THE DOCTRINE OF PLEASURE: CONSTITUTIONAL DISCRETION VIS-A-VIS GOVERNOR'S POWERS

Prof. (Dr.) Rattan Singh[*]

Sanighdha[**]

"However good a constitution may be, if those who are implementing it are not good, it will prove to be bad. However, bad a constitution may be, if those implementing it are good, it will prove to be good."

-Dr. B.R. Ambedkar[1]

Abstract

India, being a democratic nation is known worldwide for the academic marvel that it possesses, the Constitution of India. It is a masterpiece not just because it was made with so much of diligence and extensive dialogue exchange; but also, because it covers each and every sphere of government and governance. Nevertheless, certain irregularities still do creep in while governing and managing nation as big as India. One such loophole, if one may say so is the applicability of the Pleasure Doctrine. It is a knowledge of common parlance that Doctrine of Pleasure is exercised by the President at the Central level while by the Governor at the State level. But the Constitution somehow misses to answer the question of revocation of the same at the State level, which has often led to inconsistencies and war of words. Doctrinal Research methodology has been used in the present research. Conclusively the research findings clearly state that parallel governance can arise if the executive and legislature and the State are not in tandem.

Keywords *Centre-State Relations; Doctrine of Pleasure; Federal; Governor's constitutional powers; Revocation.*

1. INTRODUCTION

A democracy is a byproduct of aspirations, of expectations, zeal of governance and a determination to set a mark on the world stage. It is not a mere coincidence. It is well thought out, planned, strategic and systematically structured. The first democracies of the world were not a result of mere consultations and concurrences; but they were fought for and craved for, they were strived for and they were lived for. They were not incidental or collateral to some sporadic happenings or mishaps, but they were struggled for. It is a result of clear negotiations with those people who really wish to move forward and take others along with them. India had long basked in her glory of having rulers and kingdoms that took care of her subjects. But as time passed by, these mechanisms became redundant, rulers became deaf to people's problems and economic crisis surmounted more than ever before. But what really opened up the eyes of the masses was the autocratic and despotic rule of the British, that not only forced us to have a new system of ruling but also did force us to

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[*] Professor, University Institute of Legal Studies, Panjab University, Chandigarh.

[**] Student, LL.M. , University Institute of Legal Studies, Panjab University, Chandigarh.

[1] *Press Information Bureau*, (Dec. 25, j2022, 11:20 AM), https://pib.gov.in/PressRseleasePage.aspx?PRID=1545034#:~:text=Ambedkar%2C%20which%20are%20as%20relevant,will%20prove%20to%20be%20good%E2%80%9D

formulate a government that will listen to the masses, to the subjects that chose them. Finally, India reached a stage where the following quote of Abraham Lincoln started ringing true-

"Democracy is of the people, for the people and by the people.[2]*"*

However, the position of the Governor as incorporated into the Indian Constitution is a bit of a dilemma if confronted with situations never encountered before. The role of a governor is ambiguous as defined in the Constitution and many a times, has resulted in constitutional confusions that have often led to cases rising up till the Supreme Court as well, for observation and final decisions. The following topics will dive deeply into the issue and lay down the trajectory for the various instances that have taken place since a number of years. The constructof the Indian Constitution was laid down way back in the year 1946 when the Constituent Assembly gifted the nation with 448 Articles, 25 parts and 12 schedules. It was not a mere document but a Holy Grail to set the governance of India in motion. The seeds were sown by M.N. Roy who demanded the formation of the Constitution way back in 1934[3] and after the Second Cabinet Mission sent by Prime Minister Atlee[4], to form the Constituent Assembly as soon as possible. After having the indirect elections via the proportionate representation system, India's Constitution was formulated. The construct of the Indian Constitution is such that it reeks clear of unitary as well as federal system.

