

ANALYSIS OF FREQUENT DISSOLUTION OF STATE ASSEMBLIES AND NEED FOR SIMULTANEOUS ELECTIONS¹

INTRODUCTION

'Elections are the means towards the end of serving the people'

- MAHATMA GANDHI

In a multi-party democratic form of government that our nation has, direct elections help the political parties to compete; keeping aside the election contesting objective for public welfare. As highlighted in the above quote by Mahatma Gandhi, the trend since some decades in our country appears to be contrary to the purpose of holding elections. The apparent reasons being tussle between political parties to get in power, frequent elections that come with short term policies to increase vote bank, defections, instability in the government, early dissolution of state assemblies, misuse of the power by central government to overthrow the opposition government in states, etc. To combat these a proposal has been moved to conduct simultaneous elections i.e. elections to Lok Sabha and Legislative Assemblies of the state and to the 3rd tier i.e. Municipal or panchayati elections shall be conducted simultaneously in order to get rid of frequent elections. After independence till 1967 Elections were held simultaneously but then in 1967-68 due to early dissolution of some state assemblies such as Uttar Pradesh & Haryana and then due to dissolution of Lok Sabha in 1970, the cycle disrupted. However, the contrary point to the discussion is whether in a largest democracy like India is electoral expenses and time not affordable? This research paper discusses the cases where early dissolution of assembly has taken place along with the need of synchronized elections as the recent inclination shows that the country is year round busy with elections in some or other part of country leading to administrative chaos & political violence. The divergent viewpoint of how simultaneous

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elections will be bane for democratic and federal structure which forms the basic structure of Indian constitution is expressed. As a proposal to electoral reform feasibility of holding election once in 5 years is discussed.

HISTORY OF EARLY DISSOLUTION OF STATE ASSEMBLIES

A] State of Rajasthan v. Union of India²- The facts of the case are on January 8, 1977 Lok Sabha was dissolved according to the 42nd amendment to the constitution. When fresh elections were conducted in March, ruling party i.e. Congress had lost its majority and Janta Party had secured an overwhelming majority to form government at the centre. In many states such as Bihar, Haryana, Himachal Pradesh, Madhya Pradesh, Orissa, Punjab, Rajasthan, West Bengal and Uttar Pradesh the government was of Congress Party. Hence the Home Minister addressed letters to the Chief Ministers of these states addressing them to advise their governors to dissolve the state assemblies under the power conferred by article 174(2) of the Indian Constitution. A seven-member constitution bench of the Supreme Court held that the satisfaction of the President under article 356 cannot be questioned and consequentially the government in these states were dismissed on grounds that they no longer represent the wishes and aspirations of the electorate.

B] Dissolution of Nine state assemblies- In 1980, when Congress government led by Indira Gandhi came back to power at centre it dissolved assemblies in nine states where opposition Janta Dal was in power. This movement came in a fit of rage against the Janta Dal government. When it dissolved the assemblies led by Congress in 1977 in Rajasthan, Bihar, Gujarat, Maharashtra, Odisha, Punjab, Tamil Nadu, Uttar Pradesh and Madhya Pradesh. In 1967 in Haryana and UP, because of defections the Congress government in both the states lost the

² State of Rajasthan v. Union of India, AIR 1977 SC 1361.

majority and hence sought dissolution of the house. In UP 4th, 6th, 7th, 9th, 10th, 11th, 12th legislative assembly has been dissolved before completion of 5 years term.

C] S.R Bomai v. Union of India³ – Given the fact that article 356 was being widely misused by Union Government to dissolve the state assembly and impose the president's rule, in this judgement, the apex court laid down certain guidelines circumscribing the conditions for proclamation of President's Rule by the Union Government. The guidelines state: a) the dissolution of State Legislative Assembly by the President of India is subject to approval of both houses of Parliament; and b) the validity of proclamation of President's Rule is subject to judicial review. In effect, the President can put Legislative Assembly in suspended animation but cannot dissolve it without concurrence of both Houses of Parliament. The Judiciary can examine validity of such proclamation and restore the dismissed State Government and revive dissolved Legislative Assembly if Article 356 is found to be mala fide in its use but cannot dissolve it without concurrence of both Houses of Parliament.

