

1. HOW FAR THE PROVISION OF JUDICIAL REVIEW HAS BEEN ABLE TO CONTAIN THE ARBITRARY USE OF ARTICLE 356 OF THE CONSTITUTION OF INDIA?

Under Article 356, the President of India is empowered to impose 'President's Rule' in a state in case the state administration is not carried on in accordance with the Constitution and in case it does comply with the directives of the Central Government in certain circumstances. However, a perusal of seven decades of experience shows that this article has been frequently misused as a political weapon to dethrone a popular state government. Judicial intervention in this regard has restricted the misuse to a large extent.

The 38th Amendment Act of 1975 made the satisfaction of the President in invoking Article 356 final and conclusive which could not be challenged in any court on any ground.

The 44th Amendment Act of 1978 implied that the satisfaction of the President is not beyond judicial review

Changes made by S R Bomai vs UOI 1994

The presidential proclamation imposing President's Rule is subject to judicial review

The court has power to restore the dismissed state government and revive the state legislative assembly if it was suspended or dissolved.

The court can only ascertain the relevance of materials produced by the Centre for imposing President's Rule

The state legislative assembly should be dissolved only after the Parliament has approved the presidential proclamation.

A state government pursuing anti-secular politics is liable to action under Article 356

Losing the confidence should be decided only on the floor of the SLA

New party at the centre cannot dissolve other party government at the states

Article 356 should be scarcely used