

Hung assembly in Maharashtra

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Manifest pedagogy: In a parliamentary system of governance a fractured mandate gives rise to a circus of alliances and a Jugglery in numbers. This crucial and sensitive period takes a further interesting turn with the political party at center being a contender. If we throw the anti-defection law and the supreme court judgement in the SR Bommai case into the mix it will make for interesting politics. Putting aside the politics of the issue, the constitutionality of the matter and various commissions recommendations on the issue forms interesting and important questions for UPSC.

In news: President's rule had been imposed in Maharashtra

Placing it in syllabus: Role of Governor and President's rule

Static dimensions: Governor and his role in case of Hung Assembly

Current dimensions:

- Issue of Presidential Rule in Maharashtra
- Judgement in S.R.Bommai case

Content:

Issue of Presidential Rule in Maharashtra:

- President Ram Nath Kovind has recently approved a proclamation imposing **President's Rule (Article 356) in Maharashtra**, following a recommendation from the Governor.
- The **Assembly** has been kept under **suspended animation**.
- **Governor Bhagat Singh Koshyari in his report** to the President, had said that a situation had arisen in which

it was **impossible to constitute or form a stable government** in the State.

- The report didn't mention any cases of horse-trading or unfair practices.
- Post election results, the **BJP-Shiv Sena declined to form a government** in alliance and the Shiv Sena could not get letters of support from the NCP and the Congress.
- The **governor invited** the third largest party in the Assembly, the **NCP**, to explore the possibility of forming a government in the State.
- As **no party submitted a conclusive letter of support**, Governor recommended President's Rule.

Governor and his role in case of Hung Assembly:

- **Article 163** of the constitution states that there shall be a **Council of Ministers headed by the Chief Minister** that should aid and advice the Governor in exercise of his functions.
- If any situation arises whereby the Governor is by or under the Constitution required to act in his **discretion**, the **decision taken by him shall be final** and that the validity of anything done by the Governor must not be called in question.
- Hence **in case of hung assembly the Governor has the discretion** to invite anyone to form the government and his decision can't be questioned in any court.

In the **Rameshwar Prasad Vs Union of India, 2006** case, a five-judge Constitution Bench, recommended the suggestions made by the **R S Sarkaria Commission** which had emphasized on the impartiality of Governors and their role in upholding the constitutional mandate.

Later, **M M Punchhi Commission** in case of hung assembly recommended that:

1. The **party or alliances which get the widest support** in the Legislative Assembly should be called upon to form the government.
2. **If there is a pre-poll coalition or alliance**, it should be treated as one political party. And in case, such coalition gets a majority, the leader of such alliances shall be called by the Governor to form the government.
3. **In case no pre-poll coalition or party** has a clear majority, the governor should select the Chief Minister in the order of priorities indicated here:

(i) The group of parties which had a pre-poll alliance of the largest number;

(ii) The largest single party which claims to form the government with the support of others;

(iii) A post-electoral alliance with all partners joining the government;

(iv) A post-electoral alliance where parties are not joining the government and the remaining including independents are supporting the government from outside.

In the **S R Bommai case**, a nine-judge Bench had **underlined the significance of a floor test** when there are claims by two political groups.

Judgement in S.R.Bommai case (1994):

In this historic judgement, **SC put an end to the arbitrary dismissal of State governments** under Article 356 by spelling out restrictions.

- The verdict concluded that the **power of the President** to dismiss a State government is **not absolute**.
- The President should exercise the power **only after his proclamation** (imposing his/her rule) is **approved by both Houses** of Parliament.

- **Till then, the President can only suspend the Legislative Assembly** by suspending the provisions of the Constitution relating to the Legislative Assembly.
- **If both Houses** of Parliament **disapprove or do not approve** the Proclamation, the Proclamation **lapses** at the **end of the two-month period**.
- In such a case, the **government** which was **dismissed** **revives**.
- The Legislative **Assembly**, which may have been kept in **suspended animation gets reactivated**.
- Presidential Proclamation under Article 356 is **subject to judicial review**.
- The **Assembly is the only forum that should test the majority of the government** of the day, and not the subjective opinion of the Governor.