

**Autonomy In Jammu And Kashmir: An Overview**

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The Autonomy debate in India is historically linked to Jammu and Kashmir State. This issue has been a perennial theme in the constitutional relations between the Union and the state. The autonomy issue resurfaced recently sparking off a national debate, when the Jammu and Kashmir State assembly passed a resolution urging upon the central as well as state government to restore the autonomy of the state, which the ruling National Conference party claimed to have been eroded over the years by the ruling dispensations at the Centre.

**The Resolution**

The Autonomy resolution was, in fact, a sequel to the report of a Committee constituted by the State government when it was returned to power in the year 1996. The Committee was constituted in pursuance of National Conference party manifesto and was entrusted with the task of identifying the areas in which the autonomy of the state was perceived to have been eroded. The fact remains that restoration of autonomy in Jammu and Kashmir has been a perpetual demand reflected through its manifestos on the part of National Conference party since 1977, when the latter contested the State assembly elections for the first time since 1951 as a logical follow up of the Indira Gandhi-Sheikh Abdullah accord in 1975. It may be mentioned that tracing the history of tension between the Union of India and the state of Jammu and Kashmir, the illustrious leader of Jammu and Kashmir, Sheikh Mohammed Abdullah wrote in his autobiography *Aatish-i-Chinar* that there was no question of challenging the state's accession with the Union of India; however, our tension was confined to the quantum of Constitutional relationship between the Union and the state. This issue was raised during the negotiations to bring back the Sheikh Mohd. Abdullah and National Conference Party into national mainstream, which culminated in Indira Gandhi-Sheikh Abdullah accord, but its resolution remained illusive.

**Constitutional Backing**

In the historical context, the Jammu and Kashmir was given a special status and a greater degree of autonomy within the Union of India when the Union adopted its Constitution on 26<sup>th</sup> January 1950. The Jammu and Kashmir was the only Muslim majority state, which rejected the two-nation theory and partition of the country on the basis of religion and joined the Union of India. However, due to specific historical events in which the country was divided on the basis of religion and followed by communal riots with the largest transfer of population ever taking place in the human history, the autonomy issue got mired in controversy. These developments cast their spell on the debates in the Constituent Assembly of India too in which the majority opinion makers of Indian Constitution favoured a strong Centre. That ethno-cultural, linguistic, religious and geographical diversity of the country was well known to them and they could not just wish it away. Therefore, striking a balance between these two complex realities, they adopted a Constitution, which remains federal in form but unitary in spirit. At the political level, the special status of Jammu and Kashmir State was an anathema to those political forces, which perceived that it held the potential to pose a challenge to the unity and integrity of the country. Thus, the autonomy in Jammu and Kashmir fell a victim to the controversy between the centrist and federalist political ideologies in the country. The Centrist (or centripetal) political forces did manage to dilute the autonomy of Jammu and Kashmir State to a major extent. Ironically these were not the forces, which are perceived as a right-wing extremist-nationalist in nature, responsible for weakening of autonomy in Jammu and Kashmir. In fact the political dispensations at the centre which diluted the autonomy of Jammu and Kashmir wanted to achieve the twin objective of gradual withdrawal of state's autonomy under the perception of strengthening the process of nation building in the country and extending the influence of their own political party/parties in the state.

The experience of over centralization-political, constitutional and economic spheres, for the last five decades has revealed that such a policy has left large chunks of population in the country dissatisfied. Moreover, the paradigm of centralized planning pursued in the country has indicated that benefits of development have not percolated to the grassroots level. The ensuing popular dissension has taken radical shape in many cases. It is quite assuring to note that the political leadership of every hue in the country has started realising the worth of a decentralised mode of governance. This has been evident in the declarations of their policy postures in the recent years.

### **Devolution, the new buzzword**

The history came full circle when BJP, generally perceived to be a right-of-the-centre political party, declared in its national convention in Bombay that the party was in favour of devolution of power to states all over the country. The ruling coalition at the Centre's National Democratic Alliance (NDA) has enlisted the devolution of power in its common minimum programme. The Prime Minister, Mr. Atal Behari Vajpayee, and Home Minister, Mr. L. K. Advani, have repeatedly declared that they are in favour of devolution of power from the Centre to the states. Moreover, the emergence of regional parties as strong partners of the coalition at the Centre has further underlined the relevance of recognition of regional aspirations in the national governance of the country. The process of recognition of regional aspirations and accommodation of political urges of ethno-cultural groups of population has taken off in the country. The creation of new states, formation of regional and hill development councils in different parts of the country are an indication of this recognition by the Union.