D] Dissolution of Gujarat Assembly, 2002- Following the Godhra Riots in 2002 which was also referred as ethnic cleansing of Minority Muslims from the state, the BJP govt. moved for dissolving the assembly and going for early elections. The assembly was dissolved and BJP was caretaker government till the new government was made. Though, as stated by Election commission that holding elections in such communally tensed Environment wouldn't be fair, but elections were held and BJP again formed the government.

E] Rameshwar Prasad v. Union of India⁴- In 2005, the president rule was imposed in the state of Bihar on the ground that no party had the required majority of 122 MLAs in 243 member assembly and hence the dissolution had been ordered prior to the sitting of newly formed assembly under article 356(1) of Indian constitution. President's rule was imposed over

³ S.R Bommai v. Union of India, AIR 1994 SC 1918.

⁴ (2006) 2 SCC 1

the State of Bihar and the Assembly was kept in suspended animation. The main question before the court was whether dissolution of assembly under article 356 (1) of the constitution could be ordered on the said ground. In the final order on January 24, 2006 court refused to revive the assembly though the dissolution was unconstitutional. By then as second election had already taken place and new government had taken charge, the old assembly could not be revived

F] Dissolution of newly formed Telangana State Legislative assembly⁵- In September 2018, KC Rao, the chief minister dissolved the Telangana assembly eight months earlier than the due date in order to go for early elections, so as to avoid the elections along with the centre. The dissolution was purely a political motive. KC Rao wanted to avoid the tough competition by BJP and congress at the time as in 2014, a considerable number of voters from Telangana assembly had voted for BJP.

IMPLICATIONS OF S.R BOMAI CASE AND EARLY DISSOLUTION OF ASSEMBLY BY CHIEF MINISTERS

State Emergency under article 356 can be imposed when there is breakdown of constitutional machinery in states due to armed rebellion, internal disturbances or any external aggression. However, state assemblies were dissolved at whims of the government on grounds which have no nexus with failure of constitutional machinery. As observed above in state of Rajasthan v/s Union of India the Janta Government at the centre had tacitly overthrown the Congress government in states by calling the governors to dissolve the houses. The centre could make a

⁵ Telangana cabinet calls for dissolving state assembly, asks for fresh mandate, <https://economictimes.indiatimes.com/news/elections/assembly-elections/telangana-assembly-elections/kcr-resolves-to-dissolve-assembly-moves-guv-for-early-polls/articleshow/65699540.cms>ET, last visited on Sep 06, 2018,

state run according to its whims through governor as governor is appointed by president after consulting the cabinet ministers. As had happened during V.P Singh government the governors appointed by congress government were removed stating that the governors shall be changed with the change of government at the centre. The office of the governor has been devalued for political gains many times. The same act of dismissing governors as done by V.P singh government was done by congress party in 1991. The 1991 government changed the governors of previous government in at least 14 states. The congress government had then appointed its own governor and those governors had dismissed the government in Madhya Pradesh, Himachal Pradesh and Rajasthan. Hence the 9th Legislative Assembly of Rajasthan was dissolved and president`s rule was imposed from December 1992 to December 1993⁶. Even in MP, assembly was due to dissolve in 1995, however the government at the centre prematurely dissolved the assembly in 1993, then congress government was formed in the state. The government at the centre had time and again used the position of governor to dissolve the house. The discretion exercised by the governor is non-justiciable and cannot be challenged on ground of mala fide intention so to do⁷. However, this wide power conferred on governors was challenged in S.R Bomai`s case where guidelines have been put up. Imposition of president`s rule in a state is made subject to judicial review.

