

Formation of State Government-2018 in Karnataka and Role of Governor

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Abstract

In 1952, when India elected its first parliament, the election commissioner Sukumar Sen called it “the biggest experiment in democracy in human history.” Bharatiya Janata Party gained an overall parliamentary majority in the 2014 general elections with about 31 percent of the polity-wide vote. Although the party seeks to unite the Indian electorate around the majoritarian notion of a Hindu nation, its combative Prime Minister and former Chief Minister Narendra Modi has been touting the idea of cooperative federalism. Today, either the BJP or one of its partners in the National Democratic Alliance is in control of 19 states. In co-operative federalism states and centre are co operate to each other. In democracy people have right to vote if any political party does not get majority then, it is up to the understanding of the governor whom he calls to form the government. There are no set rules on what the Governor should do now, it is well within his choice to ask anyone to prove their majority on the floor of the house. academically speaking, is that the Governor should keep himself away from party politics and controversy and invoke Article 175(2) of the Constitution and tell the House that it is not clear to him as to who commands majority support and declare it a hung Assembly. Whomsoever the House then elects, will be appointed by the Governor.”

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Hung Assembly: What Will Karnataka Governor Vajubhai Vala Do Now?

The governor has said that he will not be entertaining any proposals till the time the Election Commission declares the final results. So, what will be the next step for Vajubhai Vala, a former Gujarat BJP leader, who had, in 2002, vacated his Rajkot seat for Narendra Modi and had also served in his cabinet as a Finance Minister? Will he call upon the single-largest party to form the government as per convention or allow two political contenders who've agreed on a post-poll alliance to come to rule?

If the Congress-JD(S) alliance keeps the BJP from making it to the majority mark, what are the options for the Karnataka governor?

Scenario 1: Allow the Single-Largest Party to Form Government

If Vala goes by constitutional tradition, he should call upon the single-largest party, in this case the BJP, to form the government. But the norm was not followed in the Manipur and Goa elections.

In Goa, the governor had not contacted the Congress, which had emerged the single largest party and had allowed the BJP to form the government on a first-come-first serve basis. Similarly, in Manipur, although the Congress had emerged as the single-largest party, it had fallen short of majority while the BJP had garnered support from other MLAs in the state and the governor had invited the latter to form the government.

Scenario 2: Allow the Congress + JD(S) to Form Government

The power and role of a governor had come under the scanner after the Goa and Manipur elections, where the Congress was caught napping, while the BJP managed to get the support of the governor to form the government. Now that the tables have turned, it will be interesting to see how the governor responds to this political stalemate.

There are other precedents as well:

In 2005, the BJP won 30 out of 81 seats in Jharkhand but JMM leader Shibu Soren, who had the support of 17 MLAs of his own party plus others, was invited to form the government.

In 2002, in Jammu and Kashmir, the National Conference won 28 MLAs but the governor invited the PDP and the Congress combine consisting of 15+21 MLAs to form the government.

In 2013, the BJP won 31 seats in Delhi, but the AAP with 28 MLAs, with the support of the Congress, was invited to form the government.

In September 1999, the Congress with 75 MLAs and the NCP with 58 MLAs had contested against each other in the Maharashtra Assembly polls but had come together to edge out Shiv Sena-BJP (125 MLAs), which had a pre-poll tie-up for the 288-member House.

Scenario 3: Governor Can Call for a Re-Election

The governor can also call for a re-election, if no like-minded parties are able to come together and form government. This is least likely in the current situation.

Sarkaria Commission Recommendations, 1988

The Sarkaria Commission set up by the central government in 1983 to examine and suggest changes within the framework of the Constitution of India, came out with a report in 1988, outlining the constitutional convention of inviting the single-largest party if there is a fractured mandate. The guidelines were affirmed by a Constitution Bench of the Supreme Court in 2005.

