

## **Lesson – 9**

### **Emergency Provisions**

#### **Summary –**

Emergency provisions have been made in Constitution to safeguard and protect the security, integrity, and stability of the country and effective functioning of State Governments. The Constitution-makers have equipped the Central Government with the necessary authority for the hour of emergency when the security and stability of the country is threatened by internal and external threats.

#### **Emergency Caused by War, External Aggression –**

Provisions have been made in the Constitution for dealing with three types of extraordinary or crisis situations that are –

- ✚ When there is a war or external aggression has been committed or there is threat of the same, or if internal disturbances amounting to armed rebellion take place.
- ✚ When it becomes impossible for the government of a State to be carried on in accordance with the Constitution.
- ✚ If the credit or financial stability of the country is threatened.

In each case the President may issue a proclamation with varying consequences.

#### **Proclamation of National Emergency (Article 352) –** emergency caused by war, external aggression, or internal rebellion,

- ✚ This is described as the National Emergency.
- ✚ Emergency can be declared by the President of India.
- ✚ The security of India or any part thereof is threatened or is likely to be threatened either (i) by war or external aggression or (ii) by armed rebellion within the country.
- ✚ By the 44th Amendment of the Constitution, President can declare such an emergency if the Cabinet recommends in writing.
- ✚ approved by both the Houses of Parliament by absolute majority of the total membership of the houses as well as 2/3 majority of members present and voting within one month.

- ✚ Lok Sabha stands dissolved at the time of proclamation of emergency or is not in session. it must be approved by the Rajya Sabha within one month.
- ✚ Emergency remains in force for a period of six months from the date of proclamation.
- ✚ To be extended beyond six months, another prior resolution must be passed by the Parliament.
- ✚ Emergency can be revoked by another proclamation by the President of India.
- ✚ The 44th Amendment of the Constitution provides that ten per cent or more members of the Lok Sabha can requisition a meeting of the Lok Sabha and in that meeting it can disapprove or revoke the emergency by a simple majority in such case emergency will immediately become inoperative.

- ✚ But the same cannot be extended beyond six months after the proclamation ceases to operate the tenure of State Assemblies can also be extended in the same manner.
- ✚ the President is empowered to modify the provisions regarding distribution of revenues between the Union and the States.
- ✚ The Fundamental Rights under Article 19 are automatically suspended till the end of the emergency but according to the 44th Amendment Freedoms listed in Article 19 can be suspended only in case of proclamation on the ground of war or external aggression.

### 3 National Emergencies

#### Effects of National Emergency –

- ✚ The federal form of the Constitution changes into unitary the authority and powers of the Centre increases.
- ✚ The President of India can issue directions to the states as how to executive power of the states is to be exercised.
- ✚ During this period, the Lok Sabha can extend its tenure

1. Declared on 26 October 1962 after China attacked our borders in the Northeast this National Emergency lasted till 10 January 1968

2. Declared on 3 December 1971 in the wake of the second India-Pakistan War and was lifted on 21 March 1977

1.3. While second emergency based on external aggression was in operation then third National Emergency (called internal emergency) was imposed on 25 June 1975.

## **Emergency due to Failure of Constitutional Machinery in a State –**

- ✚ Under Article 356, the President may issue a proclamation to impose emergency in a state if he is satisfied on receipt of a report from the Governor of the state or otherwise that a situation has arisen under which the Government of the State cannot be carried on smoothly. In such situation proclamation of emergency by the President is called proclamation on account of the failure of constitutional machinery.
- ✚ It is also called the President's Rule.
- ✚ Proclamation must also be placed before both the Houses of Parliament for approval.
- ✚ Approval must be given within two months.
- ✚ The proclamation valid for six months at a time.
- ✚ Can be extended for another six months (not beyond one year).
- ✚ Emergency in a state can be extended beyond one year if –
  - (a) National Emergency is already in operation, or
  - (b) the Election Commission certifies that the election to the State Assembly cannot be held.
- ✚ In 1951 this type of emergency was imposed for the first time in the Punjab State.

