law School, Noida

1st Year, BBA LL.B.

S.R. BOMMAI VS. UNION OF INDIA

Court: The Supreme Court of India

Citation: 1994 AIR 1918, 1994 SCC (3), 1, JT 1994 (2)215, 1994 SCALE (2)37

Coram: Kuldip Singh, P.B. Sawant, Katikithala Ramaswamy, S. C. Agarwal, Yogeshwar Dayal, B. P. Jeevan Reddy. S. R. Pandian, A. M. Ahmadi, J. S. Verma

Theme: Misuse of Article 356 of the Indian Constitution

Subject: Constitutional law

Judgement: India

BRIEF FACTS OF THE CASE/ PREAMBLE:

Underneath the direction of S. R. Bommai, the Janata Party, which was the dominant party in the Karnataka State Legislature, established the government. The Janata Party and the Lok Dal joined in September 1988 to form the Janata Dal. From August 1988 to April 1989, SR Bommai was the Chief Minister of Karnataka. When President's Rule (Article 356) was implemented in Karnataka on April 21, 1989, he led a Janata Dal administration that was dismissed. It was usual practice until then to impose Article 356 on states run by opposing parties (to the one in power).

With the accession of 13 new members, the Ministry has grown significantly. K.R. Molakery, a lawmaker from the Janata Dal, defected from the party two days later. He provided Governor Pendekanti Venkatasubbaiah with a letter, as well as 19 letters purportedly undersigned by lawmakers who had previously supported the Ministry, withdrawing their support. As a result, on April 19, the Governor issued a report to the President, noting that the ruling party was divided and resignations were occurring. He went on to say that, as a result of the legislators' withdrawal

of support, the chief minister, Bommai, did not have a majority in the Assembly, and that, as a result, it was unconstitutional under the Constitution to have the state administered by an Executive consisting of a Council of Ministers that did not have a majority in the state assembly. As a result, he advised the President to utilize his powers under Article 356(1). The next day, seven of the nineteen lawmakers who had supposedly sent the stated letters to the Governor addressed him letters objecting that their signatures on the earlier letters had been gained by deception and reaffirming their support for the Ministry. On the same day, the Chief Minister and his law minister met with the Governor and advised him of the decision to call the Assembly, even if it meant moving ahead the planned session, in order to demonstrate the Assembly's trust in his Ministry. He also sent a telex message to the President to the same effect. On the same day, 20-4-1989, the Governor issued a letter to the President, stating that the Chief Minister had lost the confidence of the House and repeating his prior call for action under Article 356(1). On that same day, the President issued the Proclamation in question, which included the above-mentioned recitals. The Proclamation was then adopted by Parliament, as required by Article 356 of the Constitution.

Under the abovementioned Article, Bommai filed a lawsuit against the Governor's decision to dismiss his administration and impose President's Rule. Bommai first appealed the Governor's judgement to the Karnataka High Court. The High Court, however, rejected his writ petition. Bommai then appealed to India's Supreme Court. It took over five years for this lawsuit to reach a conclusion. In March 1994, a nine-judge constitutional bench of the Supreme Court issued a historic decision that would go on to become one of the most extensively referenced about Article 356 and the Central government's arbitrary use of it.

ISSUES:

A lot of problems were brought up throughout the discussion. S. R. Bommai v. Union of India posed a severe legal issue concerning the President's Rule Proclamation and the dissolution of Legislative Assemblies under Article 356 of the Indian Constitution.

The Supreme Court's first and most essential question was whether the Presidential Proclamation under Article 356 was justiciable, and if so, to what degree.

The second point of debate was whether the President, under Article 356(1) of the Constitution, had unrestricted power to issue proclamations.

It was argued that because the President would issue the Proclamation under Article 356[1] based on the advice of the Council of Ministers given under Article 74(1) of the Constitution, and because Clause [2] of that Article bars inquiry into the question of whether any, and if so, what advice was given by Ministers to the President, judicial review of the reasons for the Proclamation would be barred as well. Is it possible to resurrect the legislature that was dissolved by the President's proclamation if the president's proclamation is overturned? Is it possible to contest the legitimacy of a Proclamation issued under Article 356(1) even after it has been approved by both Houses of Parliament?

It was also argued whether any remedy may be awarded when the legitimacy of the proclamation is questioned, and if the court can impose an interim stay to prevent a new election from being held.