India, that is Bharat shall be a Union of State. Every State shall be governed by an executive Head known as a Governor, in whom shall peacefully rest the executive power of the State andwho shall be at the helm of such powers. India is undoubtedly the largest and the most vibrant democracy of the world. Even the government system that is followed here is unique. The *suigeneris* nature of the democratic apparatus is one that is constantly changing and living up to the dreams and aspirations of the ones who proclaim it to be sovereign; and the only ones who incarcerate the sovereignty- WE, THE PEOPLE. The structure of administration defies rigidity and rather embodies the spirit of dynamism and constitutional morality. However, it is a viewpoint of someone much closer to home, none other than the stalwart of constitutional laws and philosophy- Dr. B.R. Ambedkar who illustrates rather too clearly what the Indian Constitution stands for and how it is meant to function. In his esteemed words, "The Indian Constitution neither being a too rigid constitution, nor being a too flexible Constitution; neitherbeing a quasi-federal totally nor being a solo act of those in

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2 COUNCIL OF EUROPE, (Dec. 25, 2022, 11:25 AM), https://www.coe.int/en /web/ compass/democracy.

3 HUMANIST HERITAGE, (Dec. 25, 2022, 11:30 AM), https://heritage.humanists.uk/m-n-roy/.

4 INDIA CONST. (Dec. 25, 2022, 12:20 PM), https://www.constitutionofindia.net/historical_ constitutions/cabinet_mission_plan cabinet_mission 1946 16th%20May%201946.

majority- is rather a buildup of principles and morals that are dynamic enough to transform themselves gracefully to the needs of the society.[55] It is the constitutional morality that sets us apart.

Ivor Jennings, an erstwhile Vice Chancellor of the University of Ceylon, and University of Cambridge once opined on constitutional functionaries, "All Constitutions are heirs of the past and testators of the future." *Fideicommissa* bounds each generation, as he went on to say in a lecture at University of Madras 1925.[6] *Fideicommissa* means that every generation is bound by trust which is similar to the one that bounds the Trustee and the beneficiary. Based on Section51 of the Government of India Act, 1935[7], Article 164 was discussed on June 1, 1949. Section51(1) of the Government of India Act 1935 read as the follows,

"1. The Governor's ministers shall be chosen and summoned by him, shall be sworn as the members of the Council and shall hold office during his pleasure…"[8]

1.1. OBJECTIVES OF STUDY

Major research areas are centered around role of the Governor and the simplistic notion that Governor works on the aid and advice of the council of Ministers. But a major loophole left out by all of them is seemingly the intricacy that surrounds the doctrine of pleasure when the Governor does not act according to the aid and advice of the Council of Ministers. On the faceof it, it is a very small loophole that one might think, but as we go deeper into the pages of history it is evident that this minute failure and this minute gap that the Constitution makers did not fill and did not answer is something that does result in the failure of Constitutional mechanism in the State. This further, as is known can lead to imposition of Emergency in the State, as this forms a ground for the Governor to submit his report to the President for the same. Thus, the various happenings related to this instance are a point of this present study.

The present topic under study strives to investigate the grey areas of the relationship between the Governor at the level of the State and his Council of Ministers vis-à-vis the use and exerciseof the doctrine of pleasure which in itself is a loaded bullet if not exercised judicially. The previous studies have not been able to answer the conundrum where the governor uses the doctrine without the aid and advice of the Council of Ministers and what really happens if pleasure is withdrawn from the appointment of the Minister itself without consultations with the Executive said that he has been accorded. This risks the running of a

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5 INDIA CONST., *supra* note 4.

6 AIR ONLINE, (Dec. 25, 2022, 11:22 AM), https://www.aironline.in/legal-articles/Sir%20Ivor%20Jennings%20on%20the%20Indian%20Constitution.

7 Government of India Act, 1935.

8 INDIA CONST., *supra* note 4.

parallel government and can lead to a constitutional crisis.

