

When you go into court you are putting your fate into the hands of twelve people who weren't smart enough to get out of jury duty.  
Norm Crosby

# Supreme Court Judgement on Delhi is a boost to Federalism

## REFLEX ACTION

Amritananda Chakravorty

On 4th July, 2018, in a huge relief to the AAP Government in Delhi, and in a strong rebuke to the obstructionist behaviour of the Lieutenant Governor (LG) of Delhi, the Constitution Bench of Supreme Court unanimously held that LG is an administrative head in the limited sense, and is not a Governor. He is bound by the aid and advice of NCT Government in areas other than those exempted by the Constitution, i.e., land, police and public order.

The judgment was given by the Chief Justice Dipak Mishra, Justice A.K. Sikri, Justice D.Y. Chandrachud, Justice A.M. Khanwilkar and Justice Ashok Bhushan. In the majority opinion penned by the Chief Justice Mishra, the Court categorically held that "the status of NCT of Delhi is sui generis, a class apart, and the status of the Lieutenant Governor of Delhi is not that of a Governor of a State, rather he remains the Administrator in a limited sense."

The Court further held that the Constitution, vide Article 239AA, envisages a representative government for NCT of Delhi who is empowered to legislate on the subjects it is entrusted with, and to undertake policy decisions on the same. Barring three subjects mentioned above, i.e., land, police and public order, the Government of NCT of Delhi has both legislative and executive powers to legislate on all areas of governance in Delhi. Most importantly, the Supreme Court held that the LG is bound by the 'aid and advice of the Council of Ministers, except when he refers a matter to the President for final decision. Further, the LG cannot refer 'any' matter to the President, thereby derailing the decision-making process, but only in

cases where the LG has a difference of opinion from the Ministers based on a sound rationale. Referring to the Transaction of Business Rules, 1993, the Court states that LG must work harmoniously with the Council of Ministers, and "must not seek to resist them every step of the way." Significantly, the Court also held that all decisions of the Council of Ministers have to be communicated to the LG, but his/her concurrence on every decision is not required. The Court reminded the authorities that both LG and the Government of NCT are constitutional functionaries and ought to respect the spirit of the Constitution, and work harmoniously with each other, rather than denouncing each other. In his concurring opinion, Justice Chandrachud highlights the importance of representative democracy, and what was intended for the NCT of Delhi. He further states that "in a cabinet form of government, the substantive power of decision vests in the Council of Ministers with the Chief Minister as its head. The aid and advice provision contained in the substantive part of Article 239AA(4) recognises this principle."

Thus, the judgment clarifies the division of powers in administration between the Union of India, and the Government of NCT of Delhi, the latter's governance was almost paralysed for four months, owing to the

alleged non-cooperation of the IAS officers. As per the Supreme Court decision, the GNCT has power over all subjects, except three, which does not include 'service', thereby indicating that GNCT would have powers over the service conditions of the bureaucrats serving in the Delhi Government. Now it remains to be seen whether the judgment is followed in its true spirit or not.

Whatever may be the outcome of this decision, the Supreme Court judgment is a stinging rebuke of the highly unconstitutional methods adopted by the Central Government to strangle the administration of NCT. With its repeated emphasis on cooperative federalism and representative democracy as well as on constitutional morality, the Apex Court sought to remind the Central Government that India is still a federal country where the States have a critical role in the governance, and representing the will of its people. Delhi may not be State, but it has a representative form of government, which cannot be throttled, and the State be governed remotely through the office of LG. It is an affront to the citizens of Delhi who have exercised their democratic right to elect a government of their choice, and also to the will of the Parliament, which expressly provided a representative government to Delhi under Article 239AA.

The current political regime at the Centre may not believe in the Constitution, rather it assaults the Constitution on a daily basis, but the people of Delhi believe in the sanctity of the Constitution as well as representative form of democracy, and would not let the hubris of the Centre to shine through. (IPA)

## A Stupendous Feat

The rescue alive of a dozen teenage boys and their coach—all members of a football team—eighteen days after they were trapped in a flooded cave in northern Thailand was a stupendous feat. It is a tribute to human endurance, valour, fearlessness and an indomitable will to survive in the face of death. Life triumphed over Death as the world waited with bated breath for the last four boys and their 25-year old coach to be brought alive out of the death trap. They were all alive, if not kicking. The entire operation cost only one human life, that of a former Thai military diver who passed out as he was placing oxygen canisters along the route from the mouth of the Tham Luang cave to where the boys were trapped, full four kilometers inside. The boys could be traced within the cave full nine days after they were trapped. That they clung to each other and survived without food where there was literally "no light at the end of tunnel" is nothing short of a miracle.

The rescue operation was a saga of team effort, sustained day after day with unflagging determination in the face of a situation that seemed to be hopeless in every sense. One thousand rescue workers took part in the operations including nineteen divers who actually entered the cave. The passage at some points was as narrow as fifteen inches. Then there was a 'hump' in the passageway which had to be climbed and scaled down. There was constant threat of there being more rains and more water entering the cave and drowning the boys. The oxygen level in the cave sometimes dropped dangerously low but fortunately oxygen canisters could be reached in time.

