



CSB IAS ACADEMY

THE ROAD MAP TO MUSSORRIE...

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PRESIDENT'S RULE

SYLLABUS:

GS 2 > Constitution >> Centre State Relations

REFERENCE NEWS:

With Manipur Chief Minister Biren Singh resigning, he has recommended the **suspended animation of the Assembly**. According to a statement from the Raj Bhavan in Imphal, Governor Ajay Kumar Bhalla has asked N Biren Singh to continue in office till "alternative arrangements" are made. However, since there is no leader yet who enjoys the support of a majority of party MLAs, the Centre may have to impose **President's Rule**. Governor Bhalla is expected to submit his report to the Centre within a few days and if a consensus CM is not found, President's Rule may be imposed.

PRESIDENT'S RULE:

President's Rule refers to the imposition of direct central government control over a state in India under **Article 356** of the Constitution.

- **Article 355 - Duty of the Union to Protect States: Union Government** to ensure that states function according to the Constitution and are protected from external aggression or internal disturbances. It is this duty in the performance of which the Centre takes over the government of a State under Article 356 in case of failure of Constitutional Machinery in the State.

The President's Rule can be proclaimed under Article 356 on two grounds:

- **Provisions under Article 356:** The President can proclaim President's Rule in a state, if he/she is satisfied that a situation has arisen in which the government of a State cannot be carried on in accordance with the provisions of the Constitution. The President can act either on a report of the Governor of the State or even without the Governor's report.
- **Provisions under Article 365:** Whenever a State fails to comply with or to give effect to any direction from the Centre, it will be lawful for the President to hold that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution.

PROCESS INVOLVED IN PROCLAIMING PRESIDENT'S RULE:

- **Assessment of Constitutional Breakdown:** The **Governor of the State** assesses the situation where the government is unable to function as per constitutional provisions. The breakdown can occur due to political instability (e.g., no clear majority in the assembly), loss of majority by the ruling party, failure to comply with Union Government directions (Article 365) and serious law and order problems leading to governance failure.

- **Governor's Report to the President:** The **Governor sends a report** to the **President of India**, recommending the imposition of **President's Rule** in the state. The President can also impose President's Rule **without the Governor's report** in exceptional cases.
- **President's Proclamation:** The proclamation includes, **dissolution or suspension of the state legislature**, transfer of **executive power to the Governor** and authority of **Parliament to legislate on state matters**.
- **Parliamentary Approval:** The proclamation must be **approved by both Houses of Parliament** within **two months**. Approval is given through a **simple majority vote** (more than 50% of members present and voting). If Parliament does not approve the proclamation within two months, it **automatically lapses**.
- **Duration of President's Rule:** It can be extended beyond one year further in **six-month intervals**, but only up to a maximum of **three years**.
- The **44th Constitutional Amendment Act of 1978** added a new provision that the President's Rule **can be extended beyond one year**, by six months at a time, only when the **following two conditions** are fulfilled. For an extension beyond **one year**, two conditions must be met: A **National Emergency (Article 352)** must be in operation, or the **Election Commission** must certify that elections cannot be held in the state.
- **Revocation of President's Rule:** President's Rule can be revoked any time before the six-month period if governance is restored. The President can **withdraw the proclamation** on the advice of the Union Council of Ministers.

EFFECTS OF PRESIDENT'S RULE IN INDIA (ARTICLE 356):

Effect on the Legislature

- **Suspension or Dissolution of State Assembly:** The state legislative assembly is either dissolved or suspended as per the proclamation under Article 356. If **dissolved**, fresh elections are held at an appropriate time. If **suspended**, the legislature ceases to function but is not permanently dissolved.
- The Parliament passes the State Legislative Bills and the State Budget.
- The President can promulgate ordinances for the State when the Parliament is not in session.
- When the State Legislature is dissolved or suspended, the Parliament acquires certain powers:
 - The Parliament can delegate the power to make laws for the State to the President or any other authority specified by him in this regard.
 - The Parliament or in case of delegation, the President or any other specified authority can make laws conferring powers and imposing duties on the Centre or its officers and authorities.
 - The President can authorize, when Lok Sabha is not in session, expenditure from the Consolidated Fund of the State pending its sanction by the Parliament.
 - A law made by Parliament or the President or any other specified authority continues to be operative even after the President's Rule. This means that the period for such a law remains in force is not co-terminus with the duration of the proclamation.
 - But such law can be repealed, altered, or re-enacted by the State Legislature.