2. RESEARCH METHODOLOGY

The data for carrying out the research work was carried out by the doctrinal method of research methodology and hence heavy reliance has been placed on the existing literature and law journals. Reliance has also been placed on the commentaries, case comments, newspaper articles, viewpoints of various legal theorists and case laws that have been pronounced by the supremecourt of India. Internet sources and e-book sources have also been referred to.

3. CONTENT ANALYSIS

India, as is known in common parlance is not a complete federal country like United States of America, howsoever it does possess a number of those characteristics. Federalism is different from confederalism[9], because it combines several governments which are in a way a notch subordinate to the general government. Federalism in the modern era was first adopted by the Old Swiss Confederacy. The Latin word f*oedu*s, means a pact or a covenant.[10] The word itself is self-explanatory, telling a lot about the system that it entails. But, today the Philadelphia Convention[11] is the one that is generally followed in defining federalism, which is totally based upon James Madison Federalist No. 39[12]. The first forms of federalism took place in ancient times itself, in a very rudimentary form; meaning there by that small alliances were built and bought together. These are Archaic League, Aetolic League, Peloponnesian League and the Delian League. The Aetolic League in Hellenistic Greece[13] is what originated all of the others and led to the rise of this form of government. This format is followed mainly because of the simplistic yet complex structure. This is so because, spheres of powers are defined and the governments at the central and the local level are free to exercise their influence freely in theirown spheres.

India as a quasi-federal structure of government follows dual polity consisting of the Union at the Centre and the states at the periphery. Apart from Sh. J.B. Kriplani and Dr. B.R. Ambedkar supporting the whole system, it was also Gopalswamy Aiyangar who supported the concept of federal polity for India. It was because of the fact that all the freedom fighters wanted a clearly defined

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[9] ROUTLEDGE ENCYCLOPEFDIA OF PHILOSOPHY, (Dec. 25, 2022, 11:12 AM), https://www.rep.routledge.com/articles/thematic/federalism-and-confederalism/v-1 .

[10] LEGAL INFORMATION INSTITUTE, (Dec. 25, 2022, 10:22 AM), https://www.law.cornell.edu/wex/federalism#:~:text=Federalism%20is%20a%20system%20of,the%20issues%2 0of%20local%20concern.

[11] OFFICE OF THE HISTORIAN, (Dec. 26, 2022, 11:22 AM), https://history.state.gov /milestones/1784-1800/convention-and-ratification.

[12] FEDERALIST PAPER NO 39, (Dec. 25, 2022, 01:22 AM), https://avalon.law.yale.edu/18th_century/fed39.asp.

[13] STANFORD ENCYCLOPEDIA OF PHILOSOPHY, (Dec. 27, 2022, 11:22 AM), https:// plato.stanford.edu/entries/locke/.

space for states and the Centre so as to reduce all kinds of conflicts that were confronted during the British Rule. However, the orthodox definition was not adopted and the makers realized that India had to adopt a region-specific apparatus. Dr. Ambedkar made it clear that the President can exercise the power given under the Articles 353, 352 and 250 of the Indian Constitution and that these were the only three major Articles that had both unitary and federal tilt. These could be used only after due approval from both Houses of the Parliament. In one of the meetings, the word Union was substituted for Federation. The reason for this was explainedby Dr. B.R. Ambedkar by saying that though India was going to be Federation, the word Federation must not be used because it was not to be a result of agreement like in the American scenario. The Union was meant to be a federation because of devolution of governance powers, and the Federation was to be a Union because the units were indissoluble.

