

EMERGENCE OF GOVERNANCE IN J&K

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Abstract

As far as governance of J&K state is concerned, it is highly impacted by the conflict situation in the state since 1989 which further aggravated the crisis of legitimacy. All the governments which came into power lacked popular mandate and have been imposed by New Delhi through rigged elections and manipulations. That explains their failure to function in a transparent manner and to be accountable for their acts of omission and commission and responsive to the people's needs. It was expected that things would change after 2002 with the formation of democratic governments. However, the successive governments after 2002 have not been able to provide more effective governance. On many counts, governance has failed to satisfy the people.

ARTICLES

Pandit Jawaharlal Lal Nehru, the first prime Minister of India, in his famous Tryst with Destiny Speech of 15th August 1947 succinctly put the task before People's representative and the service in the following words:

.....to fight and end poverty and ignorance and disease, to build up a prosperous, democratic and progressive nation, and to create social. Economic and political institutions which will ensure justice and fullness to life to everyman and woman

These works are still in progress. A deeper look at these tasks would clearly establish that these goals are entirely within the realm of governance.

Governance refers to the interaction between government and other actors of the social sphere and the process of decision making in a complex world. The journey of the concept of Governance in the modern times has gone through many phases. In the pre-independence period, Gandhiji's vision of governance was essentially meant democratic decentralization which entailed power to the gram panchayats and people at the lowest level of political hierarchy. By early 1990s, however the idea of governance has turned into a metaphor of donor-conditionally for the debt-ridden countries of Asia and Africa. Seen from that perspective, the concept has been critically analysed. Rather than a political concept, it is seen more of an economic concept linked with global agenda of neo-liberalism that has been imposed on the developing countries from external sources. Following this ideology the definition of governance has been provided by the World Bank. As per this definition, the necessary elements of governance are:

legitimacy of government (degree of democratization), accountability of political and official elements of government (media freedom, transparent decision making, accountability mechanisms), competence of government to formulate policies and deliver services, and respect for human rights and rule of law (individual and group rights) and security, framework for economic and social activity, and participation¹

The concept of governance or rather good governance in Jammu and Kashmir has to be applied in the context of conflict situation. Good governance is an integral part of any effective government. It is primary duty of any administration to provide for the basic needs of the people under its care, create conducive conditions for them to pursue their vocations, aspirations and dreams, as also to enable them to lead a reasonably and comfortable life. However, in a conflict situation and disturbed environment where life and interest of the ordinary people are under pressure, the issue of effective administration becomes even more crucial.

The governance in the earlier period of J&K was directly linked with the fragility of democratic process, of which the absence of the tradition of competitive politics based upon the norm of a healthy opposition and dissent, remain the most significant. It also included the sense of discontent among the state masses due to absence of interactive participatory politics. In the absence of democratic channels for popular political representation and voicing of popular grievances, the popular resentment has been accumulating over the period.

Governance on the whole has remained hostage to the conflict situation. Though the conflict situation had impacted the state right from the period of Accession, however, during the two decades of militancy, governance was more clearly impacted. To quote the Planning Commission of India:

However, everything is not always very smooth. During our visit to the state we interacted with many officials who opined that government machinery has been affected by the militancy in the state. Two-third of the state had been severely hit by militants due to which the outreach of government officials also got affected. As the free movement of government officials has been hampered, they are not as easily accessible to one and all as they should be. This is partly due to security being beefed up after threats by militants. Some of the proactive and development-oriented officials have suffered the most because they have become the direct targets of militants.²

That governance remained hostage to the conflict situation in J&K gets clear from an analysis of the patterns of governance during various phases of Kashmir's politics.

The Period of 1947-1953

Although this phase was defined by the presence of a charismatic leader and a political party with mass base and ideological framework, and was relatively with larger component of democracy as compared to the later phases, yet, there were problems of governance during this period as well.

The very beginning of the government and administration during this period was in the situation of conflict. It was in the wake of tribal invasion that the Dogra monarch took the decision to sign the Instrument of Accession and transfer power to the 'popular government'. Right after the accession an Interim government was formed which was led by Sheikh Abdullah. Later after the first general election which was held in 1951, the government was firmly established. Since the formation of government itself was in the situation of emergency and there were pressing issues before the state government, there were many

loopholes in the governance at that time. Of these pressing issues, the first related to the security of the state in the context of tribal invasion and the second issue was related to communal violence that had started affecting some parts of the state in the wake of partition. There were three important factors that impacted the process of governance during this period. First there was the singular authority in one party and within the party in the hands of a single person, viz, Sheikh Abdullah. Although there were other leaders of stature but the authority of Sheikh was overarching one. Second, there was no distinction made between the politics and administration. The National Conference which had emerged as the most important political institution also provided the base for administration. Third, there was not much of institutionalization. To quote Balraj Puri:

Constitutionally Kashmir was without systems of checks and balances. Under the charismatic leadership of Sheikh Abdullah, politics, religion, culture and administration were bladed to build up a monolithic structure in what was almost a one-party state.³

Reference to Kashmir's power politics being a monolith has been made by many political analysts. Intolerance to opposition, and authoritarian style of functioning of Sheikh Abdullah has been severely impacted the process of governance in this period. The assessment of this period can be made with reference to the following quote from the Planning Commission :

While quite a few states of the Indian Union inherited the system of administration evolved during the British rule, the state of J&K had no such system. As a result, even during normal times, the governance in the state was marked by arbitrariness and lack of systems and precedents.

Post-1953 period

Governance suffered a process of retreat in the post-1953 period. The post 1953 period saw a reversal of democratic processes and the state suffered acute legitimacy crisis. Because of this reason, governance was very badly hit during this period. The concentration of power in the hands of Bakshi's National Conference, absence of dissent and opposition resulted in the absence of checks and balances and hence there was lack of accountability.

Sufficient record of the personalized style of governance during this period has been made by the political analysts. Balraj Puri mentions about Bakshi's complete control not over politics but culture, religion and administration. To quote him:

He (Bakshi) ... replaced Abdullah as the president of the Auqaf, a Muslim religious organization. In addition, Bakshi patronized art and culture and became the chairman of a

ARTICLES

newly formed academy. In short, he centralized the entire political, administrative, and social activity of the state. Appointments of government jobs, promotions and transfers, admissions to educational institutions, grants of licenses, quotas, and loans and contracts for business were invariably made by him...⁴

Rather than institutionalizing administration, it was a personalized administration that became the model during Bakshi's regime. Among other problems identified by Puri in the process of governance during Bakshi's regimes included the employment through patronage, corruption and a politically driven bureaucracy. The wide-spread corruption has been noted by Mir Qasim, a minister during Bakshi's regime who later on became the Chief Minister of J&K, in his memoir.

Apart from lack of institutionalized governance, there were major issues of civil liberties and basic rights of people. The very fact that Sheikh Abdullah was kept in custody for at least five years without any formal case being lodged against him, reflected the lack of a legal and constitutional protection for the citizens of the state. It was only at a later stage that a formal case was lodged and the judiciary got involved. Kashmir conspiracy case was launched against Sheikh Abdullah, Mirza Afzal Beg and 22 other people and was brought before the court in 1959. It was not a singular case of denial of civil liberty. The situation was worse for common people. Referring to the denial of civil liberty to common people, Qasim thus notes:

... the common man, under Bakshi's tyrannical rule, were denied even basic liberties. Political dissent was sought to be crushed ruthlessly. The Government agents forced hot potatoes into the mouths of the opponents; put heavy stones on their chest; and branded them with red hot iron. The Peace Brigade, which Bakshi had set up, initially consisted of political workers, but later bad characters infiltrated into it, especially in Srinagar. They were free to harass the people and humiliate the womenfolk.⁵

The situation became better during the times of GM Sadiq who proved to be more democratic and under his leadership governance was more institutionalized. One of the reasons for lack of institutionalization of governance in J&K was the lack of accountability of the local governments to the local people and survival in politics because of sheer support of Central government. Though this continued to be the trend during the period of Sadiq as well, but he allowed some democratic space to emerge. Unlike in the period of Bakshi, political opponents were not harassed. The pattern of governance was streamlined and the process of state's integration with the Centre was used to introduce institutional arrangement that was operational in rest of country.

ARTICLES

With the re-entry of Sheikh Abdullah into power politics, governance attained prominence. One of the first attempts of Sheikh's government to reduce the level of subsidy and the psychological dependence of Kashmir on the Centre. To quote Habibullah:

As part of his program of buying public support, Bakshi had instituted a liberal subsidy for rice, the staple of the Kashmiri diet. In the rest of the country, the public distribution subsidy provided for rationed supplies of basic food grains from government stores at an affordable price. The subsidy... under Abdullah, it was discontinued and price were brought in line with India's national food public distribution system.⁶

Sheikh's political regime started with the promise of bringing an effective governance, and in the beginning efforts were made to introduce drastic measures to curb inefficiency and corruption. However, as the time passed even Sheikh's regime could not live upto its promise. To quote Habibullah again:

Although the Sheikh's stint in 1975-77 as the leader of a Congress-backed government had been fruitful in the administrative reform and economic regeneration, after his election in 1977, affairs other than those of state began to dominate government... With Beg gone, corruption and nepotism, which the Sheikh had promised to beat back, grew. Harassment of the citizenry for monetary gain was again the order of the day. In October 1977, the government promulgated the Public Safety Ordinance, which conferred draconian powers on the government to enforce security... National Conference activists felt that the opportunity to enrich themselves was here and might not come again...⁷

The fragility of the governance process continued in the later period. Though there was some institutionalization in the post 1953 phase, especially after the Bakshi's regime, however, there continued to remain the problems of lack of accountability, inefficiency, political intervention in administration and corruption.

Governance in the present period

The major institutions of democratic governance was severely damaged during the first two decades after independence. Rekha Chowdhary stated that:

The lack of integration of the state with the centre allowed for ways and means to government to interfere in the functioning of local institutions and using them in a personalised way. Not only the electoral; machinery was used to further political interest of the ruling party and bureaucracy; the police and other institutions was abused by those in power. The low efficiency of political institutions led to a legitimacy crisis in the state. With

ARTICLES

the government infrastructure kindling no hopes in the minds of the people of the state, the centrality of the legitimized and democratic politics was progressively challenged.⁸

In J&K good governance required a fair legal framework that are enforced impartially and the full protection of human rights, particularly those of minorities. But state's impartial enforcement of law has distorted the sanctity of rule of law. For the enforcement an independent judiciary and an impartial and incorruptible police force is required. It further requires that all the institutions and the processes of the state try to serve all the stakeholders with in a reasonable time, so that it could build a sense of responsiveness to win the confidence of the public which have lost from decades.

Referring to the issue of governance in Jammu and Kashmir, Planning Commission has indicated a number of indicators which included effective implementation of policies made by the state; people's participation; friendly approach of bureaucracy; simple procedures to access schemes and other benefits; involvement of local governing bodies; and check and balance systems. It further notes that there should be local plans with the participation of people and involvement of local bodies and highlighted that:

Good governance requires accountability by public officials: both elected political leaders and civil servants whose public function is to serve the community at large. Second, good governance requires transparency in public procedures, processes, investment decision, contracts and appointments. It is not sufficient that information simply be available, it must also be reliable and presented in useful and understandable ways to facilitate accountability.⁹

The story of governance in the present period is a continuation of the earlier period mentioned above. The reason for this can be traced to democracy deficit. It is because of this deficit that one can identify various problems with governance in the present period. These problems may be stated as – the lack of transparency and accountability in the working of the public institutions, poor implementation of rule of law to guarantee individual and groups, the absence of right to security, non participatory methods of designing policies, programmes and services delivery by the government institutions and the absence of effective institutions for checking corruption.

State also lacked in the broad consensus oriented approach in society. State's unitary structure with a clear concentration of power in the valley did not allow the government to adopt a broad consensus oriented approach for the welfare of all the communities in the society. This further led to the fragmentation of the various communities representing Jammu, Valley and Ladakh. To quote Planning Commission:

There have also been frequent complaints about regional imbalance in economic development. While the geographical situation, topography and lack of infrastructure have largely been responsible for this imbalance, there has been a widely held belief or perception that there is an urgent need to evolve the political and administrative will to bring about balanced development.¹⁰

Because of New Delhi's failure in dealing with the basic Kashmir problem, the successive regimes at the Centre have demonstrated generosity in allocating funds for its socioeconomic development with the entire state plan being funded by the Centre and in addition several central projects in the troubled state made operational. The benefits of such generosity and such projects have not reached the people at the grass-root level.

However, it has generated a sense of prosperity among the middle classes. Rekha Chowdhary notes that with the Central intervention and development projects 'prosperity certainly arrived in Kashmir'. But it was prosperity of few. These few affluent Kashmiris along with politicians and bureaucrats adopted a life style much different from the rest of the masses.¹¹

With these liberal funding there has generated an institutionalized system of corruption as well. Most administrative structures in the state are inefficient and incompetent and are therefore unable to deliver services mandated to them. The system of decision making about resource allocations and expenditure remains opaque and archaic and corruption is widespread. The state government over the last decade has though created political systems which have enjoyed the citizen's trust in much greater depth as compared to the earlier period, but the system of transparency and accountability has not been put in place. It has therefore generated tremendous dissatisfaction among citizens who articulate their voice through dialogue, movement, protest and communication medium like television.

