

A STEP THAT ENHANCES COOPERATIVE FEDERALISM

Relevant for: Indian Polity | Topic: Issues and Challenges Pertaining to the Federal Structure, Dispute Redressal Mechanisms, and the Centre-State Relations

On January 17, 2017, the Lieutenant Governor of Delhi wrote to the Speaker of the Legislative Assembly of Delhi stating that the President of India had considered the Delhi Netaji Subhas University of Technology Bill, 2015 and directed that it be returned to the Legislative Assembly of Delhi.

One of the reasons stated for the return was the inconsistent definition of the term “Government.” In June 2015, when the Legislative Assembly of Delhi had passed the Delhi Netaji Subhas University of Technology Bill and sent it for the President’s assent, it had defined the term “Government” as the “Government of the National Capital Territory of Delhi.”

After the Bill was returned, the Delhi Assembly sent a modified version of the Bill for the President’s assent where the definition of “government” was described as: “Lieutenant Governor of NCT Delhi appointed by the President.”

Last week, both Houses of Parliament voted overwhelmingly in favour of the amendments to the Government of the National Capital Territory (NCT) of Delhi Act.

The aim of the amendments were to clear such ambiguities in the roles of various stakeholders and provide a constructive rule-based framework for stakeholders within the Government of Delhi to work in tandem with the Union Government. One of the changes made was to bring consistency in the definition of the term “Government”. In this instance, the government was only formalising the definition of a term that the Delhi Assembly itself had already accepted. This rule-based framework is especially important given that Delhi is also India’s national capital and the symbolism that comes with being the seat of the sovereign power.

The National Democratic Alliance Government, under the leadership of the Prime Minister, has completely transformed Centre-State relationships. At the core of this transformation is the outlook that States — and by extension the Chief Ministers of the States — are partners in the national agenda, and hence must have platforms and frameworks available to work together.

In earlier governments we saw State Chief Ministers queuing up in front of unelected officials in the erstwhile Planning Commission supplicating for grants. The creation of NITI Aayog, the establishment of the Goods and Services Tax Council, the restructuring of central schemes and accepting the Fifteenth Finance Commission’s recommendations for greater devolution are clear examples of the Union Government viewing States as equal partners.

This partnership requires an environment of trust and mutual co-operation. A necessary condition for such an environment is the distinct delineation of roles and responsibilities, the removal of ambiguities, and the definition of a clear chain of command among stakeholders. In this regard, it was important to define, without doubt, who represents the Government in the unique case of Delhi.

On December 20, 1991, Home Minister S.B. Chavan tabled the Constitution Amendment Bill in

the Lok Sabha to add Articles 239AA and 239AB into the Constitution that paved the way for the creation of a Legislative Assembly and a Council of Ministers for the National Capital Territory (NCT) of Delhi. This amendment passed in 1991 empowers Parliament to enact laws supplementing constitutional provisions. Similarly, the Government of NCT Delhi also has the power to enact laws regarding matters specified under the State list and Concurrent list, to the extent these are applicable to a Union Territory.

It becomes important to ensure there is complete synchronisation between the Union Government and the Government of NCT Delhi and that there is no encroachment in legislative matters. In the case of the Government of NCT Delhi, it has no legislative competence in matters pertaining to the police, public order, and land. The risk of incremental encroachments on these subjects in the legislative proposals under consideration of the Delhi Legislative Assembly can have severe ramifications for Delhi.

Thus, for the Opposition to portray a government exercising its constitutional responsibilities as an undemocratic act shows a wilful lack of understanding.

The national capital hosts the country's legislature, the seat of the Union Government, the judiciary, diplomatic missions, and other institutions of national importance. It deserves smooth functioning and cannot be subject to misadventures arising from the ambiguities in the roles and responsibilities of its stakeholders.

While some in the Opposition have accused the government of undermining the federal structure of the country, others have painted an even darker picture proclaiming the death of democracy itself. Nothing can be farther from the truth. Making Delhi Assembly rules consistent with the rules of the Lok Sabha or ensuring that the opinion of the Lieutenant Governor is taken can only ensure clarity and foster an environment of co-operation. In no manner do these amendments dilute or affect the powers of the Delhi Legislative Assembly. Various court judgments have also observed the ambiguities and lack of clarity. The people of Delhi deserve a functioning government, and the amendments made aid in creating such an environment.

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