

Politics of Article 356

ON December 14, 1990, President's Rule has been imposed on Goa and the State Vidhan Sabha is kept in "suspended animation". Within one year, Goa has been twice victim of Machiavellian machinations which have distorted India's Constitution and perverted the principles of parliamentary democracy. His Excellency Governor of Goa's reasons for the latest action were reported by the local newspapers on December 16, 1990. Their analysis reveals the politics behind the operation of Article 356 which the people can ignore only at their peril.

By M. J. Awaji

The Constitution of India provides for three types of Emergencies. They are: Emergency arising out of external aggression or internal armed rebellion; Emergency arising out of breakdown of constitutional machinery in the State and Financial Emergency. Article 356 says that if the President of India is "satisfied" on the basis of the report of the Governor of the State or otherwise that the government of that State "cannot be carried on in accordance with the provisions of Constitution", he should impose the President's Rule. Unfortunately, the Constitution does not prescribe precise criteria to determine whether the government of State can or cannot be carried in accordance with its provisions.

Consequently, from 1950 to 1990, Article 356 has been a trump card in the hands of the Union Government to intimidate the Governments of the States. Ironically, in 1959 it was used by Jawaharlal Nehru, India's Ace-Democrat, to dismiss world's first democratically elected Communist Government of Kerala. Under able guidance of Jawaharlal Nehru and his enterpris-

ing daughter Indira Gandhi, the Indian National Congress has used Article 356 not only to dislodge non-Congress Governments in the States but also eliminate their personal potential rivals within the Congress Organisation.

When Article 356 was debated, some members of the Constituent Assembly strongly objected to giving the Union Government power of intervention in the States. Dr. Ambedkar mollified them stating that "the proper thing we ought to expect is that such articles will never be called into operation". He also assured the Constituent Assembly that the President of India will first warn the erring State. If the warning went unheeded, he will immediately order an election to enable people to judge their representatives. In short, Article 356 was to be used by the President only reluctantly and only as the last resort. Events have shown how naive Dr. Ambedkar was! What he thought to be an emergency operation has become a normal feature with abnormal role of the Governor.

His Excellency the Governor of Goa asserts that no new ministry can come until he is "convinced" about its "clear majority" which would be subject to confirmation by the Vidhan Sabha at a date decided by him. With due respect, it must be stated that the Governor's assertion is not only unconstitutional, but also undemocratic. The Constitution of India clearly states that "satisfaction" of Governor does not mean the satisfaction of the person holding the office of Governor but the "satisfaction" of the Vidhan Sabha of the State determined by the means of voting. Therefore, the correct action for the Governor is to direct the contenders to prove their majority first on the floor of Goa Vidhan Sabha and then invite the successful contender to form the Govern-

ment and not the otherway round. If the contenders fail, there should be dissolution of Vidhan Sabha followed by elections within six months. The Constitution does not provide for "suspended animation" of Vidhan Sabha. It only provides for its dissolution. Only the opportunists would argue that power to dissolve implies power to suspend the Assembly. Notwithstanding legal casuistry and political expediency, "suspended animation" is a stimulation to horse-trading by the aspirants to the office of the Chief Minister.

Those who believe that the Governors in India are non-partisan betray complete and total ignorance about the working of this office ever since Swaraj.

In India no person can become Governor or Ambassador and continue in office without the blessings of the Prime Minister of the day. The President's *firman* during Premiership of Mr. V. P. Singh to all Governors to resign their office immediately as well as the Prime Minister, Mr. Chandra Shekhar's shuffling of the Governors should silence the doubting Thomases. Narration of the misdeeds of the Governors during the last forty years need forty pages, but the exercise is not worth the while. In short, that the Governor is the guardian of Constitution in his or her State is a pure fiction. That Governor is only an agent of the political party controlling the Union Government is a pure fact.

Second, the excuse advanced is the need of *stable Government*. Interestingly, on the same day in 1947, two sovereign States were carved by crafty English on the Indian sub-continent. From 1947 to date Pakistan has nothing but unstable and India nothing but a stable Government. Yet the lot of common man in both India and Pakistan ever

since the countries' birth is exactly the same. After forty years of stable Government, Indian pays Rs. 8 per kilo for onions, Rs. 9 for potatoes and Rs. 10 for tomatoes. He cannot get a moderate meal for less than Rs. 20. The common man and woman in Goa do not get work and remain unemployed even after crossing thirty-five. But thanks to the Stable Government in Goa, officials retired at 58 are re-employed till 68 and enjoy their full pensions and additional salaries which exceed their pensions by thousands. Thanks to the Stable Government, the favourite mediocrities of powers that be are appointed as teachers in our Universities and quickly promoted to the higher posts openly violating all rules governing the qualifications and teaching experience both at the time of appointment and promotions.

Empirical evidence shows that the greatest achievement of Stable Government in India is smooth and systematic corruption by persons in High places in politics, business and civil service. Hence, their anxiety and concern for Stable Government is perfectly understandable. What the people in Goa, like people in elsewhere in India, need is a Good Government. That Stable Government is not at all a good Government is as clear as sunlight. In India, just as self-government has ended as the Selfish Government, Stable Government has ended as the Corrupt Government.

How then people of Goa can have Good Government? Goans must provide that:-

(1) No person in his or her lifetime should be elected - be it Vidhan Sabha or Parliament - for more than ten years.

(2) No person in his or her lifetime should be the President of India, Governor, Ambassador, Minister, Chairperson of Corpora-

tions and Banks - be it at the Centre or in the States - for more than five years.

(3) No I.A.S. officer should be in one State for more than three years. No Secretary and no Director should be one and the same Department for more than three years.

(4) The public should know exact annual income collected by way of salaries and allowances plus the market-rent of the State-owned palatial houses with expensive furniture and amenities, chauffeur-driven cars and Government-paid servants in the houses of the Governor, Ministers, M.L.As. Chairpersons of Corporations and Banks, Secretaries and Directors in Goa Administration. It is absolutely necessary to judge what concrete benefits people of Goa derive from such heavy expenditure on them. People of Goa will also know how some parasites enjoy luxurious life at the cost of public exchequer.

His Excellency the Governor rightly advised the Goans to "apply moral pressure" on their elected representatives. But that by itself cannot guarantee Good Government. People of Goa must exercise strict vigilance on the behaviour of not only the elected representatives but also on the behavior of the nominated and appointed officers of the State. It is India's misfortune that if her elected representatives are bad, her nominated dignitaries and appointed civil servants are worse for the following reasons.

First, only the sycophants are nominated, appointed and promoted. Secondly, the elected bad make the nominations, appointments and promotions. Thirdly, the elected bad never nominate, appoint or promote the sycophants as the highest officers of State unless these dignitaries and officers literally lick their shoes and do their dirty work.