

RAMESHWAR PRASAD V. UNION OF INDIA (2006) 2 SCC 1 A CASE COMMENT

Written by Simran Chandok

(3rd Year BBA LLB Student)

Introduction

Rameshwar Prasad v. Union of India (2006) 2 SCC 1 is a landmark case which deals with election disputes and the question of legality of post-election re-alignments. Set against the background of the Bihar Legislative Assembly elections, 2005, this case was one of the first of its kind. Presided over by the then Hon'ble Chief Justice of India, Shri. Y.K. Sabharwal, the given case raises several important legal issues and contentions with respect to the election process in India. The judgement that ensued has paved the way for a fairer and more transparent election process to be followed by the country in the future.

The following paper deals with the facts and the legal contentions of the above mentioned case. It aims at analysing the judgement given by the Court by providing an explanation to elucidate the reasoning behind the judgement given by Hon'ble the Chief Justice of India, Shri Y. K. Sabharwal. In addition to analysing the judgement, the paper will also shine light on the author's perspective regarding the judgement.

Facts

In February, 2005, elections to the Bihar Legislative Assembly were conducted by the Election Commission of India. The results for the elections were declared on 4th March, 2005.

The Bihar Legislative Assembly has a total of 243 seats. For any political party to obtain a simple majority and form the State Government, a total of 122 seats had to be obtained. However after the 2005 elections, none of the political parties had managed to obtain a simple majority. The distribution of seats after the election results were declared was as follows:

(1) National Democratic Alliance Party (NDA)	92
(2) Rashtriya Janta Dal Party (RJD)	75
(3) Lok Janshakti Party (LJP)	29
(4) Congress (I)	10
(5) Communist Party of India (Marxist-Leninist) [CPI (ML)]	07
(6) Samajwadi Party	04
(7) Nationalist Congress Party (NCP)	03
(8) Bahujan Samaj Party	02
(9) Independents	17
(10) Others	09 ¹

As can be seen, while the National Democratic Alliance Party (NDA) and the Rashtriya Janta Dal Party (RJD) had the first and second highest number of seats in the Legislative Assembly with 92 and 75 seats respectively, they were still unable to secure a simple majority of 122 seats required to form the State Government. Both parties approached the Lok Janshakti Party (LJP), the political party with the third highest number of seats in the Legislative Assembly (29 out of 243 seats) to join them and form a political alliance so that they may better chance at attaining the required 122 seats needed to form a coalition government.

While both parties tried to secure LJP's loyalties, LJP was not interested in joining hands with either of the parties and refrained. As a result of this, the Assembly reached a deadlock with no party or combination of parties forming a majority in the post-election realignment. As a result of this deadlock, the government could not be established and the Assembly was handicapped.

The then Governor of Bihar, Buta Singh, requested for the imposition of the President's Rule in the State under Article. 356 of the Constitution of India. The President's Rule was imposed on 7th March, 2005, till the time some consensus was reached and the manner in which the Government would be formed was decided.

While the President's Rule had been imposed and the Assembly was in suspended animation, it came to the Governor's notice that the NDA [particularly the elected representatives of the

¹ K.G. Balakrishnan J. Rameshwar Prasad & Ors Versus Union of India & Anr, <http://www.outlookindia.com/articlefullwidth.aspx?229933> (Last Visited on 1st Jan, 2016)

Bharitya Janta Party (BJP)] and RJD (particularly the elected representatives of the Janta Dal (United) [JD (U)]) members of the Legislative Assembly (MLA's) had been trying to woo the LJP MLA's to change their political alliances and join hands with them. These MLA's allegedly promised the LJP MLA's money and political positions to win them over. These MLA's were being swayed on the grounds of religion, caste and creed.

Shocked at the illegality of the actions of the MLA's, the Governor of Bihar wrote a letter to the then President of India, A.P.J. Abdul Kalam on 27th April, 2005, making him aware of the situation in the state. The President did not react to the letter immediately. Following this, the Governor drafted a second letter on 21st May, 2005, wherein he stated that according to his intelligence and media sources, 17-18 LJP MLA's had been successfully swayed by the elected representatives of the JD (U) party and were planning on leaving their party and joining hands with the JD (U). He also mentioned the presence of horse trading between the elected representatives of the Government. On receiving the Governor's report the President called for an emergency Cabinet meeting to discuss the fate of Bihar. On the advice of the Cabinet, THE President issued orders for the dissolution of the Bihar Legislative Assembly on 23rd May, 2005- even before the Assembly had had its first meeting.