According to the recommendations of the commission, this is the order of preference the governor should follow while selecting a CM: An alliance of parties that was formed prior to the elections. The single-largest party staking claim to form the government with the support of others, including Independents A post-electoral coalition of parties, with all the partners in the coalition joining the government. A post-electoral alliance of parties, with some of the parties in the alliance forming a government and the remaining parties, including Independents, supporting the government from outside

MM Punchhi Commission Recommendations, 2010

The Government of India had constituted a commission to analyse the Centre-State Relations under the chairmanship of Justice Madan Mohan Punchhi, former Chief Justice of India on 27 April 2007.

According to the recommendations of the commission, which were submitted in a seven-volume report on 30 March 2010, there should be clear guidelines for the appointment of chief ministers, so that there is regulation on the discretionary power of the governor. According to the recommendations, the following order of precedence ought to be followed by the governor in case of a hung House:

The group with the largest pre-poll alliance commanding the largest number. The single largest party with support of others. The post-electoral coalition with all parties joining the government. The post electoral alliance with some parties joining the government and remaining including Independents supporting from outside

In the Nabam Rebia and Bamang Felix vs Deputy Speaker case in 2016, a five-judge bench, recommended to follow the Punchhi and Sarkaria Commissions

regarding the role of the governor and said the governor was bound by the advice of the council of ministers.

Karnataka election results 2018

Results Of Karnataka Legislative Assembly election, 2018

Leader	B. S. Yeddyurappa	Siddaramaiah	H. D. Kumaraswamy
Party	BJP	INC	JD(S)
Alliance			JD(S) + BSP
Leader's seat	Shikaripura	Badami Chamundeshwari (lost)	Channapatna Ramana gara (vacated)
Seats before	40	122	40
Seats won	104	78	38 + 1 (BSP)
Seat change	▲64	▼44	▼2
Popular vote	13,185,384	13,824,005	6,666,307
Percentage	36.2%	38%	18.3%

The 15th Karnataka Legislative Assembly election, 2018 was held on 12 May 2018 in 222 constituencies of the Karnataka Legislative Assembly. The election was postponed in Jayanagar and RajarajeshwariNagar, following the death of the MLA BN Vijaya Kumar and a voter ID card fraud scandal rpectively till May 28, 2018. The election saw a voter turnout of 72.13%, which is the highest in Karnataka since 1952 Assembly polls. The counting of votes took place on 15th May 2018. The incumbent Indian National Congress was seeking re-election, having governed the state since elections in 2013. The Bharatiya Janata Party attempted to regain office, having previously governed the state in 2007 and from 2008 to 2013. The Janata Dal (Secular), and the Bahujan Samaj Party contested the election in an electoral alliance and won 38+1 seats. The Aam Aadmi Party also made its debut in the state. The election led to a hung assembly, with the Bharatiya Janata Party emerging as the single largest party, with 104 seats, but failing to win a majority of seats and popular votes. The Indian NationalCongress won the popular vote and won 78 seats. With Karnataka heading for a hung assembly, the ball is now in the court of state governor Vajubhai Vala. Even as the BJP emerged the single largest party in the state, it failed to cross the halfway mark. The Congress, learning from its past mistakes in Manipur

and Goa where it reacted late, sprung a surprise when it offered support to the JD(S). Deve Gowda's party has accepted the offer of support and will stake claim to form the government in Karnataka. BJP's Karnataka unit chief B S Yeddyurappa said he met Governor Vajubhai Vala on 15 may and asked him to allow him to take oath as chief minister as the party had emerged single largest party. Soon after he was elected leader of the BJP legislature party, Yeddyurappa drove to the Raj Bhavan here and handed him a letter about his unanimous election to the post. Yeddyurappa said he requested the governor to allow him to take oath as chief minister as early as possible. The Congress-JD(S) combine moved quickly even as the counting of votes was underway on 15 may and requested the governor to allow formation of a JD(S)-led government. The two parties together have a clear majority in the 224-member Assembly.

Invitation to Yeddyurappa from governor Vajubhai Vala

After a day of intense speculations, Karnataka governor Vajubhai Vala on 16 may's evening invited BJP's BS Yeddyurappa to form government in the state. In a letter addressed to the BJP leader, the governor granted the saffron party a period of 15 days to prove majority on the floor of the house. By giving 15 days time (to prove majority) Governor is encouraging horse-trading by BssJP leaders, this is unconstitutional. We will discuss the future plan: HD Kumaraswamy JD(S) on Karnataka Governor's invite to BJP to form government.