Effect on the Executive

- **Dismissal of the Council of Ministers:** The **Chief Minister and Council of Ministers are dismissed**, and the Governor assumes full executive powers. The **Governor acts on behalf of the President** and administers the state with the help of bureaucrats.
- **Role of the President and Governor:** The President assumes executive powers and directs the Governor in all state matters. The Governor functions as the direct representative of the Union Government.

Effect on the Judiciary

- During the Proclamation of the President's Rule, the President can neither assume the powers of the High Court onto himself nor suspend the provisions of the Constitution relating to the High Court.
- Thus, the constitutional position, status, powers, and functions of the concerned State High Court remain the same even during the President's Rule.
- **Kesavananda Bharati Case (1973):** The Supreme Court held that the basic structure of the Constitution, including judicial independence, cannot be altered even under emergency conditions.

Effect on Fundamental Rights

- **Fundamental Rights remain intact** during President's Rule.
- If President's Rule is imposed alongside **National Emergency (Article 352)**, certain fundamental rights (like Article 19) can be **suspended**.
- **Indira Gandhi v. Raj Narain (1975):** The Supreme Court ruled that fundamental rights cannot be arbitrarily restricted even under emergency conditions.

Effect on Financial Powers

- **Parliament Controls State Finances:** Parliament must approve the state budget, and all financial bills must be passed by Parliament.
- **Presidential Power to Authorize Expenditure:** Under Article 357(1)(b), the President can authorize the Governor to use the state's Consolidated Fund until Parliament approves the financial provisions.

Effect on Local Governance

- **Municipal bodies and Panchayats continue to function** as per state laws.
- However, **financial aid and administrative support from the state government may be affected**.

SIGNIFICANCE OF PRESIDENT'S RULE IN INDIA:

- **Ensuring Constitutional Governance:** Article 356 is a constitutional safeguard to restore governance when a state government fails to function. It ensures that constitutional provisions are upheld when a state violates democratic or administrative norms.
 - **Punjab (1987-1992)** → President's Rule was necessary to **restore governance during insurgency**.

- **Preventing Law and Order Collapse:** If a state government **fails to maintain law and order**, President's Rule allows the Centre to **take direct control** and restore stability. Useful during **communal riots, insurgencies, and political crises**.
 - **Manipur (2001)** → Imposed due to **law-and-order collapse during Naga peace talks**.
- **Ensuring Smooth Transition During Political Instability:** Helps in cases where **no political party has a clear majority**, preventing **hung assemblies** and frequent elections. Allows time for **political reorganization and fresh elections**.
- **Protection Against Corruption and Maladministration:** Can be used to **remove corrupt or inefficient state governments** that fail to implement laws properly. Ensures **better governance and public administration** under central control.
- **Safeguarding National Integrity and Security:** Used in cases where **secessionist movements or internal conflicts** threaten national unity. Helps in **preventing anti-national activities** from taking control of state governance.
- **Temporary Administrative Stability:** In times of **natural disasters or governance crises**, President's Rule ensures **continuity of administration**. Prevents **governance paralysis** and ensures the **implementation of welfare schemes**.
- **Role in Strengthening Federalism (With Checks & Balances):** Though often seen as a **threat to federalism**, the **S.R. Bommai case (1994)** ensured that **Judicial review** is available against arbitrary imposition. **Floor tests** must be conducted before dismissing a government. This has made President's Rule a **last resort rather than a political weapon**.

