

Article 355 of Constitution

March 26, 2022

In news– Due to the violence in West Bengal's Birbhum district, Congress leader in Lok Sabha Adhir Ranjan Chowdhury recently urged the President of India to invoke Article 355 of the Constitution in the state.

What is Article 355 of the Constitution?

- Article 355 of the Constitution says that **“It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution.”**
- It deals with an emergency provision by which the Centre can intervene and protect a state against external aggression or internal disturbance.
- However, the Constitution does not expressly provide as to how the duty of the Union to protect a State against external aggression and internal disturbance is to be carried out.
- **It is left to the judgment of the Union how to meet any such situation**, as and when it arises, **but it does provide, in Article 356**, the manner in which it has to perform its duty to ensure that the government of every State is carried on in accordance with the provisions of the Constitution.
- **Article 356 carries the marginal heading “Provisions in case of failure of constitutional machinery in States”**. But neither clause (1) nor for that matter any other clause in the article employs the expression “failure of constitutional machinery”.
- **As per clause (1) of article 356:** (1) **If the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in**

which the Government of the State cannot be carried on in accordance with the provisions of this Constitution, **the President may by Proclamation –**

1. **Assume to himself all or any of the functions of the Government of the State** and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State other than the Legislature of the State.
 2. Declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament.
 3. Make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State.
- Provided that **nothing in the above clause shall authorize the President to assume to himself any of the powers vested in or exercisable by a High Court**, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.
 - **Clause (2) says that such a Proclamation may be revoked or varied by a subsequent Proclamation.**
 - Clause (3) provides a check upon the power contained in clause (1).
 - It says that “every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament”.