Against this backdrop, Jammu and Kashmir State legislature recently adopted the autonomy resolution seeking the restoration of autonomy in the state. The resolution is based on the recommendations of the Autonomy Panel, which was formed in 1996, immediately after National Conference assumed power in the elections. The State Autonomy Committee looking into Centre-state constitutional relations has identified the areas in which the erosion of state's autonomy has taken place. The Committee has recommended the measures to restore the same. The other report prepared by Regional Autonomy Committee draws a blueprint recommending measures to devolve power further down to different regions of the state. The Regional Autonomy Committee report has been entrusted to an expert Committee for an in-depth study to recommend the measures for its effective implementation.

### **State Autonomy Report**

The State Autonomy Committee Report was thoroughly debated in the State legislative assembly, which culminated in the adoption of a resolution urging upon the Union and the State government to take the measures to restore the autonomy of the state. The plea of the State government is that since Jammu and Kashmir State already enjoyed a greater degree of autonomy and the other states of the Union are now clamouring for further devolution of power, therefore, the case of Jammu and Kashmir state should be treated separately from the other states of the Union.

The salient features of the recommendations of State Autonomy Report may be summarized as:

- (1) Article 370 of the Constitution of India which grants a special status to Jammu and Kashmir state should be declared as "special" in place of "temporary" as mentioned in the Constitution of India;
- (2) Rescinding various articles of Indian Constitution applied to Jammu and Kashmir State from 1954 onwards;
- (3) Bringing about changes in the Jammu and Kashmir State Constitution to give control, direction and superintendence of elections to the State legislature and to the State High Court.
- (4) Bringing about changes in the Jammu and Kashmir State Constitution restoring back the nomenclature of the Head of the State and State Executive, mode of appointment of the Head of the State, repealing the other consequential amendments, and the original provisions of the Constitution of Jammu and Kashmir restored.

It may be pointed out that Jammu and Kashmir is the only state in the Union of India, which has its own Constitution. The changes in this Constitution which are sought to be reversed now as mentioned at paras 3 and 4 above, were brought about through the First Amendment and the Sixth Amendment in 1959 and 1965 respectively in State constitution by the then respective state governments.

In retrospect, the case of defining Constitutional relationship of Jammu and Kashmir with the Union of India in a special manner, as a political arrangement, was a peculiar phenomenon in the entire South Asia. On the one hand, the newly Independent State of India pursued a policy of unitarian relationship with other states of the Union. On the other hand, the Union adopted a federalist approach in defining its Constitutional relations with the State of Jammu and Kashmir. These relations were established after due deliberations and negotiations between the prominent national leaders of the country and Jammu and Kashmir State. These negotiations were documented as Delhi Agreement of 1952 which was presented, debated and approved in both the

houses of the Indian Parliament. It is on the basis of this agreement that the task of drawing a separate Constitutional scheme in Jammu and Kashmir was undertaken, which was finalized in 1957. The Constitutional scheme worked very well until 1959, and the process of Constitutional integration, diluting the State's autonomy started after that.

### **Conclusion**

The Autonomy demand in Jammu and Kashmir from the Union has given an entirely new perspective to the tension and problems in Jammu and Kashmir State. The sharing of powers and redefining the constitutional relations between the Union and the state is a matter of debate and discussion. The bargaining for sharing of power is an essential feature of any constitutional democratic and federal polity. Therefore, the demand for restoration of autonomy should not be seen as some kind of an outlandish activity on the part of the State government. The State Autonomy Report provides a framework to satisfy the urges and aspirations of the people of the State. Moreover, it highlights the fact that the tension in Kashmir is basically an internal affair of the country seeking resolution from within. This position leaves little scope for external intervention or mediation in resolving problems in Kashmir.

The Constitution of India has shown enough resilience in responding to the ever changing nature of predicaments in the governance of the country. The amendment of the Constitution of India eighty three times bears a testimony to this fact. The Indian Constitution, as has been wisely framed by the illustrious political leadership of the modern India, is resilient enough to accommodate the demands from the Jammu and Kashmir, only if the political leadership starts thinking that the resolution passed by the state legislature is not an inflexible demand but a negotiable appeal, that has its roots in the Indian Constitution. Only then a workable political foundation for the new dawn of peace can be laid in the Jammu and Kashmir State.