After the S.R Bomai case the frequent hasty dissolution of state assemblies was brought under control. Dissolution of assembly on grounds where members of assembly has moved vote of no-confidence motion can be replaced with constructive vote of confidence and the alternate government can rule till the time assembly is due to dissolve. Dissolution of assembly on grounds where none of the parties has secured majority as had been the case in Bihar in 2005 could be resolved by alternate means such as party agreeing amongst them to provide support

⁶ Rajasthan Legislative Assembly, House tenure and party position, <https://rajassembly.nic.in/OverviewHouseTenure.aspx>

⁷ Kalyanam Veerabhadrayya v. The King, AIR 1950 Mad 243.

from outside or it is high time for some electoral reforms such as introducing Single Transferrable Vote(STV) as is prevalent in United Kingdom where voters can rank the candidates according to their preference number. So voters can cast their votes based on party preferences and candidate preferences. This will realise the whole purpose of democracy. The dissolution of Legislative assembly where a regional party government fears loss of power if elections to the Assembly and Lok Sabha are held simultaneously such as recently when KCR govt. in Telangana went for early dissolution of state Assembly to avoid simultaneous election is not within the grounds of dissolution of legislative assembly and such dissolutions shall be avoided or president`s rule shall be imposed to avoid frequent back to back elections. Another political gimmick happened during Gujrat legislative Assembly elections immediately after the godhra riots, when the state was communally tensed, the govt. saw it as opportunity to gain back to power with full vigour.

WHY IS SIMULTANEOUS ELECTION FEASIBLE?

1] Populism - When there are frequent elections happening all across country and as the State Assemblies seems to be dissolved frequently due to instability in the government the objective of any govt. is to usurp as much as benefit it can during its tenure for itself rather public welfare. Thus, the political parties campaign in a way which appeases vote bank either from marginalized sections, or middle class or dominant caste ideology. Like in the run to 2019 general Elections, the congress government has come up with NYAY Scheme (Nyuntam Aay Scheme) which promises 72000annual income for poor people. Such freebies or give away money for welfare are fruitful only in the short term but such schemes in the long run makes a poor handicapped and reliable only on state welfare measures. Then the BJP campaigning for Aayodhya which is again an appeal to majority Hindu community Serves a populist measure

to lure the voters. Populism is the reason why many regional level parties such as Trinmool congress party led by Mamta Banerjee, AIADMK led by late Shri. Jayalalithaa who have given many freebies, has survived. The Mamta Banerjee government has appeased people through populist measures. Such gaining of confidence and the continuance of one political party has severe repercussions such as the CHIT fund scam in West Bengal and the dharna by the Chief Minister Mamta Banerjee in not allowing the CBI for investigation by intervention of State Police machinery. If elections are held simultaneously and only after 5years tenure unless the constitutional machinery breaks down, govt. can focus more on progressive long-term schemes.

2] Corruption- With the Electoral Bonds scheme where any company can donate to a political party as much as donation it wants to without disclosing the name of the donor from State Bank of India and such electoral bonds will be open at bank once in every quarter of financial year. So if in some or other states Elections are held simultaneously it is quite possible for any political party to set up a dummy Company. Also otherwise in the balance sheet of the company the amount donated will go unaccounted. So if elections keep happening round the year, the influx of black money to fund this political parties will happen and then the political parties as a norm will have to return the favours to the same which goes in saying that there will be less all class inclusive economic, social, educational- development but more of favouritism between government and corporates. In the run to 2019 general elections the Income-Tax department carried out 15 raids in the last 6 months⁸. In one of the recent conferences organized by Association for Democratic Reforms (ADR)20, dr. S.Y. Quraishi, former Chief Election

⁸Aanchal Magazine, What Govt. calls neutral: Six months, fifteen raids against Opposition, , <https://indianexpress.com/elections/what-govt-calls-neutral-six-months-fifteen-raids-against-opposition-5667781/>, Last visited on 10.4.2019

Commissioner, remarked “elections have become the root cause of corruption in the country”. He further mentioned that “after winning elections, the politician-bureaucrat nexus indulges in “recovering the investment” and that is where corruption begins. Campaigning and publicity often leads parties to spend more than the prescribed limits which often finds its way through black money and this increases corruption in politics.