In the case of *State of West Bengal v Union of India*[14], the Supreme Court opined that India didnot have a principle of absolute federalism. It also held that,

"The Indian Constitution accepts the federal concept and distributes the sovereign powers between the co- ordinate constitutional entitles, namely, the Union and the States. This concept implies that one cannot encroach upon the governmental functions or instrumentalities of the other, unless the Constitution expressly provides for such interference. The legislative fields allotted to the units cover subjects for legislation and they do not deal with the relationship between the two co-ordinate units functioning in their allotted fields: this is regulated by otherprovisions of the Constitution and there is no provision which enables one unit to take away the property of another except by agreement. This Court has the constitutional power and the correlative duty-a difficult and delicate one to prevent encroachment, either overtly or covertly,by the Union of State field or vice versa, and thus maintain the balance of federation."[15]

The same holding was upheld in the case of *Pradeep Jain v Union of India* as the Apex Courtpropounded that,

"Moreover, it must be remembered that India is not a federal state in the traditional sense of that term. It is not a compact of sovereign states which have come together to form a federation by ceding a part of their sovereignty to the federal states. It has undoubtedly certain federal features but it is still not a federal state and it has only one citizenship, namely, the citizenship of India. It has also one single unified legal system which extends throughout the country. It is not possible to say that a distinct and separate system of law prevails in each State forming partof the Union of India. It is true that with respect to subjects set out in List II of the Seventh Schedule to the Constitution, the States have the power to make laws and subject to the over- riding power of Parliament, the

14 State of West Bengal v Union of India, (1963) A.I.R. 1241(India).

15 *supra* note 14.

States can also make laws with respect to subjects enumeratedin List III of the Seventh Schedule to the Constitution, but the legal system under the rubric of which such laws are made by the States is a single legal system which may truly be describedas the Indian Legal system."[16]

It was probably for the first time in the landmark judgment of *Shamsher Singh v State of Punjab*[17], in which the Supreme Court opined that the Governor was not meant to have any executive function of his own but just to act on the aid and advice of the council of Ministers. The operative part of the judgment is reproduced below,

"Under our Constitution, the Governor is essentially a constitutional head; the administration of Slate is run by the Council of Ministers. But in the very nature of things, it is impossible forthe Council of Ministers to deal with each and every matter that comes before the Government.

In order to obviate that difficulty, the Constitution has authorized the Governor under sub-Art.

(3) of Art 166 to make rules for the more convenient transaction of business of the government of the State and for the allocation amongst its Ministers, the business of the Government. All matters excepting those in which Governor is required to act in his discretion have to be allocated to one or the other of the Ministers on the advice of the Chief Minister. Apart from allocating business among the Ministers, the Governor can also make rules on the advice of his Council of Ministers for more convenient transaction of business. He cannot only allocate thevarious subjects amongst the Ministers but may go further and designate a particular official todischarge any particular function but this again he can do only on the advice of' the Council ofMinisters"[18]

The Court in this case also referred to the case law of *Rai Sahib Ram Jawya Kapur v State of Punjab* and while taking a cue from there also stated that,

"Our Constitution, though federal in its structure, is modelled on the British Parliamentary system where the executive is deemed to have the primary responsibility for the formulation of governmental policy and its transmission into law though the condition precedent to the exercise of this responsibility is it retaining the confidence of the legislative branch of the State."[19]

The same points were raised in a very recent judgment of *Nabam Rebia v Deputy Speaker*[20]in which the Court opined that,
"In all cases in which the President or the Governor exercises his functions

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16 Pradeep Jain v Union of India, (1984) A.I.R. 1920 (India).
17 Shamsher Singh v State of Punjab (1974) A.I.R. 2192(India).
18 Shamsher Singh, *supra* note 17.
19 Rai Sahib Ram Jawya Kapur v State of Punjab, A.I.R. (1955) SC 549 (India).
20 Nabam Rebia v Deputy Speaker (2016) (India).

conferred on him by or under the Constitution with the aid and advice of his Council of Ministers he does so by making rules for convenient transaction of the business of the Government of India or the Government of the State respectively or by allocation among his Ministers of the said business, in accordance with Articles 77(3) and 166(3) respectively. Wherever the Constitution requires the satisfaction of the President or the Governor for the exercise of any power or function by the President or the Governor, as the case may be, as for example in Articles 123, 213, 311(2) proviso (c), 317, 352 (1), 356 and 360 the satisfaction required by *the Constitution is not the personal satisfaction of the President or of the Governor but is the satisfaction of the President or of the Governor in the constitutional sense under the Cabinet system of Government. The reasons are these. It is the satisfaction of the Council of Ministerson whose aid and advice the President or the Governor generally exercises all his powers andfunctions*."[21]