After the dissolution of the Legislative Assembly without even a single meeting, there was an uprising in the political community with respect to the same. It was argued that since the Assembly had not officially met, it could not be regarded as functional and hence could not be dissolved. Following the uprising, several writ petitions were filed under Article 32 of the Constitution challenging the constitutionality, legality and validity of the President Order dated 23rd May, 2005 to dissolve the assembly.

In total, 3 writ petitions had been filed with respect to the dissolution of the Bihar Assembly. Writ Petition (C) No.257 of 2005 had been filed by 4 persons who were elected to the dissolved Legislative Assembly. Petitioner No.1 Shri Rameshwar Prasad was elected as a candidate of BJP. Petitioner No.2 Shri Kishore Kumar was elected as an independent candidate. Petitioner No.3 Shri Rampravesh Rai was elected as a candidate of JD (U) while petitioner No.4 Dr. Anil Kumar was elected as a candidate of (LJP). Writ Petition (C) No.353 of 2005 has been filed by Smt. Purnima Yadav who was elected as an independent candidate. Writ Petition (C) No.258

of 2005 has been filed by Shri Viplav Sharma, an Advocate, styled as a Public Interest litigation².

The then Hon'ble Chief Justice of India, Y.K. Sabharwal, owing to the important and sensitive nature of the case presided over it himself and gave his final decision on 24th January, 2006.

Decision of the Court

The dissolution of the Bihar Legislative Assembly was regarded as unconstitutional by a majority of 3:2.

The case was heard by a bench comprising of 5 Supreme Court Judges namely- the then Hon'ble Chief Justice of India, Y.K. Sabharwal and Justices B.N. Agrawal, Ashok Bhan, K.G. Balakrishnan and Arijit Pasayat.

While the then Hon'ble Chief Justice of India, Y.K. Sabharwal and Justices B.N. Agrawal and Ashok Bhan gave a majority judgement, Justice K.G. Balakrishnan gave a dissenting judgement and Justice Arijit Pasayat gave the minority judgement.

The dissenting judgement given in the case by Justice K.G. Balakrishnan stated that the petitioners did not have sufficient grounds to prove the unconstitutionality of the President's order dated 23rd May, 2005. Thus the Justice was of the opinion that the writ petition should be thrown out. The minority judgement given by Justice Arijit Pasayat stated that the writ petitions could have been disposed of. However, there were certain other disturbing aspects such as allegations of horse-trading, etc. that should have been looked into more intensely.

The final judgement that was accepted by the Court and the public was, however, the majority judgement given by the then Hon'ble Chief Justice of India, Y.K. Sabharwal and Justices B.N. Agrawal and Ashok Bhan. *The majority judgement given in the case was that the proclamation dated 23rd May, 2005 was unconstitutional.* However, since the process of re-election had already been put into motion and could not be reversed, the proclamation would not be

² Arijit Pasayat, J. Rameshwar Prasad & Ors Versus Union of India & Anr, <http://www.outlookindia.com/articlefullwidth.aspx?229939> (Last Visited on 1st Jan, 2016)

withdrawn and the Assembly will remain suspended allowing for the election of a new Legislative Assembly.

Since the majority judgement was the widely accepted judgement, the following analysis will take into account only the judgement given by the then Hon'ble Chief Justice of India, Y.K. Sabharwal and Justices B.N. Agrawal and Ashok Bhan. It will not take into consideration the dissenting or the minority judgement in the case.

Analysis of the Supreme Court Judgement

In the judgement given, 4 main legal issues were addressed. The 4 legal issues and their analysis is as follows:

Issue 1

Is it permissible to dissolve the Legislative Assembly under Article 174(2)(b) of the Constitution without its first meeting taking place?

