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S.R. Bommai judgment

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Why is in news? What was the SR Bommai judgment, which the SC relied on in its Article 370 ruling?

In **upholding the abrogation of Article 370**, the Supreme Court **relied heavily on its landmark 1994 judgement in SR Bommai vs Union of India**.

A Constitution Bench led by Chief Justice of India (CJI) D Y Chandrachud upheld the constitutional validity of the **two Presidential Orders CO (The Constitution (Application To Jammu and Kashmir) Order) 272 and 273** of August 5 and 6, 2019 respectively.

Through which the entire Constitution of India was made applicable to J&K, and all provisions of Article 370 were declared inoperative.

About the case:

In Bommai, a nine-judge bench of the Supreme Court **interpreted Article 356** of the Constitution to **define the contours of proclamation of President's rule**.

Article 356 contains provisions "in case of failure of constitutional machinery in States", including that for the **imposition of President's rule**.

While all nine judges **unanimously upheld the provision**, the Court ruled that the **President's decision would be subject to judicial review**.

Bommai is still the settled law on when and how President's rule can be imposed, and was invoked in recent cases challenging President's rule in Uttarakhand (2016) and Arunachal Pradesh (2016), both of which were overturned by the Supreme Court.

Background:

In 1989, the Congress government at the Centre dismissed the Janata Dal-led Karnataka government by imposing President's rule.

After allegedly receiving 19 letters from MLAs withdrawing their support to Chief Minister SR Bommai's government, then Karnataka Governor P Venkatasubbaiah recommended to the President that he take over the state's administration.

He cited two reasons. First, that **Bommai did not command a majority** and, hence, "it was inappropriate under the Constitution," for him to continue. Second, that **no other political party** was in a position **to form the government**.

This move, however, was extremely controversial.

The SC ruling would later note that "the Governor did not ascertain the view of Shri Bommai" before making his report to the President.

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In fact 7 out of the 19 legislators who allegedly withdrew support to Bommai's government would soon make a U-turn, complaining that their signatures on the aforementioned letters were obtained by misrepresentation.

Thus, the dismissed chief minister moved the **Karnataka High Court, which dismissed his challenge** against the Centre. Then, on appeal to the apex court, a nine-judge bench was constituted.

Judgement:

The SC **unanimously held that the President's proclamation can be subject to judicial review** on grounds of **illegality, malafide, extraneous considerations, abuse of power, or fraud.**

While the President's subjective appraisal of the issue cannot be examined, the Court said that the material relied on for making the decision can be reviewed.

The verdict also **made Parliamentary approval necessary for imposing President's rule.**

Only after the proclamation is approved by both Houses of Parliament can the President exercise the power.

Till then, the President can **only suspend the state legislature.**

If the Parliament does not approve the proclamation **within two months**, then the government that was dismissed would **automatically stand revived.**

The ruling also drew a **redline for centre-state relationships.**

The Bommai ruling, one of the first by the SC to scrutinise the conduct of the Governor's office, came at a time when President's rule was frequently imposed to dismiss state governments run by opposition parties.

According to research, the imposition of President's rule **drastically decreased after the Bommai verdict.**

Between January 1950 and March 1994, President's Rule was imposed 100 times or an average of 2.5 times a year. Between 1995 and 2021, it has been imposed only 29 times or a little more than once a year.

Disputes raised due to SR Bommai case:

The case **questioned the Governor's discretionary powers** in recommending the President's Rule in a state.

The **misuse of Article 356** to dismiss state governments on political grounds was a major issue.

It highlighted the need to **maintain a balance** between the federal structure of the Constitution and the powers of the central government.

The case discussed the extent to which the courts could **review the President's Rule proclamation.**

It addressed the issue of whether the **Governor's subjective satisfaction** in recommending the President's Rule could be subjected to judicial review.

Concerns were raised about the **erosion of federalism and states' autonomy** in India.

The case emphasized the **role of political parties** and their alignment with the central government in state politics.

Overall, the SR Bommai case **played a crucial role in clarifying and limiting the use of Article 356 and safeguarding the principles of federalism in India.**

Significance of Bommai judgment:

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The case **becomes one of the most cited whenever hung Assemblies were returned** and parties scrambled to form a government.

The case **put an end to the arbitrary dismissal of State governments** by a hostile Central government.

The verdict ruled that the **floor of the Assembly is the only forum that should test the majority** of the government of the day, and **not the subjective opinion of the Governor**.

SC issues order which stated that, if the **Presidential proclamation is not approved by the Parliament** then,

Both Houses of Parliament **disapprove or do not approve** the Proclamation, the **Proclamation lapses at the end of the two-month period**. In such a case, the government which was dismissed revives.

The Legislative Assembly which may have been kept in suspended animation gets reactivated.

Also the Court made it amply clear that a Presidential Proclamation under Article 356 is **subject to judicial review**.

The Kashmir reference:

A **key question** in the Kashmir case was **whether Article 370 could have been abrogated when the state was under President's rule**.

The erstwhile state had been under President's rule since 2018, and the question before the court was **whether the President could give consent to the revocation of J&K's special status**.

Here, the Supreme Court relied on the Bommai ruling to hold that the **actions of the President are constitutionally valid**.

The Court said that the Bommai ruling held that the actions taken by the **President after issuing a Proclamation are subject to judicial review**, but the judges had adopted varying standards to test the validity of the executive orders.

The Court cited two standards — one by Justice PB Sawant, and another by Justice Reddy. Justice Sawant had set the standard of whether the exercise of power was mala fide or palpably irrational, while Justice Reddy observed that the advisability and necessity of the action must be borne in mind b