Thus, the position of the Governor is meant to be one of confidence, and not only the confidence that is enjoyed by the various sections of the government but also by the people of the State. Not being an office of influence, but of interference gives huge respect to the office. However, certain constitutional precautions must also be taken by the Governor while being the office, because if those precautions are not taken then the office loses its luster in the eyesof the constitution, leading to the downfall. Thus, the governors must play the envisaged role and must also try to uphold the constitutional dignity of the Centre state relationship.

4. ARGUMENT AND DISCUSSION

Article 154 states that the executive powers of the State shall be vested in the Governor and shall be exercised by him either directly or through officer's subordinate to him in accordancewith this Constitution. Article 156 talks about the term of the office of the Governor and thus, one can notice that even the appointment of the governor is on the basis of the pleasure doctrine. Apart from this, the Governor also exercises certain powers that include legislative, financial,and emergency powers all of which have been defined elaboratively in the Indian Constitution.

Article 163 of the Indian Constitution is probably the first Article in the Constitution that talks about the relationship between the Governor and the Council of Ministers. It explains the situations in which the Governor is bound by the aid and Advice of the Council of Ministers atthe State level. It propounds and is reproduced below:

"163. Council of Ministers to aid and advise Governor

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21 *supra* note 20.

(1) There shall be a council of Ministers with the chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this constitution required to exercise his functions or any of them in his discretion

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion

(3) The question whether any, and if so what, advice was tendered by Ministers to the Governorshall not be inquired into in any court."[22]

The Article very clearly states the Council of Ministers are there to aid and advice the Governor. The presence of the Council of Ministers is a must and the Chief Minister is the headof the Council of Ministers. It is common knowledge that the Governor is the executive head and is bound by the aid and advice of the Council of Ministers. The governor can return the advice once but cannot return it more than once. This is to ensure that the answerability of the State is synchronous and no two voices are blown out of the same conch shell. Even according to the above discussions that have mentioned the viewpoints of various legal luminaries of theConstituent Assembly and the numerous Supreme Court observations that have been laid downover the years, the Governor has no discretion of his won because having two discretions at thesame cognitive kevel is merely going to bind one in myriad dilemmas and confusions. This is not rightful at the state level and not even at the Central level. Article 164[23] on the other hand, lays down various other provisions related to the Governor and his council of Ministers. It is this contested article because of which the present study is being conducted. It is in this Articleonly that the doctrine of pleasure of the Governor is being talked about. The said Article doestalk about the usage of the doctrine of pleasure in the appointment of the Ministers but fails to talk about anything related to the use of the doctrine in the removal of the ministers. It is a constitutional convention and an understood fact that the Governor does not and cannot, in any circumstances work without the aid and advice of the Council of ministers. These conventionsmust be kept up, this unsaid rule must be preserved, these regulations must be adhered to, the unsaid sayings must be respected so as to maintain the integrity of the afore mentioned institution. Otherwise, the risk of ruining a democratic institution runs really high.

