

DEMOCRACY AT CROSS ROADS

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Satyameva Jayate (Truth alone will triumph). There is no alternative to truth. *Sattyen Dhaaryate Prithvee Sattyen Tapate Ravi, Sattyen Vaati Vaayuscha Sarvam Sattye Pratisthitam*. It means truth alone establishes the order in the creation. In the Indian political set up, whenever there has been any attempt to destabilise balance of power or to subvert democratic principles, judiciary has uphold the rule of law and truth has prevailed. *Yata dharmo, tato jaya* (where there is righteousness, there is victory) and *Satyameva Jayate* are the two cardinal principles on which rests the justice system. One is inscribed on the logo of Supreme Court of India and another on the national symbol. Together they stand not only for truth and justice but for hope.

The verdict of the Nainital High Court to set aside the arbitrary imposition of Article 356 in Uttarakhand was a right step in the direction of restoration of democracy not only in the hill state but in the minds of people. There is a famous line in T. S. Elliot's "The Hollow Men" which suggests that the world will not end with a bang but with a whimper. While the sound narration in the Elliot's classic may be speculative but there was no doubt that democracy was strangulated in Uttarakhand on 27th March with a whimper and its sanctity was revived by the High Court verdict. It also cleared the confusion over the vote of confidence by the Harish Rawat government on the floor of the House. The High Court verdict was a clear signal that the existence of a democratically elected state government does not owe its existence to the whims and fancies of the union government.

The decision of the Modi government to impose article 356 in Uttarakhand was in contravention to the guidelines formulated by the Supreme Court in the S R Bommai case. The floor of the House is the appropriate and the only forum to decide whether a government enjoys the confidence of the House or not. So far as conducting the proceedings of the House is concerned, the Speaker is the unquestionable authority. The Speaker is bound by the rules and conventions of the House. As the nine MLAs did not have the sufficient numbers to break away under the Anti – Defection Law, they were suspended by the Speaker. So, where was the breakdown of the constitutional machinery of the State, alleged by the Modi sarkar? If there was any break down at all, why the Modi government failed to produce any material evidence before the court of law to

support their theory that constitutional machinery in the Uttarakhand had failed to the extent that it necessitated imposition of President's rule based on the recommendation of a hurriedly convened mid night cabinet meeting. The court was taken by surprise that the governor in none of his eight reports had recommended for imposition of President's rule yet the centre on its own wisdom decided to dislodge the democratically elected government.

The august office of President of India was unnecessarily denigrated for the reckless action of the Modi government. The President is the nation's conscience keeper but he is constitutionally bound to act on the advice of the Union government. Any exercise of powers by the President without or beyond the advice of the union government shall be unconstitutional as being violative of article 74(1) of the constitution of India. It should not be forgotten that words of wisdom and caution from the President were ignored while imposing article 356 in Arunachal Pradesh.

Article 356 is a constitutional tool with enough safeguards. All these safeguards were thoroughly discussed in the constituent assembly and subsequently in the court of law. The onus lies on the union government to explore and exhaust all other options before imposing article 356 as a matter of last resort only when the government is not carried on in consonance with the provisions laid down for the constitutional government of the provinces. The article should not be used to achieve the political agenda of the Prime Minister and the ruling party as it is not meant to be invoked to serve political gain or to get rid of inconvenient state governments. Whether the government in the state is a good government or not is not for the centre to determine but for the electorate to decide at appropriate time. Objectivity and absence of bias and not motivating factors and lack of trust can ensure cooperative federalism between the union and the states. The Uttarakhand episode is a grave reminder to the political leadership at the centre not to mess with democratically elected governments in the states.

The Uttarakhand government is a democratically elected popular government. The Chief Minister should be given the opportunity to prove his majority on the floor of the House. Who has the majority? That question must be answered on the floor of the House. The nine MLAs have been suspended by the Competent Authority under relevant laws and even then their petition is pending with the Supreme Court. The Supreme Court is entitled to examine the material on the basis of which the Council of Ministers advised the President, and the onus of

justifying the arbitrary and reckless action is on the Prime Minister and his cabinet and certainly not the President of India who is duty bound to act according to advice of the cabinet. There is no doubt that the irrationality, arbitrariness, political motivation and mala fide intention of the Modi government shall be exposed in the Supreme Court. Arunachal Pradesh is also waiting for justice from the apex court. The bottom line is, the Prime Minister and his cabinet should not have put the President in such a predicament, in a court of law.

After Arunachal Pradesh, whatever happened in Uttarakhand gives a clear message that the Prime Minister and his party have started a strategic process of grabbing power through back channel means by throwing constitution and federalism to the winds. In Arunachal Pradesh, centre did not wait for Supreme Court decision and in the case of Uttarakhand, the Chief Minister was not allowed to prove his majority on the floor of the House. He should control his greed for power. There is a famous saying *Lobhascheda Gunena kim pischunnata yadyashti kim patake* which means if greed is part of a man's character, why should he need other bad qualities; if there is wickedness, why want sins. The Prime Minister is neither a *chakravarti samrat* nor he has inherited the Viceroy's mantle of paramountcy. He is bound by law and the constitution. Is the Prime Minister listening?

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