

Rajya Sabha- A Hampered Process Of Indian Federalism

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Abstract: Rajya Sabha has been reduced to a secondary role within Indian federal system. It is functioning as if it has no federal obligation to defend and nurture the rights and powers of states within federal apparatus. There is the need for political reforms like economic reforms to restart the hampered process of Indian federalism. Time has come to empower Rajya Sabha with more powers which will ensure that it will function as a most important federal institution within Indian political system.

I. INTRODUCTION

RAJYA SABHA a hampered process of Indian federalism is an article written in an effort to illustrate the need to further the project of political reform vis- a -vis economic reforms. Like an economy requires time to time changes in its structures and functioning which are called economic reforms similarly a polity also requires time to time changes in its structures (constitutional and administrative) so that it could empower people. India a country with large number of nationalities which varies in size and their geographical locations cannot claim to empower them with in the present functional structures of parliament and state legislature. Rajya Sabha could not fulfill the promise of representing the interest of states of Indian Union. Because the circumstances under which Indian Union was born was not very propitious for the formation of a federal polity. Indian freedom struggle gave priority to achieving political freedom from the colonial rule and capturing the state apparatus than to issues like fate of states which were yet to emerge from their historical circumstances.

II. FEDERALISM AS PROCESS

One of the leading exponents of federalism Carl J. Fredrich has defined ----- federalism as a process rather than a static constitutional setup. Therefore it is essential that once the identity and formation process of states have reached a certain level of maturity the process of federation needs to be

restarted. In praxis the process of federation has been going on despite constitution remaining static in its federal scheme of things. Semi-federal polity of India has been transforming itself into more federal polity, some basic examples of this process are - the arbitrary misuse of governor's power has become more controversial, emasculation of centralized planning process and end of planning commission, increase in the allocation of funds for states from the exchequer of government of India by finance commission. Driving force behind these changes has been the provincialization of Indian politics and party system in general in India as the Indian republic has gained in maturity. After more than six decades of its functioning dominance of one particular political party has declined and despite the rise of BJP as second major nationalist party these both parties cannot claim to that they are dominant parties of all the states of Indian union. Diversity of India has provided an ample place for the existence different regional, ethnicity and caste based political parties. Politicization of different regions and strata's within their respective societies has given birth to different political parties at state level. Even both largest political parties Congress and BJP despite their centralized bureaucratic hierarchies are forced to give more leeway to their provincial leaders. This has helped in further democratization of Indian democracy because it has allowed people and communities of diverse strata's of different regional societies to get their representation within the formal political structures.

III. NEED FOR REFORMS

Despite all the above mentioned processes which have helped the federalization of Indian polity which in term has led to genuine empowerment of the people there is one but most detrimental flaw in the path of federal process is the archaic structure of Rajya Sabha. Time has come to end its role as a placement cell for unelectable party workers and who serve as agents of their party bosses. First and foremost is the equal representation of the all the states in the house representing states in a federal polity. The nature of their election also need to be change it should be direct at least for one member another member should be elected by the representatives of ULBs (urban local bodies) and (Panchyati Raj Institutions') PRIs. If necessary another member must be allowed if there exists different Ethnic minorities within that state who have their own autonomous territorial councils or separate administrative apparatus. We have inherited our fifth and sixth schedule from the British administrative apparatus which they gradually development for various tribal regions. But subsequent agitations and demand for autonomy of particular tribe led to the formation of an Autonomous Territorial Councils. Assam, Nagaland, Manipur, and Meghalaya are some of the states which come under this provision.

Now time has come to end the discretionary powers of governors over the administration of these councils within the preview of governors, it is far better to bring them under the formal federal apparatus and minorities within such autonomous region should also get their due representative into Rajya sabha. Tribal regions coming under the fifth schedule with their notified Schedule Areas should also have their own on representatives in Rajya Sabha. Practice of appointing nominate members from different fields like culture, art, music and sports should end rather those candidates should be nominated who has contributed in the fields of public governance, public welfare, state finance and local governance.

IV. CENTRALIZATION OF POWERS

Historical legacy of a centralized planning which envisaged a heavy –industry- based import substituting industrialization strategy for India after independence has necessarily augmented the economic powers of the Centre. Entry 20 in the Concurrent List ('Economic and Social planning') enabled the Centre to direct resource allocation and by virtue of the powers conferred by the Union List 52. Over the years on the name of public interests centre has legislated laws like The Industrial Development and Regulation Act 1951, The Mines and Minerals (Development and Regulation) Act 1957, the National Mineral Policy of 1993, The Forest conservation act 1980 and the Oil Fields (Regulation and Development Act 1948, and the Environment Protection Act 1986 are examples of different legislation in which centralization of power has expropriated the powers of States and local governments.