According to Article 174 of the Constitution of India, the Governor, as the Constitutional head of the State, has a responsibility towards facilitating the creation of a government at the State level. This includes the Governor's responsibility to declare the election results, set a date for the Legislative Assembly to meet and allow the political parties with similar ideologies to align and realign their interests in order to form a majority. In those cases, where the party is not able to form such a majority on its own, the Governor can look at the various combinations and encourage the creation of a coalition.

Sessions of the State Legislature, prorogation and dissolution

(1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time

(a) *Prorogue the House or either House;*

(b) *Dissolve the Legislative Assembly*³

As mentioned above, the Governor of Bihar in the given case was well within his powers to dissolve the Assembly and his actions to dissolve the Assembly can be regarded as unconstitutional or illegal.

Now that it has been established that the Governor was well within his power to dissolve the Assembly, the second question that arises is whether the Governor was correct in dissolving the Assembly without even allowing the Assembly to meet once.

Article 172 of the Constitution of India states,

“Duration of State Legislatures:

*Every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly: Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.”*⁴

As can be seen from the words of the Article, it is clear that while the Governor has the power to dissolve the Assembly in those cases where there has been miscarriage of justice or disrespect to the Constitutional provisions, the Governor can do so once the Assembly has come into power. In the above Article, it has been stated that a State Legislative Assembly comes into power only from the date appointed for its first meeting. This means that since Legislative Assembly does not come into power before its first meeting and hence the Governor cannot use his powers under Article 174 to dissolve the Assembly even before oath has been administered to the elected representatives and the Assembly has assumed office.

Reference on behalf of the petitioners has also been made to law existing prior to the enforcement of the Constitution of India contemplating the commencement of the Council of

³Article 174 of the Constitution of India <http://indiankanoon.org/doc/1582504/> (Last Visited 2nd Jan, 2016)

⁴Article 172 of the Constitution of India <http://indiankanoon.org/doc/1034417/> (Last Visited 2nd Jan, 2016)

State and Legislative Assembly from the date of its first meeting. It was pointed out that *Section 63(d) in the Government of India Act, 1915* which dealt with Indian Legislature provided that every Council of State shall continue for five years and every Legislative Assembly for three years from the date of its first meeting. Likewise, *Section 72(b)* provided that every Governor's Legislative Council shall continue for three years from its first meeting. The *Government of India Act, 1919*, repealing 1915 Act, provided in *Section 8(1)* that every Governor's Legislative Council shall continue for three years from its first meeting and in *Section 21* provided that every Council of State shall continue for five years and every Legislative Assembly for three years from its first meeting. Likewise, the *Government of India Act, 1935* repealing 1919 Act, had provision identical to Article 172 of the Constitution.

Also, in *Narain Sinha v. State of U.P. and Ors*⁵, the Court held that even though nothing had been explicitly mentioned in Article 174 and 172 of the Constitution, the makers would never have wanted to create a provision wherein the sanctity of the election process was not respected and the Governor was given unreasonable powers to dissolve a government even before it had a chance to meet and form a consensus required to create a government. Thus, this decision further elucidated the petitioner's arguments, which laid out that the Governor's move to dissolve the Assembly before its first meeting was unconstitutional and against the basic principles used by the Constitution makers.

Hence, the petitioner's side was successful in establishing that even though the Governor had the right to dissolve the Assembly under Article 174, he did not have the right to exercise this power before the Assembly had even come into power and met for the first time.

The defendant tried to justify the Bihar Governor's actions by quoting S.73 of the Representative of People of India Act, 1951.

S.73 of the Representative of People of India Act, 1951 stated that it was necessary for the Governor to wait for the Legislative Assembly to meet before he can exercise his power to dissolve the Assembly. As soon as the election results have been declared in all the constituencies where voting had taken place, the Assembly is assumed to have come into office effective immediately. Whether the Assembly has had its meeting or not becomes immaterial

⁵ AIR 1987 All.203

and thus, the Bihar Governor, Buta Singh was well within his power to dissolve the Assembly once the results had been declared on 4th March, 2005.

In addition to S.73 of the Representative of People of India Act, 1951, the defendants also quoted the case, K.K. Abu v. Union of India and Ors.⁶ where in a single bench of the Kerala High Court concluded that neither Article 174 nor Article 172 prescribed that dissolution of a State Legislature can only be after commencement of its term or after the date fixed for its first meeting. Once the Assembly is constituted, it becomes capable of dissolution.

