

# THE MALADY OF GOVERNANCE IN OUR COUNTRY

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The Government of India has appointed a Constitutional Review Committee under the Chairmanship of the learned former Chief Justice of India, Justice Venkatachaliah. Justice Venkatachaliah made it clear to the Government on the day he was offered Chairmanship that he would accept the Chairmanship if the basic structure of the Indian Constitution would not be changed as has been held by the 13 Judge Bench of the Supreme Court in *Keshvanananda v. State of Kerala*.<sup>1</sup> The highest bench of 13 Judges of the Supreme Court in their Majority judgment identifying the basic structure of the Constitution of India held that even the 2/3 majority of the Parliament could not amend the basic structure of the Constitution of India.

In fact we do not necessarily need even a written Constitution for the proper governance of an independent politically sovereign society. The best example of it is the U.K. where they never had a written Constitution and they developed the Parliamentary form of Government through the conventions which they do very rigorously follow. For instance, once a Speaker is appointed, the convention is “once a Speaker always a Speaker”, and then he becomes an independent person and does not belong to any political party. We claim that we follow the British parliamentary system. But this writer humbly submits that right from the time our Constitution was promulgated we never tried to follow this most important convention of the parliamentary system of government which lowered the standard of our parliamentary functions day by day and the speakers are influenced by the party to which they belong.

## I. THE MALADY OF GOVERNANCE

It is true that we by and large have the parliamentary system in our country but we do not follow the kind of conventions and behaviour which is expected from the Parliament. Most of the time of the Parliament is wasted in unnecessary personal disputes between the various political parties just to gain power and defeat policies of the Government in power even though the

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1. AIR 1973 SC 1461.

same party in power wanted to follow the same policies. For instance, when Narsimha Rao was the Prime Minister it was the Congress party which started the New Economic Policy in the year 1991. However, Sonia Gandhi as the President of the Congress Party is putting hurdles before the present Government when the Government wants to introduce the second generation economic reforms. Thus it is clear that the party in Opposition wants simply to oppose the Government and that amounts to wastage of the time of the Parliament. The Parliament's time is very invaluable and the wastage of time means that the Parliament is not able to perform important legislative function. For example, with the introduction of the new economic policy, we need to review the whole field of industrial relations, if we really want to induce the foreign investors to invest in India. The policy of the politicians is whenever there is bad governance and corruption in society, they initiate the debate that we should have the Presidential form of Government. Our Constitution was framed under the learned Chairmanship of Dr. B.R. Ambedkar. Even he cautioned in the Constituent Assembly that we may have the best of the Constitution but ultimately it would depend on the highest functionaries as to how do they perform. Even the best of the Constitution can be nullified if those who are the important functionaries under the Constitution act arbitrarily. What we need is not the change in the Constitution but the change in the morality to govern under the Constitution. Our Constitution withstood all kinds of storms and political instability and has proved the faith of the people in democracy and is geared to the philosophy of socialism, secularism and democracy. To talk of Presidential form of Government means bringing in authoritarian rule which is not accountable to the people. If we think of the Presidential form of Government the result could be as it happened in Pakistan many a times. The merit of the parliamentary form of government lies in the fact that the Government is accountable to the Parliament and ultimately to the people at the time of elections.

Dr. L.M. Singhvi, a learned Advocate, is of the view that after the existence of our Constitution for 50 years the time has come that there should be review of the Constitution. The views of Dr. L.M. Singhvi are not sound on the ground that already 90 amendments have been made in our Constitution. Now that Constitutional Review Committee has been established it will have to work seriously and rigorously because we have observed whenever any amendment has been made to the Indian Constitution most of the times these were made only to satisfy the political ambitions and not with a justifiable necessity or for the betterment of the people. The long cherished necessity of the need of free and compulsory education for children up to the primary education level should be guaranteed under the Constitution and

to this effect the writer believes the Constitutional Review Committee should take care of this urgent need of the society particularly for the poorer sections of the society in India.

## II. FUNCTIONING OF THE CONSTITUTION

It is true that our Constitution is one of the best Constitution framed in the world which provides Parliamentary form of Government and is supposed to function primarily on the lines of British parliamentary form. In this system of the Constitution Prime Minister is first among equals amongst other Ministers in the Cabinet. There is supposed to be collective responsibility of Cabinet and whatever decisions they take, it is the Cabinet as a whole which is responsible through the Parliament and the ultimate sovereignty lies with the people .

In India, theoretically, we have basically the Parliamentary form of Government. Being a Republic where President is the Chief executive of the Government and, therefore some nominal features of the Presidential form of Government are present where as in the U.K. the King is the Monarch whose office as a Crown continues and the successor of the Monarch or the Crown is appointed on the basis of the rule of primogeniture which means that the eldest son of the Monarch when he dies becomes the Monarch and in case there is no son then the eldest daughter of the Monarch inherits as the Queen. In spite of the fact that there is monarchy in the U.K. the Monarch is basically a rubber stamp as he or she is supposed to act only on the advise of the Cabinet as tendered to the King or Queen.

