BLOGS

# Financial Emergency under Article 360 of the Indian Constitution

Indrasish Majumder · 03 Mar 2024



## Introduction

Under **Article 360**, the President of India has the authority to declare a financial emergency in situations where the stability or credit of the country's finances are at risk.

This article delves into the notion of a financial emergency in India, examining its ramifications and the constitutional safeguards in place to ensure the efficient handling of economic crises.

## Legislative Intent

- The inclusion of a financial emergency provision in the Indian Constitution serves the purpose of addressing severe economic crises that pose a significant threat to the financial well-being of the nation.
- The framers of the Constitution acknowledged the imperative of granting the federal government temporary authority over the fiscal affairs of the states in order to effectively address such circumstances.
- According to Article 360 of the Indian Constitution, the President is granted the authority to proclaim a financial emergency if he or she determines that the financial stability or creditworthiness of India is in jeopardy.

- The proclamation of financial emergency requires the approval of both chambers of Parliament.

## Procedure for Parliamentary Approval

- The approval and duration of a proclamation declaring a financial emergency necessitate the endorsement of both chambers of Parliament within a period of two months from the proclamation's issuance date.
- In the event that the declaration of a Financial Emergency is made during a period when the Lok Sabha has been dissolved or if the dissolution of the Lok Sabha occurs within two months of the proclamation without its approval, the proclamation will remain in effect until 30 days after the first session of the reconstituted Lok Sabha, provided that the Rajya Sabha has given its approval in the interim.

## Duration of a Financial Emergency

There is no maximum time limit for a  Financial Emergency. Once approved by both houses of the parliament, a financial emergency shall continue unless revoked.

## Effect of Financial Emergency

- A situation of Financial Emergency grants the Union government the authority to assume jurisdiction over the fiscal management of the states.
- The President has the authority to declare a state of emergency in India when there is a threat to the country's economic stability or credit. The authority to declare a financial emergency lies with the President, who exercises this power based on the recommendations provided by the Union Cabinet.
- In the event of a financial emergency, the central government is granted the ability to wield substantial powers, such as the ability to decrease the salaries of government officials, mandate adherence to specific financial regulations by the states, and issue directives to the Reserve Bank of India (RBI) pertaining to monetary policy.
- The main aim is to reinstate fiscal stability, mitigate economic hardship, and protect the overall welfare of the country.

## Powers of the President during Financial Emergency

**During a situation of financial emergency, the president can :-**

1. Assume the entirety of executive authority within the state government, either himself or bestow it to any other individual.
2. Announce the vesting of legislative authority in the parliament.

## Scope and Limitation of Power of Government during Financial Emergency

- During a financial emergency, the Union government has a lot of power, but this power also comes with rules and protections meant to prevent abuse and uphold the preservation of fundamental rights.
- The declaration of a financial emergency does not result in the suspension of the exercise of fundamental rights as outlined in Part III of the Constitution.
- During the emergency period, individuals retain the ability to seek legal redress through the judicial system in order to address any infringements on their rights.
- Furthermore, it is worth noting that the Supreme Court has consistently maintained that the actions undertaken by the government in response to a financial emergency must adhere to the principles of reasonableness and serve the public interest.
- The judiciary retains the jurisdiction to assess the legitimacy of governmental actions, guaranteeing their compliance with constitutional principles and preventing any overreach of emergency powers.

## Landmark Cases on Emergency Provisions in India

In the case **State of Rajasthan vs. Union of India (1977)**, the Supreme Court reaffirmed the importance of judicial review and said that the legality of actions taken under Article 360 during the emergency period would be judged based on two criteria:

1) the presence of mala fide intentions and;

2) the use of irrelevant or extraneous grounds.

This decision underscored the importance of holding individuals or entities responsible for their actions and served as a safeguard against the government overstepping its jurisdiction in times of financial crisis.

The case of **Indira Nehru Gandhi vs. Raj Narain (1975)** brought to the forefront the importance of the basic structure doctrine, even in times of emergency, despite not being directly linked to a financial emergency.

The court ruled that the Constitution's fundamental elements are not subject to abrogation or suspension, thereby safeguarding democracy and fundamental rights.

In **SR Bommai versus the Union of India (1994)**, the court ruled that the imposition of the president's rule in a state is open to scrutiny by the judiciary, as outlined in Article 142. Additionally, the court provided guidelines to safeguard against the potential abuse of this authority.

The court further determined that secularism is an inherent characteristic of the constitution, and in the event that any state government contravenes this principle, the imposition of the president's rule may be warranted.

In **Rameshwar Prasad versus the Union of India**, the Supreme Court determined that the declaration of a state emergency in Bihar was deemed unconstitutional due to its reliance on extraneous and irrelevant factors.

The Supreme Court ruled that the Governor had provided misleading information to the central government when recommending the dissolution of the assembly. It was expected that the Union Council of Ministers would have thoroughly examined the recommendation before accepting it as an unquestionable fact.

## Conclusion

The inclusion of a financial emergency provision within the Indian Constitution  demonstrates the foresight of the constitution's architects in anticipating potential economic crises and granting the Union government the authority to implement essential measures aimed at reinstating stability.

The issuance of a financial emergency declaration grants the government supplementary authorities; however, it is imperative to uphold a delicate equilibrium between emergency measures and the safeguarding of fundamental rights.

The Constitution incorporates safeguards and limitations to ensure that the emergency is a temporary measure with the objective of preserving India's economic stability and prosperity. Additionally, the judiciary plays a crucial role in upholding constitutional principles in this regard.