Appointment Pro tem speaker:?

In his speech on the constitutional role of Governors, Dr. B.R. Ambedkar described how a Governor should use his discretion not as "representative of a party" but as "the representative of the people as a whole of the State". The core constitutional issue behind the Congress party's challenge is whether the appointment of V.P. Bopaiah by Karnataka Governor Vajubhai Vala is an "arbitrary" use of gubernatorial discretion. Article 180 (1) of the Constitution gives the Governor the power to appoint a pro-tem Speaker. The Article says that if the chair of the Speaker falls vacant and there is no Deputy Speaker to fill the position, the duties of the office shall be performed "by such member of the Assembly as the Governor may appoint for the purpose". The Supreme Court on 17 may 2018 ordered the appointment of a pro-tem Speaker to conduct a floor test to decide the majority in the Karnataka Assembly on May 19. It is the Governor's duty to make the appointment. Article 180 (1) is silent about the extent to which the Governor can use his discretion. The BJP defends the Governor's appointment of Mr. Bopaiah by quoting Article 163(2) of the Constitution. The latter part of this Article mandates that "the validity of anything done by the

Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion". But the five-judge Constitution Bench of the Supreme Court led by then Chief Justice J.S. Khehar in the -Nabam Rebia judgement of 2016 ruled that Article 163 does not give Governors a "general discretionary power" as is often misunderstood."The area for the exercise of his (Governor) discretion is limited. Even this limited area, his choice of action should not be arbitrary or fanciful. It must be a choice dictated by reason, actuated by good faith and tempered by caution," the Constitution Bench, of which the current Chief Justice Dipak Misra was a part of, held. The Rebia case dealt with the problem of the Arunachal Pradesh Governor advancing the date for the sixth Assembly session in the northeastern State. In his speech on the constitutional role of Governors, Dr. B.R. Ambedkar described how a Governor should use his discretion not as "representative of a party" but as "the representative of the people as a whole of the State".

Congress and JDS Went to The Supreme Court In Mid Night:

Bharatiya Janata Party (BJP) leader BS Yeddyurappa will take oath as Karnataka Chief Minister today morning after the Supreme Court in a late night-early morning hearing on Thursday, 17 May declined to order a stay on his swearing-in ceremony. The apex court took up the joint petition by the Congress- Janata Dal (Secular) alliance at around 1:45 am on Thursday and it was only the second time in its history that the SC had opened its doors for hearing. The apex court ruling implies that Yeddyurappa will take oath as the new Chief Minister of Karnataka on 17 May at 9.00 am, - as per the schedule. The court also issued a notice to Yeddyurappa, asking him to submit the letter submitted by him to the state's Governor. "The BJP has only 104 MLAs, the Governor invited Yeddyurappa to form the government in an unconstitutional manner," senior counsel Abhishek Manu Singhvi, who appeared for the Congress, told the three-member bench of Justices AK Sikri, SA Bobde and Ashok Bhushan. Singhvi argued in the full pack court-room and talked about occasions when post-poll alliances have been called despite single largest party. He cited the instances of Goa and Manipur where the Congress had emerged as the single largest party sans, majority but post-alliances were invited to form governments. He said in