However, the reasoning laid out by the petitioner was considered stronger by a majority of the judges and thus it was held by the Court that the Governor's action to dissolve the Assembly by way of a President's Order given on the basis of the Governor's report of the situation in the state was unconstitutional and illegal.

Issue 2

Whether the proclamation dated 23rd May, 2005 dissolving the Assembly of Bihar is illegal and unconstitutional?

In order to declare the proclamation dated 23rd May, 2005 as illegal, 2 things had to be proved first-

2.1 Whether the Governor had exercised his discretionary power to dissolve the Assembly unnecessarily?

2.2 Whether the advice given by the Union Council of Minister comes under the Supreme Court's purview of Judicial Review?

2.1 Whether the Governor had exercised his discretionary power to dissolve the Assembly unnecessarily?

When the proclamation dated 23rd May, 2005 was introduced dissolving the Bihar Legislative Assembly effective immediately, questions were raised regarding the constitutionality and legality of the order. The petitioners were of the opinion that since the Legislative Assembly had not had a single meeting and had not even taken their oaths, they were not officially in

⁶ AIR (1965) Kerala 229

office. Since the Assembly was not officially in office, dissolving the Assembly would be in contravention to the principles of the Constitution.

Since the dissolution of the Assembly was solely on the basis of the Governor's reports, the role of the Governor was under major scrutiny while the case was being tried in the Supreme Court. In order to support their viewpoint, the petitioners argued that the Governor of a State is only the Constitutional Head of the State. As the de jure Head, the Governor has a list of limited powers and responsibilities. In order to elucidate their stand, the petitioners referred to the report filed by the Sakaria Commission set up in 1983.

The Sakaria Commission was basically set up in order to examine the balance of powers between the Centre and the State. Since the Governor is appointed by the President of India and reports directly to him, the Governor is an important link between the Centre and the State. The dynamics between the 2 plays a major role in balancing Centre-State relationships. Hence the Sakaria Commission examined the role of the Governor in great detail.

According to the Sakaria Commission, the role of the Governor was to act as an intermediary between the Centre and the State and always ensure that the ideologies adopted by the Centre are largely respected in the States by the State Government. The Sakaria Commission also defined the discretionary powers of the Governor:

- **Appointment of the Chief Minister** – It is clear that the leader of the party which has an absolute majority in the Legislative Assembly should invariably be called upon by the Governor to form a Government. However, if there is a fractured mandate, then the Commission recommends an elaborate step-by-step approach and has further emphasized that "the Governor, while going through the process of selection as described, should select a leader who, in his (Governor's) judgement, is most likely to command a majority in the Assembly. The Governor's subjective judgement will play an important role." Upon being faced by several contesting claims, the Commission suggests that the most prudent measure on part of the Governor would be to test the claims on the floor of the House.
- **Dismissal of the Chief Minister** – Recommending a test of majority on the floor of the House to ascertain whether an incumbent Chief Minister continues to enjoy

the majority, the Commission clearly dissuades the Governor from dismissing the Ministry based only on his "subjective satisfaction".

- **Dissolution of the Assembly** – Despite best efforts, if ultimately a viable Ministry fails to emerge, a Governor is faced with two alternatives – he may either dissolve the Assembly or recommend President's rule under Article 356, leaving it to the Union Government to decide the question of dissolution. The Commission expressed its firm view that the proper course would be "to allow the people of the State to settle matters themselves". The Commission recommended that "the Governor should first consider dissolving the Assembly and arranging for a fresh election and before taking a decision, he should consult the leaders of the political parties concerned and the Chief Election Commissioner."

In addition to this the Sakaria Commission also laid down guidelines to be followed while appointing a Governor. The guidelines to be followed were:

- He should be eminent in some walk of life;
- He should be a person from outside the State;
- He should be a detached figure and not too intimately connected with the local politics of the State; and
- He should be a person who has not taken too great a part in politics generally and particularly in the recent past.

