

FEDERALISM

Introduction

According to the traditional classification followed by the political scientists constitutions are either unitary or federal. In the unitary Constitution the powers of government are centralized in one government viz, the central government. The provinces are sub-ordinate to the centre.

In federal constitution, there is a division of powers between the federal and the state governments and both are independent in their own spheres. Federalism constitutes a complex governmental mechanism for the governance of the country.

K.C. Ware – “federalism means the method of dividing powers, so that the general and regional governments are each within a sphere co-ordinate and independent. Both the federal and the regional governments are co-ordinate and independent in their spheres and not sub-ordinate to one another”.

The American Constitution is universally regarded as an example of federal constitution. It establishes dual policy or dual form of government that is the federal and the state governments. The power of both the central and state governments are divided and both are independent in their own spheres. The existence of co-ordinate authorities independence of each other is the gist of federal principles.

Test for identifying federalism-

It is laid down by Prof. Jennings in the form of questions. They are—

Are we to confine the forms to case where the federal principle has been applied completely and without exception?

The federal principle is predominant in the Federalism. It comprises a complex government mechanism for the governance of the country. It seeks to draw a balance between the forces working in favour of concentration of power in the centre and those urging a dispersal of it in number of units. The framer of Indian Constitution attempted to avoid the difficulties faced by the federal constitution of U.S.A., Canada and Australia and incorporated certain unique features in the working of Indian Constitution. Thus our Constitution contains novel provisions suited to the Indian conditions. The doubt which emerges about the federal nature of the Indian Constitution is the powers of intervention in the affairs of states given to the Central Government by the Constitution.

According to Ware— “in practice the constitution of India is quasi-federal in nature and not strictly federal” Sir Jennings was of the view that India has ‘a federation with strong center policy’.

In the words of D.D. Basu – “The Constitution of India is neither purely federal nor unitary but is a combination of both. It is a Union or a composite of a novel type”. The Indian Constitution is not only regarded as federal or unitary in the strict sense of terms. It is often defined to be quasi federal in nature also. Through the Constitution, emphasis is laid on the fact that India is a single united nation. India is described as a Union of states and is constituted into a Sovereign, Secular, Socialist, Democratic and Republic.

The constituent Assembly being aware that notwithstanding a common cultural heritage without political unity the country would disintegrate under the pressure of various forces therefore it addressed itself to the immensely complex task of devising a union with a strong centre. Article 1 says

that – India will be union of states. The constitution thus postulated India as Union of states and consequently the existence of federal structure of governance for this Union of states becomes a basic structure of the Union of India.

Dr. Ambedkar, the principal architect of the constitution observed that – the use of word Union is deliberate. The drafting committee wanted to make it clear that though the Idea was to be a federation, the federation was not a result of an agreement by the states to join in the federation and that federation not being the result of an agreement no state has right to separate from it. Though the country and the people may be divided into different states for convenience of administration the whole country is one integral whole.