IMPACT OF PRESIDENT'S RULE ON THE FEDERAL FABRIC OF INDIA:

Impact on Federalism

- **Weakening of State Autonomy:** Under **President's Rule**, the **state government is dismissed**, and governance shifts entirely to the **Union Government**. This undermines the **autonomy of elected state governments**, affecting the **spirit of federalism**.
 - **Kerala (1959):** The first case of President's Rule in India was imposed in Kerala to dismiss the **E.M.S. Namboodiripad government**, marking the beginning of its misuse.
- **Increased Centralization of Power:** The frequent use of **Article 356** has led to concerns about excessive centralization. The **Union Government can dismiss state governments on political grounds**, shifting power away from elected state legislatures.
 - **Indira Gandhi Era (1966-1977):** **39 instances of President's Rule** were imposed, mainly to remove opposition-led state governments. This period saw one of the worst phases of federal erosion.
- **Judicial Safeguards to Protect Federalism:** The **S.R. Bommai Case (1994)** imposed strict **judicial review** on Article 356, stating that State governments cannot be arbitrarily dismissed. **Floor tests** must be conducted in the Assembly to determine the majority before imposing President's Rule.
 - **Karnataka (1989):** The dismissal of the **Janata Dal government** led to the landmark **S.R. Bommai judgment**, which significantly restricted the misuse of Article 356.

Impact on Democracy

- **Disruption of the Democratic Mandate:** When President's Rule is imposed, an **elected government is dismissed**, overriding the people's democratic choice. This goes against the **basic principles of representative democracy**.
 - **Arunachal Pradesh (2016):** The elected **Congress government was dismissed**, and President's Rule was imposed. The **Supreme Court later reinstated the government**, calling the move unconstitutional.
- **Undermining Local Governance:** Even though municipalities and panchayats continue to function, the removal of a state government reduces financial and administrative support to these bodies.
 - **Uttarakhand (2016):** Financial aid to panchayats and municipalities was stalled during President's Rule, affecting local governance.

Impact on Law and Order

- **Restoration of Stability in Crisis Situations:** In cases of **internal disturbances or political instability**, President's Rule has helped restore governance.
 - **Punjab (1987-1992):** Due to insurgency, President's Rule was imposed for **five years**, helping restore law and order.
- **Misuse for Political Gains:** Many instances of President's Rule have been driven by political motives rather than genuine governance failures.
 - **Bihar (2005):** The state assembly was dissolved **without a floor test**, leading to accusations of misuse by the Union Government. The Supreme Court later termed it **unconstitutional**.

Impact on Economic and Administrative Governance

- **Stagnation of Development Projects:** With the **state legislature dissolved**, policymaking and **development projects** are delayed or halted. Decision-making slows down as bureaucrats are reluctant to make bold policy decisions.
 - **Jharkhand (2009-2010):** Frequent President's Rule led to **policy paralysis** and stalled economic projects.
- **Impact on State Finances: Parliament takes over budgetary decisions**, which may not always align with state priorities. **Central control over finances** often leads to delays in fund allocation for welfare schemes.
 - **Jammu & Kashmir (2018-2019):** President's Rule led to delays in financial allocations for infrastructure projects.

Impact on Governance and Bureaucracy

- **Bureaucratic Rule Instead of Political Leadership:** During President's Rule, **bureaucrats run the administration** instead of elected representatives. This creates a **gap between the government and the people**, as bureaucrats are not directly accountable to the public.
 - **Nagaland (1975-1977):** Bureaucratic rule was ineffective in addressing local governance issues and insurgency problems.

- **Impact on Decision-Making:** Since **no elected government exists**, major policy decisions are often postponed. Bureaucrats avoid making crucial decisions due to fear of accountability once an elected government is reinstated.
 - **Maharashtra (1980):** Several key projects were put on hold, affecting governance.