The referral to the Sakaria Commission Report basically proved that the Governor had extremely limited powers. Thus, Buta Singh's actions as the Governor of Bihar were sought to be as outside of the scope of his authority. The discretionary power of dissolving the assembly was meant to be used only in extraordinary circumstances. The petitioners were able to prove that these circumstances did not actually exist to justify the exercise of such discretionary powers. There was a political party that had managed to secure a majority by way of post-election re-alignment and Nitish Kumar had emerged as a probable Chief Ministerial candidate. Had Buta Singh let the situation run its course, a government would have emerged. The need to dissolve the Assembly, without even a single meeting, was the misuse of the Governor's discretionary powers as defined in the Sakaria Commission Report.

2.2 Whether the advice given by the Union Council of Minister comes under the Supreme Court's purview of Judicial Review?

While the Sakaria Commission Report was used to prove that the Governor had exercised his discretionary powers unnecessarily, the petitioners made use of *S.R. Bonmai v. Union of India*⁷ in order to justify the judicial review of the proclamation dated 23rd May, 2005.

An Emergency can be proclaimed only by the President of India under Article 356 of the Constitution. According to the provisions of the Constitution, the President has the power to proclaim an Emergency only after the Union Council of Ministers have communicated their advice to the President in writing. The Council of Ministers render advice on various important matters to the President. Only after the President receives advice from the Council of Ministers can he act. Article 74 of the Constitution deals with advice given by the Ministers to the President on various matters. There was ambiguity in law with respect to whether any such advice given is subject to Judicial Review by the Supreme Court or not.

In the case at hand, the Union Council of Ministers had an emergency meeting on 22nd May, 2005 in order to discuss the Bihar Governor's report and only after their consent had been obtained did the President of India declared dissolution of the Assembly. Thus, if the proclamation had to be declared as unconstitutional, the ambiguity in law in Article 74 had to be addressed. The petitioners made use of the *Bonmai Case* where it had been clarified that Article 74(2) allows for any such advice given by the Council of Ministers to the President of India to be reviewed by the Supreme Court under Article 13 of the Constitution. Hence, the Supreme Court was justified in reviewing the proclamation dated 23rd May, 2005. The subsequent declaration that the proclamation was unconstitutional was thereby applicable and carried with it the force of law.

Since both the questions of law regarding the exercise of discretionary powers by the Governor and Judicial Review of advice given by the Council of Ministers to the President had been answered in the Petitioners' favour, the proclamation dated 23rd May, 2005 was successfully declared unconstitutional and illegal.

⁷ 1994 3 SCC 1

Issue 3**What is the scope of Article 361 granting immunity to the Governor?**

In the above case, since it had been sufficiently proved by the Petitioner that the proclamation dated 23rd May, 2005 dissolving the Bihar Legislative Assembly was unconstitutional and illegal, a subsequent legal question rose. This legal question focused on the Governor's liability with respect to the issuing of the unconstitutional order dated 23rd May, 2005. There was ambiguity as to whether the Governor could be tried for the misuse of his powers.

In the Constitution of India, Article 361 deals with the immunity provisions provided to the State Governors and the President of India. Article 361 reads as follows:

“Protection of President and Governors and Rajpramukhs

(1) The President, or the Governor or Rajpramukh of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties: Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under Article 61: Provided further that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Governor of India or the Government of a State

(2) No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor of a State, in any court during his term of office

(3) No process for the arrest or imprisonment of the President, or the Governor of a State, shall issue from any court during his term of office

(4) any civil proceedings in which relief is claimed against the President, or the Governor of a State, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Governor of such State, until the expiration of two months next after notice in writing has been delivered to the President or Governor, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefor, the name,

description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.⁸”

From the above provision, it is clear that the Governor is awarded absolute immunity while in office and cannot be tried for any action undertaken by him while in office. Also, he cannot be compelled to explain his reasoning for taking a particular action while he is in office. In fact Article 361 (2) also absolves the Governor of any liability for any personal acts performed by him while assuming office.

Just because the Governor is awarded absolute immunity while in office under Article 361 of the Constitution does not, however, mean that the Governor's actions malafide cannot be examined by the Court. In other words, if the Court is of the opinion that a particular action of the Governor has been performed with an incorrect intention and directly endangers the sanctity of the Constitution of India, then the Court has the right to examine such an act and check its constitutionality and legality.