The Governor under the Indian Constitution is the inseparable and indispensable

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22 INDIA CONST. art. 163.
23 INDIA CONST. art. 164.

part of the State machinery.[24] The Governor has a right to summon the House or each House of the State Legislature (if it is a bi-cameral House) to meet at such time and place as he thinks fit, but more than six months shall not intervene between its last sitting and the sitting in the next session.[25] He has also the power to prorogue the House or either House ; and to dissolve the Legislative Assembly.[26]

The Legislature is duty bound under the Constitution to allot time for discussion of the matters referred to in the address of the Governor or in special message Besides, every bill after it hasbeen passed by the State Legislature, must receive the assent of the Governor and the latter may give or withhold his assent or even may reserve it for consideration of the President.[27] These articles together with the whole scheme of our Constitution throw abundant light on therelation of the Governor with the State Legislature.[28]

"The interpretation of a provision of the Constitution would not differ or deflect simply becauseof the possibility of abuse of power by the Council of Ministers in a given case. The Constitutionhas reposed greater faith in the Council of Ministers answerable to the people and it is expected that it would consider even the question of grant of sanction for prosecution of its Minister in a detached and dispassionate manner upholding the rule of law and cause of justice. There is a presumption that the decisions of the Council of Ministers have been arrived at rightly and regularly and not to shield the guilty. Hence, the Governor if at all has discretion would be under the Constitution, and not under any Statute."[29]
-Shamsher Singh v State of Punjab[30]

The definition of discretion as given by the Cambridge Dictionary is the ability to perform carefully without causing embarrassment to anyone.[31] There have been many an instance where the Supreme Court itself has held that the Governor and the State Council of ministers are interchangeable and they mean one and the same thing. This is because of the fact that under the scheme of the constitutional provisions, the governor is bound to- in any matter whatsoever- act on the aid and advice of the Council of Ministers. In the landmark case of *P.*
Joseph Jone v State of Travancore-Cochin[32], it was held that

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24 CONSTITUENT ASSEMBLY DEBATES, (Dec. 26, 2022, 11:10 AM), https://indiankanoon.org/doc/427177/ (1949).

25 INDIA CONST. art. 174.

26 INDIA CONST. art. 85(1).

27 INDIA CONST. art. 200-201.

28 CONSTITUENT ASSEMBLY DEBATES, *supra* note 24.

29 Shamsher Singh, *supra* note 17.

30 Shamsher Singh, *supra* note 17.

31 CAMBRIDGE DICTIONARY, (Dec. 26, 2022, 10:10 AM), https://dictionary. Cambridge. org /dictionary/english/discretionary.

32 P. Joseph Jone v State of Travancore-Cochin,(1955) A.I.R. 160 (India).

*"After the integration of the two States of Travancore and Cochin and the formation of the United State of Travancore-Cochin the expression "Our Government" has to be construed according to the new set-up of Government and when the Council of Ministers had come into being, it is obvious that the expression "our Government" as adapted to fit in with the new Constitution means "The Council of Ministers". It is an elementary principle of democratic Government prevailing in England and adopted in our Constitution that the Rajpramukh or the Governor as head of the State is in such matters merely a constitutional head and he is bound to accept the advice of his Ministers. In this situation it cannot be held that the order of the Government appointing the Enquiry Commissioner *as ultra vires and without jurisdiction."*[33]

5. RESULT AND FINDINGS

The Doctrine of Pleasure is a common law doctrine that states that the minister is a servant of the executive and can only be appointed and dismissed by the same. In *Dunn v R.*[34],it was held

"*... I take it that persons employed as the petitioner was in the service of the Crown except in cases where there is some statutory provision for a higher tenure of office, are ordinarily engaged in the understanding that they hold their employment at the pleasure of the Crown. So, I think that there must be imported into the contract for the employment of the petitioner, the term which is applicable to civil servants in general, namely that the Crown may put an end to the employment at its pleasure.*

...It seems to me that it is the public interest, which has led to the term, which I have mentioned being imported into contracts for employment in service of the Crown. The cases cited show that, such employment should be capable of being determined at the pleasure of the Crown, except in certain exceptional cases where it has been deemed to be more for the public good that some restriction should be imposed on the power of the Crown to dismiss its servants."[35]

The doctrine of pleasure is applicable in India basically on the civil servants under Article 309-311 but is not directly under the Constitution applicable on the ministers and their appointment.The Governor deals with it at the State level and the President uses it at the Central level. Indiahas taken the idea of the doctrine from England and the doctrine is applied in its entirety like itis in England. Sh. Ismail quotes on it as saying,

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33 P. Joseph Jone, *supra* note 32.