Now, after their rescue as they realize what they have passed through and how near death they were, the boys—and maybe their coach, too—are likely to suffer from acute psychological trauma. The doctors attending on them will not only have to feed them and treat them against possible infection, they will also have to treat them for the post-rescue trauma. From early TV shots they boys looked cheerful. Some of them were even smiling. But as the realization of what they had gone through and narrowly escaped sinks in their consciousness, trauma is likely to set in. Both for the boys and their rescuers it was an unforgettable experience. That it all ended in the boys being brought out alive against heavy odds is the ultimate triumph of the will to survive.



Artist Amit Modak shows a miniature portrait of Lord Jagannath, Balabhadra and Subhadra ahead of Rath Yatra in Agartala on Wednesday

**Conventional Crossword**

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21	22	23	24	25
26	27	28		

- ACROSS**
- 1 Agitate
  - 6 Floor covering
  - 7 Mexican dollar
  - 9 Slightly cold
  - 10 Fashions
  - 11 Himalayan kingdom
  - 12 Kimono sash
  - 14 English Channel
  - 17 Sways to and fro
  - 20 Before (poet)
  - 21 Rose red dye
  - 23 Verbs
  - 25 Prima donna
  - 26 Snare
  - 27 Fabled monstrous bird
  - 28 Remaining
- DOWN**
- 1 Length of army front
  - 2 Seemingly mocked by fate
  - 3 Govern
  - 4 Colour
  - 5 Long-leaved lettuce
  - 7 Sport
  - 8 Cut off
  - 10 Insane
  - 13 Breed of dog
  - 15 Italian city
  - 16 Retract
  - 18 Large brown seaweed
  - 19 Distress signal
  - 22 Worshipped image
  - 23 Place for pigs
  - 24 Lacking discipline

**SUDOKU: 2251**

			9	1	5	7		3
3		5	2					8
								5
4				6			7	
1								8
	6			3				2
6								
	5					6	9	
9		7	8	2	1			7

**Yesterday's Solution 2250**

7	9	6	5	2	8	3	1	4
5	8	3	9	4	1	2	7	6
1	4	2	3	7	6	5	8	9
4	7	8	1	6	3	9	2	5
3	6	5	2	9	7	8	4	1
2	1	9	8	5	4	7	6	3
6	3	4	7	8	9	1	5	2
9	5	7	6	1	2	4	3	8
8	2	1	4	3	5	6	9	7

**Yesterday's Cross Word Solution 259**

S	E	L	E	C	T	S	E	C
K	I	R	E	R	E	H		
I	M	P	E	D	E	R	Y	E
O	C	E	A	S	E	W		
P	O	E	T	R	I	N	S	E
I	D	L	E	R	L	E	A	D
R	A	D	A	G	E	F		
A	C	T	P	O	N	D	E	R
T	E	A	C	E	A			
E	N	D	S	L	E	E	P	Y

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# BJP playing Kandal and Mandal politics in UP

## FOCUS

Pradeep Kapoor

Shocked by the loss of three Lok Sabha and one assembly seats in the by-elections, BJP is invoking both Kandal and Mandal to retain the 73 seats it won in 2014 in the coming Lok Sabha elections.

The BJP leadership is now talking of reservation politics as well as construction of the Ram temple at Ayodhya as soon as possible. The civil society was shocked when BJP-linked sant and member of Ram Janam Bhumii Nyas said in the presence of CM Yogi Adityanath in Ayodhya that the Ram temple construction will take place in the same manner as the controversial structure (Babri Mosque) was demolished on December 6, 1992.

Vedanti further said that whatever happened in Ayodhya for the temple

movement had nothing to do with court orders. He warned that if construction of the temple was not started before 2019 then it would adversely affect the prospects of BJP.

A large number of Pro-BJP sants who attended the 80th birthday celebration of Ram Janam Bhumii Trust Mahant Nritya Gopal demanded that Yogi Adityanath should fulfill his promise before the assembly polls regarding construction of temple during the BJP regime.

Yogi, however, advised the sants that they should wait for the court verdict, which would come very soon and then only can the construction take place. But he said construction of the temple was the desire of cores of people in India. The Ram Janam Bhumii and Babri Mosque case is pending before

the Supreme Court. The Yogi government has launched several schemes for the development of Ayodhya to promote religious tourism and to keep the issue alive.

On the other hand, BJP is also aggressively playing the reservation card to win over the backward sections, the most backwards and dalits. In fact, Rajasthan Governor Kalyan Singh, who as UP CM presided over the demolition of the mosque in Ayodhya, gave a call in Lucknow to backward classes to fight for reservation. Attending a programme of backward classes to celebrate

the birth anniversary of the late VP Singh, Kalyan Singh asked the members of backward classes to defend their reservation and fight for it. He gave credit to VP Singh for successfully implementing the Mandal Commission recommendations.

The Yogi government is also planning to give adequate reservation to the most backward classes within the quota of backward classes. During his recent visit to Lucknow Home Minister Rajnath Singh assured that his government would safeguard reservation in promotions as

promised by the government order. A deputation of those opposing reservation in promotions also met Rajnath Singh and warned him that if the government failed to revoke the order, the government employees would be forced to go on strike.

BJP is also playing the dalit card by promising better policies and programmes for their welfare to ensure their better participation in the 2019 Lok Sabha polls. There is no doubt that in the 2014 elections BJP had got good support from the backward classes and dalits. But the recent alliance of Samajwadi Party, BSP and RLD has unnerved the BJP leadership, which is desperate to play both the Kandal and Mandal cards to retain its seats and increase its vote share in the 2019 Lok Sabha polls. (IPA)