Accountability in J&K can be improved through various organizations like Human right organizations, Independent Election Commission, RTI, SVC, and other watch dog agencies. But most of these agencies lack effective power and autonomy and hence cannot place checks on government or administration. From the beginning, the J&K state politics had closed all the legitimate channels of opposition and dissent. In the absence of an organized oppositional politics the democratic functioning of government was seriously undermined. And hence the mechanisms of the checks on government could not be institutionalized. With no check on its power the government failed on the principles of transparency and accountability.

MECHANISMS OF EFFECTIVE AND GOOD GOVERNANCE

The essential features of any sustainable governance are that it should be democratic and responsive to the people's needs and demands, it should deliver quickly, should be free from corruption, nepotism and favouritism and not act in an arbitrary and authoritarian manner. The successive regimes have failed to stand by this test. The arbitrariness has been the hallmark of all the governments in the State and this is due to their lack of democratic character. Most of the earlier governments lacked popular mandate and that explains their failure to function in a transparent manner and to be accountable for their acts of omission and commission and responsive to the people's needs.

Participation by both man and woman is a key cornerstone in the process of governance. Democracy which is the key indicator of the strength of civil society as well as the vital opportunity for participation in governance and decision making was non-existent in the state due to armed militancy that emerged in 1989. But now the democratic space has extended during the last few years and found the massive popular participation of people in the elections. Popular response to the electoral politics and separatism are two political realities of the state that have existed side by side. Even the intense separatist mobilization during the summer of 2008 in case of Amarnath Agitation was followed by very participatory elections. Similarly during the summer of 2010, there was again a massive mobilization in favour of separatist politics. But despite that, democratic politics continues to operate. This led to conclude that fair elections, non- intervention of the centre in the local politics and the intense competition among the local parties has certainly led to the expanded democratic space, even within the overall environment of separatism.

It is in the context of the extended space of democracy that one can argue that the regimes which came into power since 2002 have better record in terms of their credibility and political base. Hence, there have been expectations that some institutionalized response to the problems of governance would be possible.

Some efforts were made during the past few years, particularly after 2002 when the PDP-Congress government under Mufti Mohammed Sayeed assumed office to make governance accountable and transparent. However, in most cases, these measures remained half-hearted and have been subverted by the powerful politicians-bureaucrats nexus which had developed a vested interest to perpetuate a system that only breeds corruption, injustice and arbitrariness.

Two important measures, initiated in this regard were the enactment of the State

ARTICLES

Accountability Act and the constitution of a State Accountability Commission (SAC) and the enactment of the Right to Information Act. Despite their shortcomings and flaws, these measures, if implemented sincerely, could have gone a long way in making the governance both transparent and accountable. However, these measures were sabotaged by the vested interests. The SAC died its premature death after the resignation of its first chairman with several cases of corruption and misuse of official position against several public men and bureaucrats before the Commission hushed up and subsequent failure of the government to appoint a chairman and other members of this institution.

In the case of RTI its enforcement was delayed for a long time due to the failure of the government to appoint the Chief Information Commissioner and other Commissioners in accordance with the procedures prescribed under the law. It is after a prolonged delay that the Commissioners have been appointed and the RTI process has been set in motion. However, in comparison to rest of India, the RTI movement in the state is quite backward.

Meanwhile, the decentralization of power through the establishment of Panchayats has also been initiated. However, like other measures, the Panchayati Raj Institutions have not become ideal instruments of better governance at the local level. Both the legal apparatus as well as the governmental initiative remain constrained at many points. The state has therefore lagged behind than other states in the institutionalization of panchayati Raj, RTI and similar other institutions.

Conclusion

As far as governance of J&K state is concerned, it is highly impacted by the conflict situation in the state since 1989 which further aggravated the crisis of legitimacy. The essential demands of the governance in the state are that it should be democratic and responsive to the people's need and demands; it should deliver quickly, should be free from corruption, nepotism and favouritism and should not act in an arbitrary and authoritarian manner. But this all is missed in the governing process of the state. The successive regimes have failed to stand by this test. The arbitrariness is hallmark of all the government in the state and this is due to their lack of democratic character. This has been more so till the 2002 elections. All these governments lacked popular mandate and have been imposed by New Delhi through rigged elections and manipulations. That explains their failure to function in a transparent manner and to be accountable for their acts of omission and commission and responsive to the people's needs. It was expected that things would change after 2002 with the formation of democratic governments. However, the successive governments after 2002 have not been able to provide more effective governance. On many counts, governance has failed to satisfy the people.

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