Impact on National Integration

- **Perception of Discrimination Against Regional Parties:** In many cases, President's Rule has been used to **weaken strong regional parties**, making people feel that the Union Government is **biased against regional aspirations**.
 - **Tamil Nadu (1991):** President's Rule was imposed after the assassination of **Rajiv Gandhi**, despite the state government being functional.
- **Alienation of States from the Union:** Overuse of **Article 356 leads to resentment** among states, reducing trust in the Union Government. This has particularly been an issue in **North-Eastern states** and **Jammu & Kashmir**.

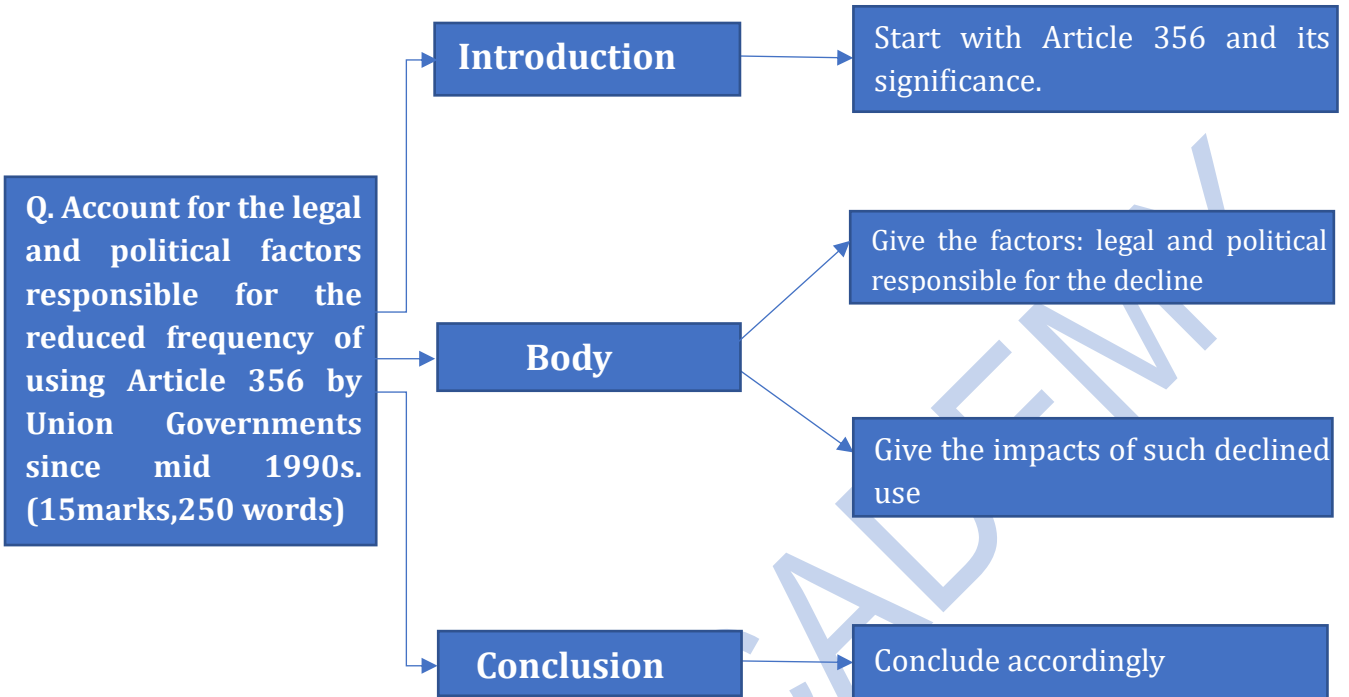
MAJOR RECOMMENDATIONS REGARDING APPLICATION OF ARTICLE 356

- **Punchhi Commission** has proposed to **localize the Emergency provisions under Articles 355 and 356**, contending that localized areas – a district or parts of a district – be brought under the President's rule instead of the whole State. Also, such an Emergency provision **should not be of duration of more than three months**.
- **Sarkaria Commission** did not favour the deletion of this Article. Rather, it suggested the following measures to ensure that the Centre makes use of these provisions only on rare occasions:
 - Article 356 is to be used as a measure of last resort when all available alternatives fail to prevent or rectify the breakdown of the Constitutional Machinery of the State.
 - This provision can be invoked only in the event of political crisis, internal subversion, physical breakdown, and non-compliance with the constitutional directives of the Centre.
 - Before that, a warning should be issued to the errant State in specific terms and an alternate course of action must be explored before invoking it.
 - The material fact and grounds based on which Article 356 is invoked should be made an integral part of the Proclamation, it will ensure effective Parliamentary control over the invocation of the President's Rule in the State.
 - The Governor's report must be a 'speaking document' and it should be given wide publicity.
 - An explanation is to be obtained from the errant State before taking action under Article 356.
 - The Governor should recommend a proclamation of the President's Rule without dissolving the Legislative Assembly.
- **Inter-State Council** established under **Article 263** has made the following recommendations on the imposition of the President's Rule similar to Sarkaria Commission.

PRACTICE QUESTION:

Q. Account for the legal and political factors responsible for the reduced frequency of using Article 356 by Union Governments since mid-1990s. (15marks,250 words) (UPSC MAINS 2023)

APPROACH:



MODEL ANSWER:

