



By Sandeep Shastri

18 Oct 2010 12:41:00 AM IST

Karnataka turmoil raises many political question

The developments in Karnataka have attracted national attention. The actions of Governor H R Bhardwaj, the decisions of Speaker K G Bopaiah and the filing of cases in the high court challenging the Speaker's decision have raised a host of constitutional and political questions. Many of these are without precedent.

Governors in India have often been at the centre of controversy. Do they represent the central government (sometimes derisively called 'agent' of the Centre), or are they head of the constitutional machinery at the state level? The two roles could come in conflict, especially if different parties are in power at the Centre and in the state. Much of the controversy surrounding the office of governor has been in the exercise of their discretionary powers in political situations which can neither be always anticipated or a line of action specifically defined. The governor of a state is supposed to be an impartial umpire. In many states, they have become the goalkeeper defending the opposition goalpost!

Governor Ram Lal dismissing NTR as chief minister (August 15, 1984) and appointing N Bhaskara Rao in his place on the ground that he was convinced the chief minister had lost his majority (without a trial of strength in the House) is a classic case of a governor stretching his discretion beyond imaginable limits. Former Haryana governor G D Tapase, too, made history in 1982 by inviting Bhajan Lal to form a government soon after elections even though the coalition led by Devi Lal had a clear majority!

Karnataka has had its share of controversy. Governor Venkatsubbiah dismissing the S R Bommai government without giving it a chance to prove its majority led to the now-famous Supreme Court judgment where it clearly held that the test of majority should be on the House floor, not Raj Bhavan. Governor Bhanu Pratap Singh had to be recalled from office when in March 1994 he dismissed the Goa chief minister and recommended a short spell of president's rule when the majority Congress faced an internal crisis. More recently, Governor Rameshwar Thakur was at the centre of controversy when he delayed inviting Yeddyurappa to form a BJP- led government in Karnataka. What are the lessons to be learnt from this crisis about a governor's role, the Speaker's powers and the relationship between the ruling and opposition parties?

The governor's role in writing to the Speaker a day before the confidence vote, asking him to maintain the status quo of party positions as on a particular date, was truly unprecedented. While the governor can send messages to the legislature under the Constitution, such a specific direction amounted to direct intervention in the internal rumblings of the BJP and the actions of independent legislators. After the vote of confidence, the governor sent a report to the Centre recommending president's rule, calling the vote of confidence a farce.

Many would argue that he did have the power to make this recommendation, after which the ball was in the Centre's court. But his decision the next day to give the BJP a second chance to prove its majority came as a surprise. If the governor intended to offer this opportunity it should have preceded the recommendation of president's rule. In his defence, the governor said he wished to dispel the image that he was being unfair to the ruling party. It is more likely that the central leadership was uncomfortable with the recommendation, mindful of its political implications and may have suggested a second vote.

But the haste with which the report was sent to Delhi, and the second chance offered within 24 hours, could have been avoided. It would be useful to revisit the recommendations of different commissions on Centre-State relations which have consistently emphasised that it may not be a good idea to appoint as governor someone actively involved in politics immediately before his appointment. We have had governors who went on to become chief ministers or Union ministers after completing their terms. This allows the office to be dragged into controversy and casts aspersions on their role as constitutional authorities.

Bopaiah has also been in the spotlight. His decision to disqualify the 11 rebel BJP MLAs and the five Independents hours before the trust vote has evoked strong reactions. There is no shadow of doubt that the Speaker is the final authority under the Constitution to take action on questions of disqualification. The aggrieved party has, of course, the right to approach the court, as happened in the present case.

The disqualification of the rebel BJP MLAs and the Independent legislators must be treated separately. The Speaker's decision to disqualify the Independents merits detailed analysis. It is important to assert that an Independent's victory means that the electorate has chosen someone with no party affiliation as their representative. As per the anti-defection law, the Independent must remain independent for the period elected. He or she is free to support any political party. Thus, when the BJP required the support of Independents to form the government, they decided to support the BJP. They joined the council of ministers as independents.

When they withdrew support to the government, they were within their rights to do so. Thus, it would be difficult to argue that they violated the anti-defection law. In the case of the BJP rebels the arguments would be different. As they were elected on the BJP ticket, they submitted a letter to the governor withdrawing support. On the strength of that letter and the complaint filed by the BJP, the Speaker issued a notice to the said members, who replied to it. An important question that arises is whether a party legislator invites disqualification for action done outside the House or only for violating the party whip on the floor of the House.

There have been cases of MPs (when V P Singh formed his Jan Morcha) who were critical of the Congress launching a blistering attack on the party leadership — all outside the House. While in the House, they followed the party whip. As a result

no action was contemplated against them under the anti-defection provisions. A question likely to come up in the high court is whether action can be taken against a party legislator by the Speaker for actions outside the House, or do anti-defection provisions apply only when a legislator violates the party whip on the floor?

The decision of the high court to stay the disqualification of five Independent MLAs and stating that the October 14 confidence vote would be subject to the final outcome of the court on the matter should come as a relief to these legislators. It indicates that their case will be treated differently from that of the BJP rebels.

The final decision of the high court has the potential to re-open the debate on the majority of the government. Each passing day would provide a new twist to the political battle in the state. Clearly, the clouds of political uncertainty will continue to cast their shadow over the state with no hope of a clear political picture emerging in the immediate future.

(The writer is a political analyst and observer of Karnataka politics, and pro vice chancellor of Jain University)

© Copyright 2008 ExpressBuzz