Is it possible for a president to dissolve the legislature without the consent of both Houses of the Legislature? It was argued that because secularism is a fundamental aspect of the Constitution, a state government can be removed if it engages in nonsecular behaviour.

Finally, what does Art. 356(1) imply when it says "A situation has developed in which the Government of the State cannot be carried on in line with the provisions of this Constitution"?

JUDGEMENT:

After considering the problems, the Supreme Court decided that the proclamations in Karnataka, Meghalaya, and Nagaland were unconstitutional, while the proclamations in Madhya Pradesh, Rajasthan, and Himachal Pradesh were lawful.

In connection to Article 356(1), the Supreme Court stated the following principles and the scope of judicial review:

Despite the fact that the President exercises his power under Article 356(1) on the recommendation of the Council of Ministers, the true power is vested in the Council of Ministers.

Before the suggestion of President's rule, the Chief Minister of a State must be decided on the floor of the House, not in the Governor's Chambers.

The Karnataka High Court was incorrect in ruling that the floor test was not mandatory nor a prerequisite for delivering a report to the President for his action under Article 356. (1).

When the former Ministry loses support in the House, the Governor should consider establishing an alternate Ministry.

The grounds of justiciability for a proclamation issued under the same should be whether it was issued on any material, whether the material was relevant, or if the proclamation was issued in bad faith or on extraneous or irrelevant reasons.

There should be evidence before the President that the State's government cannot function in conformity with the Constitution, and the evidence should be such that any reasonable person would reach the same conclusion. The President's pleasure based on such significant evidence will not be questioned, and if it is, it will be disputed.

Article 356 gives the President conditioned power, not unlimited power, and his satisfaction should be based on the necessary facts, according to Jeevan Reddy, J.

When a prima facie argument is made against the proclamation's legitimacy, it is up to the Central Government to show that relevant evidence existed, which may be the Governor's report or anything else.

The dissolution of the State's Legislative Assembly is not an automatic result of the proclamation's issuing, and it should not be done in every situation unless it is determined necessary to achieve the proclamation's goal.

The provisions of Article 356(3) are meant to serve as a check on the President's authority under Article 356. (1).

If the two Houses of Parliament do not accept the proclamation within two months, it immediately expires, and the President should not take any irrevocable action until the proclamation is authorized by the House of Parliament. As a result, the state Assembly should not be dissolved.

The Assembly will be per se dissolved prior to the Parliament's acceptance of the proclamation under Article 356(3). If the proclamation is not accepted by the Parliament, the State Assembly can be dissolved, and the Assembly that has been suspended can be revived and reactivated.

The dismissed State Government and the dissolved legislature will not be reinstated until the proclamation is authorized by Parliament and then expires after six months or is cancelled sooner.

The President's action becomes invalid if the Court invalidates the proclamation, even though it was approved by Parliament. The State Government will be reinstated if it has been dismissed, and the State Assembly will be restored if it has been dissolved.

Article 74(2) prohibits an investigation into whether or not the Council of Ministers provided the President with any advice. It does not, however, preclude the Court from requesting that the Union Council of Ministers divulge the evidence on which the President based his satisfaction.

The information that was used to provide the advice does not become part of the advice. Even if the material is investigated or presented to the President, it does not have the status of advice.

According to Jeevan Reddy, J, if the Union Government is asked, it must give the material on which the action was taken, and it cannot refuse to do so if it wants to defend the action. The Court will not examine the information's accuracy or sufficiency; rather, it will look to determine if the material was relevant to the action.

The proclamations of Karnataka, Meghalaya, and Nagaland were declared invalid based on these criteria. The Court concluded in the matter of Karnataka that the lack of majority support for the Ministry was not challenged on the House floor, that the Governor's report was indicative of mala fides, and that the proclamation based on such report was itself mala fides, and that the proclamation was thus set down.

The proclamations made in Madhya Pradesh, Rajasthan, and Himachal Pradesh were a little different in that none of the state governments had lost their majority, but they were issued in the aftermath of the Ayodhya occurrences on December 6, 1992.

The Court in this instance stressed that the different constitutional clauses imply that the formation of a theocratic state is prohibited, and that the State is prohibited from identifying with or supporting any one religion.

In the words of Ratnavel Pandian, J, "religion has no place in concerns of state." No political party can be both political and religious at the same time, because politics and religion cannot coexist." If a government behaves in a way that subverts or sabotages the spirit of secularism entrenched in the Indian Constitution, it can properly be said that a situation has evolved in which the State Government cannot carry out its duties in accordance with the Constitution. On this basis, the three proclamations were deemed lawful.