In *Rameshwar Prasad v. Union of India*, the petitioners who filed a writ petition in the Supreme Court were of the opinion that the Governor of Bihar, Buta Singh did not give the political parties- NDA and JD (U)- a fair chance to join hands with other political parties and form a coalition at the State Level. According to media sources, Mr. Nitish Kumar of the NDA had managed to gain sufficient seats by way of post-election alliances needed to obtain a simple majority in the Assembly and was being projected as the probable Chief Minister of Bihar because of all the support he had managed to accumulate. The petitioners believed that Buta Singh had been acting on his prejudice, preventing the LJP elected representatives from making a decision for themselves regarding their political allegiances because he was against Mr. Nitish Kumar becoming the Chief Minister of Bihar.

Being the Constitutional Head of the State, it was Buta Singh's responsibility to try all possible combinations to create a coalition government since a single party has failed to achieve single majority in the Assembly. Buta Singh's act of not allowing the parties to meet even once, was proof enough according to the petitioners, that Buta Singh was acting out of his own vested interests and did not actually have the State's best interests at heart. It was his responsibility to protect the State and its election process and not suspend the Assembly the first chance he got.

⁸ Article 361 of the Constitution Of India, <http://indiankanoon.org/doc/1470888/> (Last Visited on 2nd Jan, 2016)

Thus, owing to the doubts that were raised regarding Buta Singh's intentions to dissolve the Assembly, the Supreme Court was well within its right to examine the legality of the proclamation dated 23rd May, 2005. That particular action of the Governor would be exempt from the ambit of immunity provided by Article 361 of the Constitution.

Even though in cases like *Biman Chandra v. Governor, West Bengal*⁹ and *Shri Pratap Singh Raojirao Rane & others v. The Governor of Goa & others*¹⁰ the Courts took the position that the Governor is awarded full immunity for all his actions- personal and official- while in office under Article 361, the Supreme Court clarified this question of Law in the case at hand. *It was concluded by a 3:2 majority that while the Governor is subject to enjoying full immunity for all his actions while in office, Article 361 will not protect him from scrutiny for those acts which were believed to have been done on the grounds of malafides.* The Supreme Court would be well within the scope of its power to examine the constitutionality of such acts of the Governor even while he was in his office.

Thus *Rameshwar Prasad v. Union of India* clarified a very important question of law regarding the scope of the immunity provided to the Governors of the States under Article 361 of the Constitution.

Conclusion

According to the author, the decision given by the Supreme Court in the above case is valid and justified. As a democratic country, the right of the people to elect their representatives to form the Government at the Centre or State level is an extremely important one. Essentially, the right to vote is the spirit of democracy. Hence, it is every Government employee's primary duty to protect this right to vote.

In the given, Buta Singh, the Governor of Bihar, did not give the Legislative Assembly an adequate chance to form a Government at the State level. Dissolving the Assembly before even administering the oath to the elected representatives, especially when a probable Chief Ministerial Candidate was emerging seemed suspicious. Had Buta Singh been unbiased and fair, he would have encouraged the parties to form the Government by post-election

⁹ AIR 1952 Calcutta 799

¹⁰ AIR 1999 Bombay 53

alignments- a legal activity under Indian Law. In case the political parties were not able to reach a consensus on their own, as the Constitutional Head of the State, the Governor should have intervened and helped the parties on his own accord. However none of this was done.

Declaring a President's Rule in a state signifies a complete breakdown of parliamentary machinery. It is a matter of great shame if a President's Rule is imposed in any State because it reflects the State's inability and running itself. Also, such a grave measure must be taken only in extreme circumstances as the last alternative. An in-depth analysis of the situation revealed to the author the absence of any such extreme circumstance. The State merely needed more time to resolve this dispute on their own accord. The action of the Governor to declare a President's Rule and subsequently submit a report that led to the eventual dissolution of the Assembly was a major disrespect of the election process in the State.

The judgement given by the Supreme Court answered several difficult questions of the Law effectively. Had the election process for the second round of elections not been initiated, the Government in question would have definitely resumed office. Even though the judgement was not able to help the petitioners, it has paved the way for a more tolerant and fair election and government forming process in the future. This, in itself, is a major victory for the protectors of the Constitution- the Supreme Court.