the case of Karnataka, it was unheard of a Chief Minister who doesn't have a majority but was given 15 days to conduct floor test .”There is only one way a party which got 104 will get 113... I heard he asked for seven days, but the Governor gave 15 days. BJP leader BS Yeddyurappa was sworn in as Karnataka's new chief minister on 17 May morning after the Supreme Court refused to stay the oath-taking ceremony in a rare late-night hearing. The congress and Janata Dal (Secular) combine had petitioned the top court late on 16 May night in a bid to stall the BJP from forming government. A 20- minute emotional speech by BJP's BS Yeddyurappa at the Karnataka assembly ended with him quitting as the chief minister, just two days after he was sworn in. The BJP , which won 104 of the 222 seats for which polling was held , were eight seats short of majority. The Congress and JDS combine claimed the support of 117 lawmakers. The Supreme court had ordered BS Yeddyurappa to take a strength test on 19 May ,overruling the governor's generous 15-day period. Minutes before the vote, Mr Yeddyurappa delivered a speech, calling himself a fighter and that his fight will continue.. However, Mr Yeddyurappa resigned before the floor test on May 19, following which Governor Vajubhai Vala invited H D Kumaraswamy to form the government.Mr Kumaraswamy, who will lead the JD(S)-Congress alliance in the state, will be sworn in as the chief minister of the state tomorrow.JD(S) leader Kumaraswamy invited to form government in Karnataka, to take oath as CM on 21 May.Janta dal (Secular) leader HD Kumaraswamy on Saturday announced that he would be taking oath as Karnataka chief minister on Monday, 21 May, afternoon. “The governor has invited me to form the government. The oath ceremony (as Chief Minister) will be held on Monday between 12 noon-1 pm,” Kumaraswamy told reporters after meeting Governor Vajubhai Rudabhai Vala at the Raj Bhavan in Bengaluru.The 58-year-old leader, son of JD (S) supremo and former prime minister H D Deve Gowda, also stated that the Governor had given him 15 days to prove that he had the majority in the 224-member legislative assembly, whose strength is currently 222. “I have decided to form the JD-S-Congress government on May 21 by taking oath at 11 a.m. in the Kanteerva stadium,” Kumaraswamy, the former Chief Minister, saidHD Kumaraswamy was sworn in as Chief Minister and his deputy G Parameshwara took oath on 23 may evening at a mega-gathering that served as a giant display of opposition unity ahead of 2019 general elections.The 58-year-old Janata Dal Secular leader shifted the venue of the swearing-in ceremony from a stadium to the steps of the Karnataka's iconic Vidhan Sabha complex for the event that JDS leaders suggest, could become a platform for various opposition parties to unite. At least four chief

ministers and many regional satraps will be there but two notable absentees, Telangana's K Chandrasekhar Rao and Odisha's Naveen Patnaik, does point to the challenges that remain for any united front. It is being seen as a stepping stone for the anti-BJP platform being cobbled by various parties in the run-up to the 2019 Lok Sabha polls.

. Key political leaders was attended Kumaraswamy's swearing-in on Wednesday: # Congress president Rahul Gandhi, West Bengal CM Mamata Banerjee, Former Uttar Pradesh CM Akhilesh Yadav, Former Uttar Pradesh CM Mayawati, Andhra Pradesh CM N Chandrababu Naidu, Delhi CM Arvind Kejriwal, Telangana CM K Chandrashekar Rao, Former Bihar Deputy CM Tejashwi Yadav, DMK working president MK Stalin. * However, the BJP has dubbed the Congress-JD(S) alliance as "unholy" and claimed that the government will not complete its full term. The saffron party has decided to boycott the oath-taking ceremony and will observe "Anti-People's Mandate Day" to protest the formation of the coalition government. * A huge stage has been erected in front of the majestic stone building for the ceremony where a host of national and regional leaders are expected to be present to send a message across to the BJP over the shape of things to come in 2019. Karnataka Congress president G Parameshwara will be sworn-in as the deputy chief minister, AICC general secretary in-charge of the state K C Venugopal said. Congress's Ramesh Kumar, a former minister, will be the next Assembly speaker, while the deputy speaker's post will go to the JD(S), Venugopal told PTI. * The Congress would have 22 ministers and JD(S) 12, he said, adding that they would be sworn-in after the floor test slated for Friday, 25 May.