CASE COMMENTS/ ANALYSIS:

The Hon'ble court critically examined three broad issues i.e., the nature of Federalism, Secularism and the proclamation being under the scope of judicial review.

The Court's ruling has proven to be the most effective in addressing the problem of executive authority abuse. By reading the objectives of the Constitution architects with the support of Constituent Assembly deliberations, the Court correctly rejected competing arguments that state governments are subordinate to the federal government. Federalism and secularism were defined by the Court as components of the Basic Structure. It also overturned the State of Rajasthan ruling, which said that the President's decision should not be susceptible to judicial scrutiny and should be made alone by the Central Government. The courts recognized that political parties had a tendency to disrupt the pluralistic form of democracy, and so declared that the judiciary will operate as a watchdog to ensure that such powers are not misused. Even though the Court provided principles for establishing President's Rule in states, it left ample authority to the Union Cabinet and the President.

PRESENT STATUS OF THE JUDGEMENT:

When 21 MLAs from the majority party defected to another party and the Governor called the Assembly earlier than scheduled with the goal of toppling the State administration, the Governor used Article 356 to lock down the current Arunachal Pradesh government. In Arunachal Pradesh, the Supreme Court reinstated the Nabam Tuki government, criticizing the Governor for "humiliating the elected government of the day." The Central Government established President's Rule in Uttarakhand the same year, barely a day before the state assembly's floor test. The Centre justified its actions by citing a sting operation in which the Chief Minister was caught bribing certain MLAs.

The Supreme Court ordered a floor test, which resulted in the reinstatement of the dissolved administration. Since June 2018, the state of Jammu and Kashmir has been under President's Rule, which was withdrawn on October 30, 2019 to allow the passage of the Jammu and Kashmir Reorganization Act, 2019.

From the 12th of November until the 23rd of November, Maharashtra was under President's Rule. By using Rule 12 of the Government of India (Transaction of Business) Rules, the proclamation was cancelled early in the morning, without any meeting or approval from the Union Cabinet. The Prime Minister may, in any situation or class of cases, authorize or condone a deviation from these norms to the degree he thinks essential, according to the rule.

The prime minister's consent serves as the Union Cabinet's post-facto approval. The invocation and revocation of President's Rule have been accused of being done to favor the ruling party at the center.

CONCLUSION:

As a result, the Supreme Court stressed the need of strengthening the parliamentary system of government, holding that the term "democratic" refers to India's responsible and parliamentary administration, which is accountable to an elected legislature. The Supreme Court of India has deemed "democracy" to be a fundamental component of the Indian Constitution. The Constitution's Preamble was regarded to be a fundamental aspect of the document, and with it, a democratic form of government, federal structure, national unity and integrity, secularism, socialism, social justice, and judicial scrutiny were all held to be core features of the document.

While adopting a pluralistic democratic system, the constitution-makers assumed that various political parties would be in power in different states, hence granting total authority to the Executive under Article 356(1) would jeopardize the Indian Constitution's democratic ethos. In circumstances where the Constitution's values are being abandoned and the constitutional machinery is being destroyed, invoking Article 356(1) becomes a sine qua not.[1][2][3][4][5][6]

[1] S. R. Bommai v. Union of India, [[1994] 2 SCR 644: AIR 1994 SC 1918: (1994)3 SCC1]

[2] Wikipedia, AVAILABLE AT: https://en.wikipedia.org/wiki/S._R._Bommai_v._Union_of_India#The_facts (last visited Feb. 26, 2022)

[3] Ipleaders, AVAILABLE AT: https://blog.ipleaders.in/s-r-bommai-v-union-of-india-power-of-presidents-rule-curtailed/ (last visited Feb. 26, 2022)

[4] Legal bites, AVAILABLE AT: https://www.legalbites.in/case-analysis-s-r-bommai-v-union-of-india-1994/ (last visited Feb. 26, 2022)

[5] Law Circa, AVAILABLE AT: https://lawcirca.com/s-r-bommai-v-union-of-india-case-analysis-misuse-of-article-356-of-indian-constitution/#Ratio_Decidendi (last visited Feb. 26, 2022)

[6] Indian Kanoon. AVAILABLE AT: https://indiankanoon.org/doc/60799/ (last visited Feb. 26,2022)