

# **CENTRE STATE RELATION**

## **A VEIW OF SIKKIM DEMOCRATIC FRONT**

(A recorded view submitted by SDF Party to the Commission on Center-State-Relations, Govt. of India, vide Letter No. 28/SDF/45/131-Dtd-26.8.2009)

The Central State Relation is indeed a very sensitive and delicate issue which is required to be delineated with utmost circumspection. We therefore, propose to deal with the issue in a manner specifically from the point of a small state with limited resources and perilously perched on the mountain top of Himalayas.

The issue of Central State Relation has to be viewed as forming the fabric that keeps the entire nation in a balanced tie. We are of the opinion that the approach to the issue needs to be based on a flexible and diversified pattern to meet the condition prevailing in States which are characterized by its own specific features. It is a fact that India is a country with wide variety of social, economic, geographical, historical or even climatic zone conditions. Consequently the entire nation cannot be shaped in one straight jacket formula and there is a need for accepting diversified approach on the issue to meet the requirement specific to a State based on its historical, social, geographical and economic conditions. To put it in short we have to adopt a policy which is needed to be designed to cater to the needs and requirement of the State in particular.

To illustrate the matter it is submitted that although the entire nation functions within the constitutional board parameters yet in some respect some of the States should be allowed to enjoy status which to a certain extent will stand on different footings and such an approach ultimately could strengthen the country and make such State feel assured and secured. We can with slight modifications put different States within different constitutional norms. It would not be out of context to submit that in our Country some of the States do enjoy to a certain degree different norms in so far as relation with the Central Govt. is concerned. The State of Jammu & Kashmir has been placed on a specific position which is unique in view of Article 370.

As far as the State of Nagaland is concerned Article 371-A, gives it a unique position viz-viz the Central Govt. Even with regard to the Andhra Pradesh also Article 371-D, gives its certain specific provisions which are unique in its nature. Similar is the case in so far as Article 371-H, is concerned with regard to Arunachal Pradesh or Article 371-G, in so far as the State of Mizoram is concerned. It is however well known that Article 371-F, gives the State of Sikkim certain distinctive character. However, such distinct character or the position with the passage of time has been found to be deficient to a great extent to meet the changing perspective both in social or political and economic share. The purpose behind insertion of specific Constitutional provision with regard to the respective States was essentially intended to ensure that in the great Indian landscape the small and marginal States are not swamped by the great tide of the nation both economic or political and social and the special provisions were intended to stem the tide but with the passage of time these provisions have been found to be lacking in meeting the need of the hour and therefore perhaps we have reached the point when we need to introspect or evaluate or reassess the solemn assurances implicitly conveyed in such specific provisions in the Constitution for protection. The sense of alienation or a feeling of being left out must be arrested and the people must feel assured as being equal to any other in the country. With these objects in view, we need to work out a revised methodology to reinforce a sense of assurance amongst the people for whom we have taken up the cause.

The functional parameters when it involves interactive process between the Central Govt. and State Govt. should stand on different bench mark or yardstick. To illustrate the matter further it is submitted that a small State or a mountainous State or a landlocked State or a State bordered by foreign countries with little capacity to generate revenue of its own or with a small indigenous population etc., often facing the onslaught of influx and under constant threat of its population being reduced to minority, the law or the power to make law or the applicability of the law or financial norms in devolution of resources to the State or regulation of trade and commerce or policy of employment etc. in such State should not be put on the same pattern as would be applicable to a State which is a big State with huge population and with a great potential to generate and mobilize sufficient resources from within. It is submitted that the norms or the approach to deal with such State must be segregated

from the general pattern of approach to big States or economically stronger States and we are of the opinion that there is need for adopting a separate yardstick or approach pattern to deal with small or States with little resources and needs an approach that would basically be distinct from the approach applicable to big State. We suggest that as far as the State of Sikkim is concerned the approach in Centre State Relation has to ensure the following :-

