

## Constitutional Provisions of President's Rule

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The provisions regarding President's Rule have been introduced in **Part XVIII** of the Constitution. The Constitution of India provides for carrying on the administration of a State in case of a failure of the constitutional machinery. Article 355 inflicts a duty on the Union Government to protect every state from external aggression and internal disturbance and to ensure that government of every State is carried on as per the provisions of the Constitution. As per the Article 355, "It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution."

This duty is very wide. The duty of the Union under Article 355 is of three types:

- (i) The duty of the Union to protect every State against external aggression.
- (ii) The duty of the Union to protect every State from internal disturbance.
- (iii) The duty of the Union to ensure that the government of the State is carried on in pursuance of the provisions of the Constitution.

When an 'external aggression or 'internal disturbance' paralyses the State administration creating a situation drifting towards a potential breakdown of the constitutional machinery of the State, all alternative courses available to the Union Government for discharging its paramount responsibility under Article 355 should be exhausted to contain the situation. Article 355 also casts a duty on the Union Government to ensure that the government of the State is carried on in accordance with the provisions of the Constitution. The remedy for breakdown of constitutional machinery has been provided in Article 356.

Thus, in a situation where the government of a State is unable to protect the people of the State against external aggression or internal disturbance, but would not request the union government to intervene because of political reasons or is itself participes criminis, the duty of the Union Government becomes even more imperative. Article 355 is self-contained and independent of Article 356 and self-operative. Article 356 is not the only one to take care of a situation of failure of constitutional machinery. In case of failure of constitutional machinery in a State, the Union Government can also act under Article 355, i.e., without imposing President's Rule. Also, Union Government can issue certain directions under Articles 256, 257 and 353. Article 355 precedes Article 356 and, therefore, it must be read and acted upon before rushing to take extreme action under the latter provision.

It is noteworthy that the law and order (public order), is a subject of State List and is primarily the responsibility of the State Government. The States' powers are subject to the supremacy of Union's law under the VII schedule of the Constitution and the Union's overall responsibility for the security and peace of the country as a whole. If any state government fails to maintain the law and order in a State and it resists Centre's intervention as to deployment of paramilitary forces or does not cooperate when the Centre offers assistance in exercise of its Constitutional duty and obligation under Article 355, then the Centre can take action under Article 356 and it would be justified.

Article 356 provided power to the President to impose Presidents Rule in case of failure of constitutional machinery in a State. The President shall be authorised to assume powers of the Governor or any other authority in the State other than the Legislature and to declare that the powers of the State Assembly shall be exercise by the Union Parliament. The President can also suspend any provisions of the Constitution relating to any authority of the State concerned, but he cannot assume any power of the High Court. In pursuance of Article- 356(1) 'if the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation

(a) Assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or anybody or authority in the State other than the Legislature of the State.

(b) Declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;

(c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in detailed or in part the operation of any provisions of this Constitution relating to anybody or authority in the State:

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.”

Legal expert, Rajeev Dhavan, observes that a narrow interpretation of the provision of President's Rule is that it must be used only in serious cases and not as an excuse to make possible the political management of the politics of a State. The wider interpretation is that the exercise of the powers given under Article -356 are political in nature and can be controlled through parliamentary safeguards.

Such a Proclamation may also be made by the President under Article 365 of the Constitution, where any State has failed to comply with, or to give effect to, directions given under Articles 256 and 257 by the Union Government. According to Article 365, “Where any State has failed to comply with, or to give effect to, any directions given in the exercise of the executive power of the Union under any of the provisions of this Constitution, it shall 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 this constitution.”

Thus, the President (if India is empowered to impose President's Rule in the State under Articles 356 and 365 where a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the time Constitution. The Proclamation of failure of constitutional machinery in a State is not so much concerned with external aggression or internal disturbance, as with political breakdown, i.e., failure to comply with the Union directives under Article 365. Therefore, the Union Government can take proper action under Articles 355 and 365, before use of Article 356. In this connection a constitutional expert, Subhash C. Kashyap, suggested that Article 356 be read with Articles 355, 256, 257, 353 and 365.

### Notes and References

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