

## BOOK REVIEWS

**BASIC ISSUES ON CENTRE-STATE RELATIONS (1985).** Edited by Naorem Sanajaoba. Omsons Publications, Guwahati. Pp.xxvi+312. Price Rs.195.

THE FOUNDING fathers gave to India a federal constitution providing for a central government strong enough to take care not only of its own responsibilities but also to guide and co-ordinate activities of the units. The obligations to ensure that the government of each state is carried on according to the Constitution is also imposed on the Central Government. The Indian federation is thus centrally oriented, but the extent of the central authority does not affect the federal principle. The states are autonomous within their assigned fields in normal circumstances. The political institutions do not always necessarily operate in complete and strict conformity with the terms of the Constitution under which they are established and some deviations are bound to occur. The experience of the working of the Constitution and socio-economic and political changes in the society sometimes also give rise to the need for re-adjustment of the scheme of distribution of powers in a federal set up. This is more true of the Indian Constitution and hence the debate.

Though the debate on centre-state relations is as old as the Constitution itself, the issue has assumed a new perspective and dimension in the post-1967 period when the era of one party dominance both at the Centre and in states came to an end and some of the states came under the control of different political parties. The Congress Government at the Centre has to face not only non-Congress governments in several states but also a sizable opposition in Parliament vocal in espousing the theory of states' rights. The states ruled by non-Congress parties demand more control on matters within their jurisdiction and the same treatment as the Congress ruled Centre give to other states ruled by the Congress. This controversial issue is gaining more and more momentum. Debates and discussions are going on among politicians, academicians and lawyers. Opinions in favour of, and against, granting more powers to states are being expressed. The advocates of the revised approach say that although the Constitution is federal in character, practically all authority is monopolised by the Central Government and this has affected the rapid economic and cultural growth of states. What they have been demanding is a comprehensive review of the centre-state relations so as to work according to the spirit of its federal character, which ensures greater autonomy to states.

The study team of the Administrative Reforms Commission reported on the matter as far back as 1968.<sup>1</sup> The issue was examined critically by M.C. Setalvad in Tagore Law Lectures.<sup>2</sup> The Tamil Nadu Government appointed a

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1. *Report of the Study Team on Centre-State Relationships* (1968).

2. *Union and State Relations under the Indian Constitution* (1974).

committee headed by P.V. Rajamannar<sup>3</sup> which suggested major changes in the Constitution.<sup>4</sup> During Janata regime, the West Bengal Government presented a memorandum on centre-state relations,<sup>5</sup> suggesting a review of the existing scheme. The emerging political realities, therefore, did call for a change of attitude and approach on the part of the Central Government which constituted a commission headed by Justice R.S. Sarkaria, former Judge of the Supreme court, to go into the centre-state relations and recommend changes. The commission has already submitted its report which is being studied by the Central Government and comments of state governments have been sought.

It was this issue which was the theme of the all India seminar held at the University College of Law of Gauhati University in September 1983. The book<sup>6</sup> under review is a compilation of 28 papers presented at the seminar. The discussions have been especially focused on issues which have caused strain on the working of the centre-state relationship. It is divided into five parts. Part I deals with legislative relations. It has been generally felt that the Centre's inroads into legislative powers of states are not legitimate and should be discontinued.<sup>7</sup>

Part II deals with administrative relations, in which the Centre's supremacy over states has been made more evident. Majority of the participants felt that the office of the governor has been degraded. Suggestions have been made in regard to his appointment and removal. A strong case has been made out for the constitution of an inter-state council as envisaged under article 263 for resolving centre-state disputes. The way in which all India services have developed over the years has also been deprecated. It has strongly been felt that for playing a meaningful role in national life and for their own development, states should be ensured equality of representation in the Council of States on the pattern of the Senate under US Constitution.

Part III deals with financial relations. It has been felt that the devolution of resources through the Finance Commission, Planning Commission and discretionary grants, has not removed regional disparities and imbalances.

Part IV covers the major tension areas in centre-state relations. A number of distortions in the functioning of federalism have been noticed and suggestions made to remove them. A valuable suggestion has been made in respect of the continuance beyond one year of state emergency under article 356. The Constitution (Forty-fourth Amendment) Act 1978 added two conditions for the purpose, viz., operation of national emergency in a state or in the whole of India and certification by the Election Commission to the effect that holding of elections to the legislative assembly of that state is not practicable. It is suggested that as the causes for these two emergencies are separate and separable, the

3. A former Chief Justice of Madras High Court.

4. *Report of the Centre-State Relations Enquiry Committee* (1971).

5. *Memorandum on Centre-State Relations* (1977).

6. Naorem Sanajaoba (ed.), *Basic Issues on Centre-State Relations* (1985).

7. The seventh scheduled to the Constitution has been amended several times and several entries in the state list have been transferred to the concurrent list.

condition should be removed and that the continuance of state emergency be left to the approval of both Houses of Parliament. *Second*, since the duty to see that the government in a state is carried on in accordance with the provisions of the Constitution, is that of the Central Government and not that of the commission, the latter should be relieved of this thankless duty which does not suit the role for which it is made. Whenever the Central Government wants to continue the proclamation under article 356 beyond a period of one year without there being an emergency and without involving the commission, it can do so by getting the Constitution amended as was done in Punjab by Constitution (Fifty-ninth Amendment) Act 1988. So these two conditions have proved to be meaningless. In order to avoid the adoption of procedure for the amendment of the Constitution, it would be better if the matter is left to be decided by Parliament in a simple manner. However, at the most, it may be provided that Parliament should pass resolution for it by a special majority instead of a simple majority.

The venue of the seminar being Guwahati, part V has, therefore, been devoted to the special and peculiar problems of the north-east region of the country. The contributors to this part, having affinity with the region, were of the consensus that, in due consideration of historical reasons, it should be accorded autonomy which, under any circumstances, should not be less than that of the special constitutional status accorded to the State of Jammu and Kashmir. These views are only to protect the narrow provincial interests of the persons expressing them or to appease the locals. But they are certainly not in the interest of the unity and integrity of the nation. If such a suggestion is implemented for these states, some of the other states may also make similar demands. Punjab, for example, is already pressing for it. It would be a dangerous step and deserves to be rejected at the outset.

The book contains a report giving in brief the consensus arrived at the seminar. The introduction by the editor highlights the nature and working of Indian federalism. The foreword is written by the late S.N. Jain, Director, Indian Law Institute, who commended the book as informative and covering "a variety of important topics analysing the current issues, problems and tensions facing the Centre-State Relationship."

The book is a valuable addition to the existing literature and covers in a comprehensive way the evolution of federation in India and the present day tensions and conflicts in centre-state relations. The tensions are inevitable in our developing dynamic economy covering a vast territory with wide social, cultural and economic differences and regional imbalances. Therefore, although the Sarkaria Commission has submitted its detailed report, the book will be helpful to the researchers engaged in the study of the subject as the great debate is still on.

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