- (1) The existing or old laws of the State protected by Article 371F of the Constitution must not be abrogated and allowed to continue. Measures should be initiated to ensure that the provisions of Article 371F is not diluted and special status of the State of Sikkim should not remain an empty formality but the same should be put to positive and gainful exercise to strengthen developmental process in the State and for ensuring socio-economic transformation, if necessary by addition or insertion of such clauses in the said Article to help promote social and economic development in the State.
- (2) The legislative competence of the State Legislature on matters pertaining to the old laws in the State should not be fettered or affected and whenever necessary the same should be restored.
- (3) With regard to the Constitutional provisions of Article 19 the State like Sikkim should have the legislative competence to adopt measures for protection of indigenous population of the State and to regulate movement of people to the State which could be ensured by bringing suitable changes in Constitution and Article 371F.
- (4) Since a small State like Sikkim does not have enough potential avenues to generate sufficient revenues, the devolution of financial resources or provision for central resources to the State should be on a much wider and liberal basis to help sustain the developmental process and projects of the State and the parameters for such central resource allocation cannot be or should not be under one uniform formula applicable for all the State.

- (5) To ensure wider participation of the people of the State in the administration of the State, there should be nomination of officials 'form the State service to the All India Services and it should be in the proportion of ration of 70-30 so that people of the State who has better and greater understanding of the ground reality could be effectively involved in the administrative and developmental work to make it more pro-people and responsive. Officials hailing from other State may not be in a position to appreciate the sensibilities of any issue and could be falling short of the expectation of people in general which should be avoided. Such ratio of increased participation of State officials in All India Services by way of nomination from State Civil Services etc. should be made applicable for small State like Sikkim etc. so that the non availability of sufficient number of local officials in All India Services could be to some extent neutralized.
- (6) As far as the forest resources are concerned there is a need for its preservation and utilization of resources in a manner that would be responsive to the need of the people of small State like Sikkim. Exception needs to be made in so far as the role of the State Govt. is concerned so as to make the fruits of forest resources available to the people of the State without being hindered. The role of the State Govt. is being stressed upon only to ensure welfare oriented projects that would bring economic regeneration without any depletion of forest resources and with provision of reequipping the loss, if any, in such economic activities in forest areas so as to balance the economic need as well as preservation of forest resources.
- (7) The term and tenure of Governor should be for a period of 2-3 years and the State Govt. should also have a say on the continuance of a Governor.
- (8) While setting up national projects or institutes smaller State should not be left out of consideration and there should be an endeavor of ensuring atleast one project of national level coming up in the smaller State wherever feasible every five

year to cement process of integration and also ensure developmental activities or generate economic activities.

- (9) There should be adequate consideration for representation of people of the State while making appointment to the constitutional post or other prominent position or public institution or authority or organization of national repute so that people of the small State like Sikkim could effectively participate and get representation in mainstream of national affairs which will promote national integration and emotional bonding between the people of the State and the rest of the country.
- (10) The role of non state organization should be only in such manner as to supplement the role of the State and not substitute the State.
- (11) All developmental activities initiated by the State should be for the people in general without making any sectarian approach in so far as economic activities are concerned.
- (12) In so far as education policy is concerned, considering diversity in language, culture, tradition etc. the State must be allowed to pursue their own policies and it would not be appropriate to stress on a uniform pattern of education for entire country.
- (13) With regard to the issue of economic and financial relation between Central Govt. and the State Govt. it is suggested that small State like Sikkim should not and ought not to be treated in the same formula as applicable to other big States. It is a fact that the capacity to generate revenue from within the State being limited the pattern of financial relation should be based essentially on a policy of supplementing the State to the extent of its shortfall with an allocation of liberal grants on specific need to remove disparities in the capacity or capability of the State to meet the resource requirement.
- (14) As far as tax reform or taxation on goods are concerned we do not find much scope for any maneuver in view of the limited nature of the market in a small State. However,

incentives on generation on domestic market in an otherwise inhospitable terrain could be considered.

- (15) As far as local self-govt. like Panchayats & Municipalities are concerned, it is submitted that in the wake of 73<sup>rd</sup> and 74<sup>th</sup> amendment to the Constitution, setting up of such bodies and the requirement to sustain such bodies with its limited function and limited capacity to generate resources has become a difficult proposition. The Constitution now provides for such institution but there ought to have been provision for financial support to weak State to sustain such bodies as these bodies suffers from chronic financial ill health making it a heavy burden on the States otherwise limited or meager resources. We therefore, suggest that the Constitution should be further amended to provide for financial support to atleast those States which are small and deficient in capacity to mobilize the resources by these bodies. Taxation by these bodies only make heavy burden on the poor people of the State.
- (16) As far as criminal justice or delivery of justice system is concerned we feel that delivery of justice being a part of the preamble to the Constitution of India the financial support for maintaining justice delivery system should be entirely borne by the Central Govt. as the Acts etc. which are being enforced through the Courts are also essentially legislated by the Parliament and especially small States like Sikkim should not be burdened with bearing the cost of running administration of justice or in the alternative the burden of running the administration of justice delivery system should be shared by the Central Govt. to the extent of 90% and the remaining 10% will be shared by the State Govt.
- (17) With regard to Constitutional scheme of the role of the Governor the State Govt. through its legislature should have the power and authority to express its opinion on the role of a Governor in a State by passing necessary resolution and in the event of any resolution if passed by the State Assembly expressing its no confidence on the Governor in such and eventuality the continuance of such Governor come to an automatic end. This would be in keeping with the spirit of