34 Garth Nettheim, Dunn v The Queen Revisited, Vol. 34, CAMBRDG.UNIV. P, 1 (1975), (Dec. 28, 2022, 11:10 AM), https://www.jstor.org/stable /4505857 #metadata_info_tab_contents.

35 Garth Nettheim, *supra* note 34.

"Certainly, it cannot be said that, in this connection, there is either similarity or identity between England and India. In India, with its vast illiteracy and ignorance, the traditions of the British Parliamentary democracy will take a long time to acquire effective acceptance or find useful and beneficial adoption. The history of India has been characterized only by benevolent monarchical traditions and not by any completely popular democratic institutions. The temperament and emotions of the Indian people have been attuned only to such institutions and they will have to gradually acclimatize themselves to a total democratic tradition[36]

In the case law of *Hargovind Pant v Raghukul*[37], it was held that the Governor has to act on the aid and advice of the Council of Ministers and this is how the doctrine of pleasure is applicable in the Union of India. It cannot be exercised without using a judicious mind and keeping in mind the rigors of the Constitution of India. Thus, this case laid down the boundaries in which the Governor could really work. It opined,

"The High Court, constituted of the Chief Justice and other Judges, exercising the judicial power of the State and is coordinate in position and status with the Governor aided and advised by the council of Ministers, who exercises the executive power and the Legislative Assembly together with the Legislative Council, if any, which exercises the legislative power of the State."[38]

In Felix Frankfurter's phrase, there is the gloss which life ha-, written' on our constitutional clauses, and the Court, true to its function, must try to reflect that gloss by balancing in its ruling the origin, formulation, and growth of a constitutional structure denying judicial aid to undermining the democratic substance of Cabinet Government. A coup can be constitutionallyenvisioned by an erroneously literal interpretation of the living words of the Organic Law.[39]This above-mentioned statement clearly demonstrates the result that can come out if the Ministerial government or any minister of the lawfully elected government is thrown out by the governor without taking the aid and advice of the Council of Ministers.

If the scenario takes place, four situations can take place:

1. There is a risk of running of a parallel government that can lead to a constitutionaldilemma and dichotomy that can only be solved by using the help, aid, and advice of the higher court, but then again for the time being, the will of the people is compromised.
2. The very fact that the will of the people will be endangered and imperiled is

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36 Garth Nettheim, *supra* note 34.
37 Hargovind Pant v Dr. Raghukul Tilak, 1979 A.I.R. 1109 (India).
38 Hargovind Pant, *supra* note 37.
39 Shamsher Singh, *supra* note 17.

against theconstitutional cannons of the Indian democracy that has been set up by the legal stalwarts and founding fathers as well as mothers of our beloved nation.

3. Another thing that it will lead to is the clash of confidence in the Houses and with the executive of the State. This again is a naturally scary instance because it can dash the hopes of a successful government and can also result in legal crisis.
4. Lastly, the most important point that must be investigated is that the constitution itself does not give any express permission to the governor to dismiss a minister without the aid and advice of the Chief Minister as the head of the council of ministers.

If one must investigate all of the scenarios that have been mentioned above, none ensures a stable democracy and none does also ensure a stable political system. No government, no ministry, no governor, would for that matter want their governments to fail. It, at the end boils down to the single fact of maintaining decorum of the position that one holds, upholding the sacred principles of the constitution alike and respecting the holy oath that one takes while assuming any constitutional office. Thus, extensive dialogues, discussions can be held in any situation that warrants extreme action to avoid any transgression and digression from constitutional boundary lines.

