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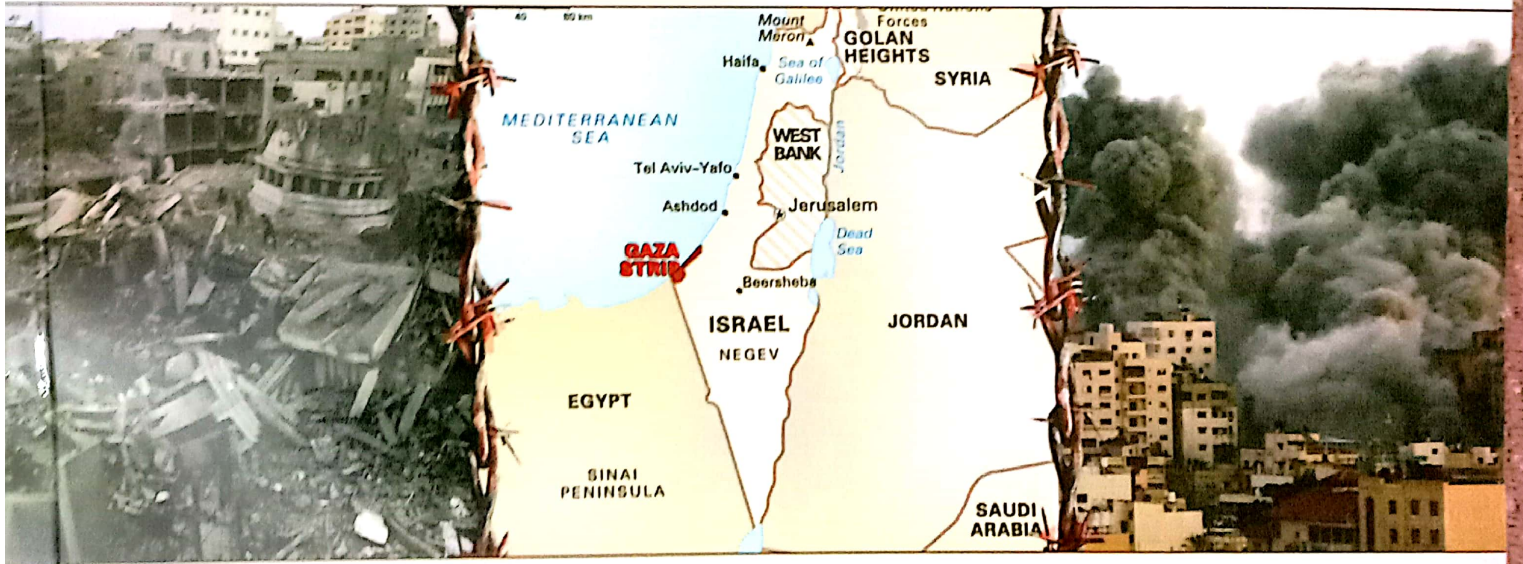
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महाराष्ट्र राज्यशास्त्र व लोकप्रशासन परिषदेची संशोधन पत्रिका

विचार मंथन

मार्गदर्शक

प्राचार्य डॉ. पी. डी. देवरे

संपादक

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Role of Supreme Court in Delineating Borders and Enforcing Limits on Executive Transgression

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Abstract

India has adopted a federal form of government and Indian Constitution provides the clear demarcation of powers between the centre and the states. The office of Governor is an important feature of Indian federalism which is expected to serve as a cord between the Centre and the States. However, in independent India since last three decades the office of the Governor and his powers has raised the issues of great controversies. This paper dwells into the constitutional provisions related to the office of Governor, the issues which created tension between the Centre and States because of undue advantage of discretionary powers drawn by Governors and highlights the role of the Supreme Court as a custodian of the Constitution delineating borders and enforcing limits on executive transgression. The study concludes that the Supreme Court through its judgments on the role of Governors in India has played a crucial role in delineating the limits on arbitrary use of powers by the Executive. It from time to time asserted the significance of adherence to constitutional boundaries to ensure proper working of all the constitutional offices and strengthen federal structure of Indian polity.

Key Words : Governor, Supreme Court, State Legislature, Apex Court, Judgements

Section I : Introduction

India is declared as a Union of States by the Constitution. It has adopted a federal structure with the executive and legislature at both the Central and the State levels. The Seventh Schedule of the Constitution specifies the demarcation of jurisdiction over various subjects between the Central government and the State governments. In spite of this

demarcation, the federal structure by its very nature creates tension between the central government and independent functioning of the constituent state governments. The office of the Governor is hailed as one of the main constitutional mechanisms to negotiate this tension. (Roy & Madhavan, 2023) However, in independent India since last three decades the office of the Governor and his powers has raised the issues of great controversies.

A Governor who is appointed by the President acts as the nominal executive at state level. Governors work as the eyes and ears of the Central government. The historical review of political milieu in independent India shows that during the first seventeen years after independence, Governors remained noncontroversial and ceremonial heads. During that period, the same party (Congress) was in power in most of the States as well as in the Centre. However, after 1967, in the context of shift in the political landscape with non-Congress governments working in many of the states, the Governors began to actively intervene in politics. The Central government was held responsible for misusing the office of Governor to encroach upon the autonomy of states which were ruled by non-Congress governments. It was blatantly remarked that successive governments at the Centre abused their power to plant their men in state capitals as Governors, wrecking the parliamentary system in the States. (Frontline, 2021) Often they were pejoratively called as 'Agents of Centre'. (A Consultation paper, 2001). Though the party in power at the centre changed, it is witnessed that the clashes between the popularly elected state government and the centrally nominated Governor have been persisting till date. It is