Governor to function on the advise of Council of Ministers and if unfortunately there is any deviation from such practice laid down by the Constitution a methodology, which at present unfortunately doesn't exist, is required to be found out whereby the State could express its opinion of no confidence on the functioning of the Governor which itself should prompt either the Governor to resign or in the alternative the Central Govt. may recall him. This has been suggested to ensure the State can exercise effective control over the role of a Governor.

- (18) In the sphere of administrative relation the constitutional scheme at present provides for preponderance or predominance by the Central Govt. vis-à-vis the States in administrative relations. We are of the opinion that as long as the relation is based on mutually acceptable stand, dominance by either of the two entities may not be a healthy approach. The pre-ponderance of the Central Govt. is acceptable only under certain conditions i.e. when the nation is faced with attack by a foreign power. (ii) The State Assembly has been dissolved and it has been put under President's Rule. (iii) Due to any crisis arising out of internal disturbance or natural calamities of great proportion rendering local civil administration ineffective.
- (19) Under the scheme of present Constitution, the power to legislate has been provided in the Union list, State list & the Concurrent list. There has been occasion where a State having legislated on a matter involving concurrent list, the bill was forwarded for Presidential assent but the same was returned on the plea of legal issues raised and clarifications sought from the State Govt. Despite the State Govt. having clarified the matter yet it remained pending for such Presidential assent without rebutting the clarifications or confronting or rejecting the clarifications. Apparently such ploys are resorted to scuttle the legislation passed by the State Legislature. We suggest that in such event if the State Legislature passes the legislation again with modifications, the President shall remain under obligation to give his assent as otherwise the Act of the legislature being an expression of voice of the people would remain stifled which is contrary to

the principle of democratic norms and supremacy of the will of the people.

- (20) One of the most pressing issues which need serious consideration is the periodic constitution of Pay Commissions by Central Govt. and the States being under obligations constituting its own Pay Commission. It is a fact that some of the States unlike the Central Govt. have a very poor financial base and is already resorting to market borrowing to sustain its developmental projects and even in some cases, to foot the bill in otherwise normal cases of administration. It is well within the knowledge of the Central Govt. that the financial capacity of the States has been stretched to its last frontier and is virtually facing a serious threat of collapse. There are reports that even in some States the timely payment of salary to Govt. employees are facing great hurdles. The situation is alarming. To saddle the State with the imperative of periodic constitution of Pay Commission and the huge financial liability arising in the wake of the need to implement could result in bringing economic and financial catastrophe. With the resource base being almost negligible and scope for harnessing or generating matching revenues to foot the higher financial burden being limited, the States are increasingly falling on either market borrowing which cannot be of course resorted to wantonly, the need for formulating an new approach on the entire concept of periodic pay revision both at the national and state level cannot not now be avoided, if we are to avoid any greater financial disaster jeopardizing the pace of progress and development. We are of the opinion that there has to be a comprehensive approach to the need of addressing the issue of pay revision from a national perspective where both the State and the Central Govt. may have to share the burden in a meaningful way. The approach and the means to the object will perhaps require to be reworked to make the issue a viable proposition as otherwise it will be unmanageable if it proceeds the way as it stands now. It is highly imperative to find an alternative strategy to address the issue, if necessary,

by holding a national level dialogue involving all the stake holders.

The views expressed in the preceding pages are not exhaustive but only illustrative so that based on a common consensus we can all make a honest and sincere approach as it is high time that the threshold for a new beginning on Centre State Relation is undeniably a pressing and a vital subject for all concerned to take it up in right earnest with an open mind.