Article 356 of the Indian Constitution empowers the Union Government to impose **President’s Rule** in a state if there is a **constitutional breakdown**. The period before 1990 saw a strong Centre which often led to dissolution of state assemblies at times of conflicts.

Legal Factors

- **S.R. Bommai Case (1994) Strict Judicial Review:** The Supreme Court established **guidelines** to prevent the arbitrary use of Article 356.
 - **Judicial review of President’s Rule is allowed.**
 - **Floor test must be conducted** in case of doubts about a government’s majority.
 - **Dissolution of a State Assembly without legislative approval is unconstitutional.** Discouraged politically motivated dismissals of state governments.
- **Rameshwar Prasad Case (2006): Bihar Assembly Dissolution:** The Supreme Court **declared the dissolution of the Bihar Assembly in 2005 unconstitutional**. Reinforced legal accountability and prevented its misuse for electoral advantage.
- **Increased Role of the Governor Under Judicial Scrutiny:** The **role of Governors in recommending President’s Rule** has come under judicial oversight.
 - **Arunachal Pradesh (2016)** – The Supreme Court reinstated the dismissed government, questioning the Governor’s role.
- **Inter-State Council under Article 263** made centre state relations more cordial.

Political Factors

- **Rise of Coalition Governments:** Since **1996**, **coalition politics** has dominated national governance. **Misusing Article 356 risks alienating regional allies**, reducing its application.
 - NDA (1999-2004) and UPA (2004-2014) avoided using Article 356 against coalition partners.
- **Strengthening of Regional Parties:** Regional parties have **become stronger** since the 1990s, making it politically costly for the Centre to impose President's Rule. Post-1990s, states like Tamil Nadu, West Bengal, and Andhra Pradesh resisted central intervention.
- **Political and Electoral Backlash:** **Voters perceive the misuse of Article 356 as undemocratic**, leading to electoral backlash. Congress' overuse of Article 356 in the 1970s and 1980s contributed to its decline.
- **Strengthening of Federalism:** The growing demand for **greater state autonomy** has made President's Rule politically unpopular. The formation of inter-state forums like **NITI Aayog** has encouraged Centre-state cooperation over confrontation.
- **Rise of Regional Parties misuse of article 356 became increasingly difficult.**

Due to **strict judicial oversight, coalition politics, and increasing federal consciousness**, the **misuse of Article 356 has reduced significantly** since the mid-1990s. While it remains a constitutional safeguard, its application is now **guided by legal and political constraints**, ensuring a more **balanced federal structure**.