We started with this assumption that our system is a parallel kind of system as it is followed in British parliamentary form of Government. Under Article 74 (1) of the Constitution of India, the President shall act and exercise function according to the advice of Council of Ministers, provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration. Article 74 (1) is not in tune with parliamentary form of Government and precisely for this reason the Presidents have a number of times interfered with the advice tendered by the Council of Ministers which is not a healthy sign as it was supposed that, which can be seen from debates from the Constituent Assembly, our President would function in same fashion as the King or Queen of the U.K.

Moreover, though on paper, our Constitution is well documented and appears, to be democratic in nature, however, as our Constitution retained the same bureaucracy in the form of IPS or IAS services as in the Government of India Act, 1935. Therefore, the functioning of bureaucrats has been just as if they are functioning during the colonial period. This writer

is firmly of the view that unless our bureaucracy functions for the welfare of the people, the country would remain democratic on paper and will be functioning in colonial manner.

After independence, we have observed that there has been remorseless increase in the cost of the Government which has been accelerated by increasing and constant expansion of the bureaucracy. After independence, Congress has ruled upto the year 1977, intensified bureaucracy and made enormous investments in public sector on grounds of socialism. Unproductive jobs were created in order to gain power by bureaucracy, enormous new projects were started particularly in areas of irrigation and power which were ultimately scrapped and proved to be wasted expenditure of the Government. A huge investment in public sector was made and rough estimates of Rs 2,80,000 crores investment were made in public sector and there were very meager return of around 1.5%, infact on these investment minimum of 6.6% return should be there. So in the public sector, we got highest administered price of iron, steel, coal and electricity etc and whenever a public sector undertaking wouldn't show profit and underwent losses, the Government went on giving money to the public undertakings to compensate their loss which affected the masses in the form of accelerated taxation. Such planning on the part of Government to invest in public undertakings in the name of socialism is one of the single most important factor which has given rise to rising prices, rise in taxes and slow rate of economic growth in India.

### III. NEW TRENDS OF GLOBALISATION & FREE MARKET ECONOMY

Now in the age of globalisation, when the world is very small, and the trend is free market economy in the world, India cannot afford to live in isolation and has to compete economically so that it can survive in the present world. That is why it became essential to introduce a competitive and viable economy in the year 1991 for which credit goes to Dr Manmohan Singh. Even now the Government is thinking to introduce second generation economic reforms but the biggest problem in India is that working class has lost its work-ethics. This is partially because of the observance by the working class that the bureaucrats and the politicians have become corrupt so they have lost interest in work. Moreover, trade unions are very strong in this country that is why policy of disinvestment in public sector and the opening of the economy to the world has not been satisfactory. If we really want foreign direct investment (FDI), the business is to run on profit lines because nobody would like to invest unless he sees that there would be profit in investment and the investment is safe also.

Above all, even the management of industries whether in public or private sector undertakings in India are not run on modern scientific lines. During the Prime Ministership of V.P. Singh, he wanted to encourage that the labour would have a say in management and wanted to give managerial role to labour in the form of worker's participation in management. In the year 1990, a bill was introduced in the Parliament called as Worker's Participation in Management Bill, 1990. However, even after 10 years it has not been passed by Parliament and politicians are busy with some other things rather than thinking of proper management of the country.

#### IV. CONCLUSIONS AND SUGGESTIONS

The reasons of the malady are that we Indians have the habit of blaming others even for the bad governance on our own part. The highest functionaries under the Constitution of India blame either others or they believe that our Constitution has some defects and so there should be changes made so that the governance of our country can become effective and smooth. This writer is of the view that it is only an excuse and the highest functionaries of our county want to hide bad governance and the malady of corruption in our society which has taken deep roots in the whole society. This has been made possible by the criminalization of politics and nexus between bureaucratic corrupt functionaries, criminals and the politicians. In order to improve the system of governance, we as the citizens of India particularly the important functionary under our Constitution have to firmly resolve that they will discharge their duties with the consensus efforts to do justice, with the object of welfare of the people without fear and favour of any person.

Once the Constitutional Review Committee has been established, it has to perform very delicate and important functions in order to give efficient, smooth and effective governance. The review will have to be concerned itself with salient issues like area of governance, primarily federalism reforms and attainment of the political stability of the country. This has become more important particularly after the J and K Legislative Assembly has passed the resolution for autonomy of the Jammu and Kashmir State. Even Sarkaria Commission concerning Center and State relations had recommended more devolution of powers to the State. Thus one of the primary functions of the review committee should be to recommend proper devolution of the powers to the States keeping in mind the interest of the country and the political stability.

The review committee should also concern itself seriously for the issues in the arena of rights and justice of the people for economic rationalism with a view to bring about the role of bureaucracy or the civil servants for the welfare of the democratic society as compared to a colonial society.

In the era of new economic reforms and globalization, we have also got to think seriously about the role of the public sector undertakings, rationalization of the work force, the role of modern technology with particular emphasis on globalization and also at the same time to provide for the social responsibilities of industrial undertakings. This has become more important because if the present economic reforms do not take care of the vulnerable and destitute sections of the society, it will lead to imbalance and inequality in economic terms among the rich and the poor sections of the society.

In the era of free market economy and globalization, the management whether in the public sector or private sector has to become more responsible and sufficiently trained where the modern information technology will be guiding factor for the growth and development of industries. Even the role of unions should not remain as used to be in the so called socialist society in India. The unions will also have to perform well with the morally based work ethics so that the productive forces in industrial sector in India can compete with rest of the world.