3] Violence during Elections- With elections round the corner convoy of CAPF, Police personnel has to be deployed in Large numbers at every polling booth. Instances of violence at polling booth are very rampant. Elections during any communal violence becomes more tensed but political parties enjoy the atmosphere as they take forward the cause of particular community. After the Godhra Riots, then CM of Gujrat found it favourable atmosphere to dissolve the assembly and moved proposal for early elections. Year round the deployment of CAPF during elections, campaigning leads to disturbance of normal public life as well. .Dr.S. Y. Quarishi, former Chief Election Commissioner noted that “elections are polarising events which have accentuated casteism, communalism, corruption and crony capitalism. If the country is perpetually on election mode, there is no respite from these evils. Holding simultaneous elections would certainly help in this context”⁹

4] Election Mode- Whenever the state or country is in Election mode, the campaigning, Personnel deployment, impediment of local businesses and policy paralysis during imposition of model code of conduct lead as consequence. Elections in one particular state also affect neighbouring states. Elections to 16th Lok Sabha were held in March-May 2014. Along with Lok Sabha elections, elections to 5 state assemblies were held- Andhra Pradesh, Arunachal

⁹ SY Quraishi, Holding LS, Assembly Polls Together is Desirable But Not Feasible, <https://www.thequint.com/voices/opinion/holding-ls-assembly-polls-together-is-desirable-but-not-feasible>, Last Visited on 5.9.16

Pradesh, Sikkim and Odisha. This was followed by elections to State assemblies of Maharashtra and Haryana in September - October 2014; followed by elections to Jharkhand and J&K assemblies in October - December 2014; then re-elections in NCT Delhi in jan-feb2015; Bihar assembly in sept-nov2015. Elections to state assemblies of Assam, Kerala, Puducherry, Tamil Nadu, West Bengal were held in March-May 2016¹⁰. Assuming that Model Code of Conduct must have been imposed for a period of 2 months in each states, so in year 2014 MCC was imposed in entire country in March-May 2014 and separately for another 4 months as elections to Maharashtra, Haryana, Jharkhand, J&K state assembly was held separately. Then immediately after J&K assembly election MCC was again imposed for NCT Delhi elections. The central government for Lok Sabha election and state government for assembly election have to bear the cost of conduct, monitoring, supervision, and by generating short term employment as manpower for conduct of elections. In case Lok Sabha and Assembly elections are held concurrent the cost is shared by central and state government. Candidates also incur cost of campaigning, Publicity and travel. According to the data obtained from Election Commission of India it shows that from 2017-2021¹¹, the entire country faces election in more than 7 states every year and not more than 4 states have elections due in the same month of calendar year which makes the country year round busy with elections and entangled in MCC.

DRAWBACKS OF SIMULTANEOUS ELECTION

1] Federal & Democratic character of Indian constitution- Simultaneous Election is against the Federal character of Indian constitution. The state`s liberty of contesting elections will rest upon the centre. Under article 172(1) of the Indian constitution, the tenure of State Legislative

¹⁰ Election Commission Of India, Assembly elections, <https://eci.gov.in/assembly-election/assembly-election/>

¹¹ Ibid.

assemblies is 5 years. The assembly can be dissolved if constitutional machinery breaks down or the term can be extended by one year if there is a state emergency. In order to conduct simultaneous elections, the terms of state assemblies will have to be extended or shortened. This requires an amendment under article 172(1) by a special majority and ratification by states will be needed. If the circumstances necessitate the dissolution of assembly and conduct of re-election, then as per the Law Commission report on simultaneous elections the term of such new assembly will be for the remaining period of existing dissolved assembly. This violates democratic principle as the new government was elected by the people and hence it shall be given full 5 years tenure as given in the article 172(1) of constitution. Also considering if Lok Sabha is dissolved prematurely and re-election becomes necessary then in such case all the state assemblies will have to adjust their terms in a way to synchronize the next elections simultaneously with Lok Sabha. The amendment if done will be violative of federal structure of Indian constitution as the state legislature will be no longer able to dissolve the assembly if circumstances warrants so. Also, as the issues of states are different, clubbing their elections with centre will not render a participatory democracy.

2] Party-based democracy- India is a multi-party democracy system. Hence if simultaneous Elections will be held, the regional parties will fear their survival as the muscle and money power of a National party is far greater than theirs. Also a regional party represents the aspirations of the people in that region. The huge power of campaigning of any National level political party will have a chance of gaining majority in states where regional party is leading. If any national party becomes majority at the centre and the states it will lead to exercise of abrupt power which is contrary to party based system of democracy and if any vote of no confidence is passed in Lok Sabha it will have the effect on state assemblies as well which will bring destability in the entire country at once. Any regional party represents the community either by language, class, caste of that particular region or locality which is inherent idea of

democracy. A Research by IDFC institute shows 77% chances that voters chose the same political party for centre and state during simultaneous elections¹². The same study shows 48% chances of voting to the same political party when elections are held even after six- month time of National elections.

