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News: 30th anniversary of SR Bommai vs Union of India case

- The **S. R. Bommai v. Union of India** case, decided by a nine-judge bench of the Supreme Court of India in 1994, restricts the arbitrary dismissal of state governments under Article 356. Celebrating its 30th anniversary, its impact persists in shaping India's constitutional framework.

S. R. Bommai v. Union of India case

Background

- In 1985, the Janata Party won the Assembly elections in Karnataka and formed the government with Chief Minister Ramakrishna Hegde. Hegde was later replaced by SR Bommai in 1988.
- In September 1988 a legislator from the Janata Dal, defected from the party along with 19 other members of the Legislative Assembly, withdrawing support from the Bommai government.
- The state government was dismissed by using Article 356 due to majority loss from defections. Bommai's request to test the majority was denied by the governor.

- Bommai sought relief in the high court, which ruled against him, leading to an appeal to the Supreme Court.

Supreme Court Judgment

- A nine-judge bench of the Supreme Court emphasised that the Presidential Proclamation under Article 356 must be exercised with caution, as advocated by Dr. B.R. Ambedkar and recommended by the Sarkaria Commission.
- Both houses of Parliament must thoroughly analyse the Presidential Proclamation as per Article 356(3).
- If the proclamation is issued without the approval of both houses, it lapses within two months, and the state assembly resumes its function.
- The Supreme Court can subject the proclamation to judicial review and entertain writ petitions challenging its legality if they raise arguable questions.
- Clarified that the President's power to dismiss a state government is not absolute but subject to limitations.
- Recognised that while Article 356 does not explicitly address the dissolution of the legislature, such powers can be inferred from it.
- Noted that Article 174(2), allowing the Governor to dissolve the Legislative Assembly, and Article 356(1)(a), enabling the President to confer upon himself

the powers of the Governor and the state government, imply the power to dissolve the legislature.

Significance of S.R. Bommai v. Union of India Case

- The S.R. Bommai case gives one of the landmark judgments of the Supreme Court regarding the basic structure doctrine as well as recording the misuse of article 356.
- The judgment provided clarity on the scope and limitations of Article 356, emphasising its use only in extraordinary circumstances.
- The principles laid down by the Supreme Court were consistent with the recommendations of the Sarkaria Commission.
- The case affirmed the principles of federalism, stating that state governments are not subordinate to the centre and advocating for cooperative federalism.
- The judgement asserted the role of the judiciary in scrutinising the President's actions under Article 356, ensuring adherence to constitutional principles and preventing misuse of power.
- It affirmed that the floor of the Assembly is the sole authority to test the government's majority, not the subjective opinion of the Governor.

President's rule

- Article 355 imposes a duty on the centre to ensure that the government of every state is carried out in accordance with the provisions of the constitution. It is to fulfil this duty that centre takes over the administration of a state under article 356 in case of failure of constitutional machinery in state.

Grounds of Imposition

The president's rule can be proclaimed under Article 356 on two grounds:

- Article 356 empowers the President to issue a proclamation if he is satisfied that a situation has arisen in which the government of a state cannot be carried on in accordance with the provisions of the constitution.
- Article 365 says that whenever a state fails to comply with or to give effect to any direction from the centre, it will 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 the constitution.

Parliamentary approval and duration

- A proclamation imposing president's rule must be approved by both the houses of parliament within two months from the date of its issue.

- However, if the proclamation of President's rule is issued at a time when the Lok Sabha has been dissolved or the dissolution of the Lok Sabha takes place during the period of two months without approving the proclamation, then the proclamation survives until 30 days from the first sitting of the Lok Sabha after its reconstitution, provided that the Rajya Sabha approves it in the meantime.

Scope of judicial review

- The 38th Amendment act of 1975 made the satisfaction of the President in invoking Article 356 final and conclusive which would not be challenged in any court on any ground.
- But this provision was subsequently deleted by the 44th Amendment Act of 1978 implying that the satisfaction of the President is not beyond judicial review.