Rajya sabha should have the power to determine the fate of such kind of legislation declaring any Industry and natural

resource of national importance and thus bring it under the jurisdiction of Centre Government, it should not be passed without getting the majority in Rajya Sabha. Rajya Sabha should have veto upon such kind of legislation.

V. ACTIVE PARTICIPATION OF STATES IN ECONOMIC REFORMS

Fiscal Responsibility and budget management act which passed by the parliament should come under the purview of Rajya Sabha. This act is presently structured and applied from the Central government and Rajya Sabha with its present characteristic will never negotiate with Central Government the essential requirements of different states. Economic reforms in general have been initiated by the centre or to borrow from Rob Jenkins are introduced by stealth, but they all had drastic ramifications on the functioning and economies of state within the unions.

Now the time has come to empower the state with equal say in reforms as partner rather than as passive recipients of the actions of Centre. Present method of consulting states with the formation of committees of empower group of chief ministers is also good but if Rajya Sabha is restructured in a more representative way it would have provided a much larger and bigger platform for it. Principles of federalism and democratic form of government demands that state should be consulted not only informally rather their process of consultation can be constitutionally established.

VI. PROBLEM WITH CENTRAL SECTOR PLAN AND CENTRALLY SPONSORED SCHEME

Centrally Sponsored scheme - has become a very essential component of centre – state fund transfer. Assistance given to states via centrally sponsored schemes, constituting about 20 per cent of the total transfers, the most controversial component of transfers. These programmes have provided the central government an instrument to interfere with the state's allocations. Untill 1969, when the volume and pattern of assistance to state plan were decided for each project, the Central government did not need find the need for these transfers. But once plan assistance was given according to the Gadgil Formula, the Central governments took these resources to these specific –purpose transfers and expanded them significantly. Most schemes are designed at the Centre level, applied uniformly to all states without taking account their institutional realities. Most of these schemes require that new employees be created beside state should fund a smaller proportion of the scheme, which burdens state's exchequer too. Tragedy is this that CSS made by Central government and to be implemented by the state government. These CSS are curbing the new innovativeness and initiatives which states could have take on their own by getting money from Centre but devising their own methods for tackling problems like poverty, health, irrigation, agriculture and many more but they have been forced to follow the dotted lines. At time when different sectors of our economy has been opened for

competition this aspect of our political-economy is pretty much monopolized by the Centre.

VII. NEED FOR PROVINCIALIZATION OF FINANCES

The reason behind this is that as Indian politics has witness rapid provincialization it has not been simultaneously led to provincialization the taxable income. Distribution of financial resources has not gone vis-à-vis with the distribution of political powers, although overall distribution of money transfer to states has increased. But the present transfers of funds are coming under the condition and stipulations setup by the centre with a legitimized proclamation that it is centre's money. Our historical legacy of centralization, constitutional structure, simple majority electoral system and bureaucracy has made it easier for the elites at the centre to bypass states' autonomy and directly transfer funds to district level in order to maintain Centrally Sponsored Scheme which serves the demagogic purpose of illustrating the Ownership of the scheme beside provide the benefit to the needy. Centrally Sponsored Scheme is a method of Central government to keep connected with people at the grassroots which is in itself is not bad but its long term costs are really harmful for Indian Democracy. States are in far more better positions to formulate and implement policies regarding health, basic education, irrigation, sanitation, agriculture, poverty alleviation and transportation. Indian states have their own unique geographical, economic, cultural and historical environments which only their state governments are able to understand beside state government is far more responsible to the people of that state. Electorate of a state is far more powerful in determining the fate of State Government then the fate of Centre government. Centre should withdraw from policy formulation for all the areas like health, primary education, irrigation, afforestation, agriculture, poverty alleviation, slum redevelopment, urban planning and sanitation and limit its role to advise and monitoring so that if states will falter in their commitment should be penalized. Time has come to initiate state level policy formulation and its subsequent implementation Centre should limit its role to punishing the errant state governments.

VIII. FINANCE COMMISSION AND NEED FOR REFORM

Finance commission should be bestowed with its true glory which planning commission has stolen from it for many

decades because of centralized planning. The terms of references of Finance commission regarding the distribution of net proceeds of taxes which are divisible between centre and states, beside principles which should govern the grants –in-aids of the revenues of the states out of the consolidated fund of India should not be determined by the president of India rather Rajya Sabha should also have an essential role in it. It is Rajya Sabha which could present a counter perspective of states vis-à-vis centre regarding the distribution of resources between them.

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