3] Regional Tensions- Every Indian state is dealing with either social, communal, economic, cultural, tensions because of which conducting simultaneous elections in such states at times when the tensions are still going on becomes impossible. For e.g. The state of Jammu & Kashmir is in constant disturbance, similarly Assam is currently facing the NRC issue. In 2017, Telangana was demanding status of separate state, now vidharbha, Chattisgarh is facing the Maoists issues. North- east is also a sensitive zone as tensions from china has increased. In such situations holding simultaneous elections is not possible. Also, the very fact that in all the constituencies in a state, elections are not held in single phase then thinking of simultaneous elections in entire country is practically not possible.

4] Parties become less responsive- If once in 5 years elections will be held, then considering the attitude of political parties, they will work only in the last 2 years` tenure. Frequent elections in one or other states keep political parties competing and thinking of increasing their vote bank because of which political parties also look for introducing sound Economic and social policies for the welfare of people. Voters compare the functioning of the political parties based on their promises they make during campaigns, their work in a particular state after they win the elections to determine if they shall give their votes to same political party ruling in neighbouring states. This mostly keeps National parties run on their toes. Also, the needs of whole India are fast evolving and becoming obsolete. What might be the need of states like

¹² Praveen Chakravarty, Different vote for state and centre? Live mint, <https://www.livemint.com/Opinion/O3hCQggLS2ASxW5zz8fJ6K/Different-vote-for-state-and-centre.html>, Last visited on 3.12.2015.

Chattisgarh, Gujrat, Uttar Pradesh 5 years before election, it may not remain same after 2 years of completion of tenure. Every state has its own social, Economic, Justice, Reformatory, Political issues which keeps evolving faster & hence the idea of simultaneous elections will not meet the demands of electors.

CONCLUSION

As a mode of electoral reform, simultaneous Elections is not so far a good option. It is possible to get rid of frequent elections to some extent by looking into the political cause that lead to dissolution. The vote of no confidence can be replaced by constructive vote of confidence as had happened in 1977 during Waghela Government. The fact that India is a multi-political party culture where each political party has its own ideology representing the class, caste, region, language, religion, occupation, etc. in such scenario it is destined that each political party will fight its rivals hard to gain power as all parties have different sets of ideologies they want to carry forward. The wants of each state are defined by the Location, culture and religious practices and as federal structure, Democracy, free and fair elections, is the basic structure of the Indian constitution, simultaneous elections will violate the core principles. The electoral expense and black money problem will howsoever continue to thrive even if the country is in simultaneous election mode. In the entire country, simultaneous elections at one go is not possible just like the assembly elections which never happen in single phase. If the whole country will at same time be in election mode, the state will be short of personnel, electoral officers, machineries to monitor the conduct of free and fair elections. Even when conducting elections in a state assembly there are frequent incidents of violence and assaults at polling booth, intimidation of voters, failure of EVMs. Campaigning activities in entire state will lead to more administrative chaos, terrorism, smuggling activities can increase when entire attention is focussed on elections. It cannot be ruled out that frequent elections are putting the state in

policy paralysis state but simultaneous elections for that will not serve the purpose of conducting elections as enshrined in constitution.

Though ONE NATION, ONE ELECTION in 5 years seems not a good option but as a matter of electoral reform what can be done is Elections to state due in a calendar year can be held together so that back to back elections in the whole year can be avoided. It is agreed that frequent election often leads political parties to expand their voter- bank by using appeasement politics and introducing short-term policies but elections once in 5 years will make political parties much irresponsible to the needs of its people. Corruption problems can be resolved by introducing transparency in banking system. Like the Electoral Bond, apparently non transparent method of funding elections more than the prescribed limit can be replaced with more transparent, just and impartial system. Casteism & Communalism during elections can be controlled if some punishment is determined for conduct of political parties on campaigning using these agendas. India is the largest democratic country, with quasi-federal structure, having multi-party political system and hence Simultaneous elections is not feasible option.