Thus, it can be safely made out that using the doctrine of pleasure without taking the consent of the Council of Ministers is very dangerous as a proposition for a democracy. It is an unsaid and long accepted law that the ministry is the one that is responsible to the people of the state and not the governor. It is the ministry that must show its face to the people after a periodic interval. Because of mere tussles responsible office bearers like the governor should not risk the running of a successful democracy for proving mere points. Tussles between the executiveand the legislature must only be between them in the State. These must not fizzle out in any case, because if they do- they do more harm than anything else. They risk the running of a parallel government, they risk the downfall of a constitutionally established government and moreover, they risk the very apparatus of a democratic system.

6. CONCLUSION AND SUGGESTIONS:

Conclusively, the position of the governor is a much-disputed position. But then again, it is themost important office under the constitution of India. It ensures coordination between the Centre and the State. The light of dharma must be preserved and the constitutional office holders must rise above the regular day politics. However, it only possible when all of them realize that scratching the back of each other is not a solution to rise above anything and everything. This research has primarily intended to pave a path light where there is darkness inthe grundnorm of this nation. Thus, the position of the Governor must be

understood, read in tandem with other offices and his powers must be defined very carefully so as to avoid any head on collisions in the daily functioning of the government. The Governor has been nowhere given the right to dismiss the minister or his government without the holy aid and advice of the council of ministers, except for in the position, where the government has lost its majority and this principle must be strictly adhered to for smooth functioning of the rightfully elected government. The various suggestions that can help improve the situation have been already imparted in the Sarkaria Commission Report on Centre State Relations.[40]

However, some others that would help are:

1. The provisions related to the exercise of doctrine of pleasure by the governor must be detailed via a constitutional amendment in the constitution itself. This would help solve the lacuna of rules and regulations that is persisting to this regard.

2. The Governor must be a man of political neutrality and hence must understand the boundaries that have been laid down by the Constitution itself. It will also help in lessening conflicts and decreasing frictions.

3. The powers of appointing and revocation must be vested in a single entity, be it the Governor or the Chief Minister- whosoever is closer to the management of the government.
4. The various suggestions of the Rajmannar Committee[41] and the Second Administrative Reforms Commission[42] must be sincerely incorporated into the law of the land.

The Administrative Reforms Commission (ARC) was set up by the Indian Government which was first chaired by Shri Morarji R. Desai to make recommendations forreforming the administrative system. This commission was one of the biggest achievements in the time of Nehru. It was established to give management advice and to facilitate the implementation of the policies that were reformed. The commission was set up on 5th January, 1996 which was chaired by Morarji Desai and other members of Parliament such as K. Hanumanthaiya, H.C. Mathur, G.S. Pathak, and H.V. Kamath and V. Shanker as member secretary of the commission. The main job of the commission was to examine

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40 ISCS, Report of Sarkaria Commission, (Dec. 26, 2022, 11:10 AM), http://interstatecouncil.nic.in/report-of-the-sarkaria-commission/.

41 Rajmannar Committee Report, TAMIL DIGITAL LIBRARY, (Dec. 26, 2022, 11:5 AM), https://www.tamildigitallibrary.in/admin/assets/ book/TVA_BOK_ 0009072_ Report_of_ the_centre-state_relations_inquiry_committee.pdf .

42 ISCS, Second Administrative Reforms Commission, (Dec. 26, 2022, 09:10 AM), http://interstatecouncil.nic.in/sarc/#:~:text=The%20Second%20ARC%20was%20setup,all%20levels % 20of%20t he%20government.

the Indian public administration and to recommend the changes needed to be done in the existing system.[43]

Finally, in the words of Mahatma Gandhi,

"The true source of rights is duty. If we all discharge our duties, right will not be far to seek. If leaving duties unperformed we run after rights, they will escape us like a will-o'- the-wisp. The more we pursue them, the farther they fly".[44]

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[43] Administrative Reforms Commission in India: Relevance, (Jan. 18, 2023, 12:15 PM), https://blog.ipleaders.in/administrative-reforms-commission-india-impact-relevance/ .

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