SC should set rules for guvs in govt formation: Abhishek Singhvi

The Karnataka case is still pending in the Supreme Court. Now that B S Yeddyurappa has stepped down and the Congress-JDS alliance is to form the government, is the case still necessary? At our request, the SC has kept the main writ for hearing. We will ask the SC for adoption of some crucial paragraphs of the Sarkaria commission report, especially about who should be invited to form the government. Failing an absolute majority to a party, a declared pre-poll alliance crossing the majority mark must be called first to form the government. Then the invite should go to a single largest party only if, being below the majority mark, it produces proof of support of independents and other members which is sufficient in numbers to cross the majority mark. A post-poll alliance with a majority should be called third, and the President's rule and fresh elections should be the last option. Along with this, we will seek specific time periods, possibly not exceeding 48 hours,

for the governor to mandate the floor test. We are also going to seek guidelines regarding the appointment of pro tem speaker. While in normal situations, pro tem speaker's role is passive, in cases like Karnataka and Jharkhand, it assumes vital significance and may well involve tricky situations. We will seek formalisation of the established convention that the senior most elected member, irrespective of party, is appointed pro tem speaker.

Conclusion

Though it is an established practice in India that immediately after the election a party holding majority elects its leader, who is summoned by the governor to assume chief minister ship, yet the states may not be blessed with such a happy situation for all times to come. In fact it happens in Karnataka assembly election 2018, BJP emerge as single largest party, but failed to get majority, it won a 104, congress 78 and JDS 38+1(BSP) seats, result is hung assembly. In case state governor has constitutional discretion power in appointing the chief minister when no party has acquired clear cut majority in the state Legislative Assembly. According to the article 163 of the Indian constitution says the decision of the governor in his discretion shall be final, and the validity of anything done by the governor shall not be called in question, inquired into any court.

References

- 1 <http://www.thehindu.com/elections/karnataka-2018/governors-discretion-cannot-be-arbitrary-or-fanciful-sc-constitution-bench/article23930414.ece>
- 2 <https://timesofindia.indiatimes.com/india/karnataka-assembly-elections-2018-what-role-will-the-governor-vajubhai-bala-play/articleshow/64175517.cms>
- 3 TIMESOFINDIA.COM | Updated: May 15, 2018, 21:51 <https://www.firstpost.com/politics/karnataka-polls-guv-vajubhai-vala-set-to-play-crucial-role-as-parties-vie-for-power-old-bjp-hand-has-refused-all-meetings-4470133.html>
- 4 <https://www.thequint.com/news/politics/hung-assembly-what-will-https://economictimes.indiatimes.com/news/politics-and-nation/bs-yeddyurappa-takes-oath-as-karnatakas-cm/vissdeoshow/64199884.cms>
- 5 <http://zeenews.india.com/karnataka/karnataka-no-stay-on-swearing-in-ceremony-says-supreme-court-bs-yeddyurappa-to-take-oath-as-cm-today-2108810.htm>
- 6 http://economictimes.indiatimes.com/articleshow/64187588.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

7 <https://www.businesstoday.in/current/economy-politics/karnataka-cm-race-live-governor-invites-bjp-to-form-karnataka-government-bs-yeddyurappa-to-be-sworn-in-as-cm-tomorrow/story/277023.html>

8 <https://economictimes.indiatimes.com/news/politics-and-nation/supreme-court-should-set-rules-for-governors-in-govt-formation/articleshow/64252844.cms>

9 <https://www.thenewsminute.com/article/karnataka-house-cards-why-governor-vajubhai-valas-81352>

10 <https://www.deccanchronicle.com/nation/current-affairs/160518/experts-differ-on-karnataka-governor-vajubhai-valas-role.html>

11 <https://www.hindustantimes.com/india-news/karnataka-government-formation-congress-keeps-options-open-to-go-to-supreme-court/story-4S1ERNBIoLht7JMXeK6JDM.html>

12 <http://indianexpress.com/elections/karnataka-assembly-election-2018-hd-kumaraswamy-bs-yeddyurappa-bjp-congress-jds-chief-minister-oath-taking-ceremony-5183291/>

13 <https://timesofindia.indiatimes.com/india/congress-jds-government-oath-taking-ceremony-in-karnataka-key-points/articleshow/64282819.cms>

14 <http://zeenews.india.com/karnataka/karnataka-no-stay-on-swearing-in-ceremony-says-supreme-court-bs-yeddyurappa-to-take-oath-as-cm-today-2108810.htm>

15 <https://www.businesstoday.in/current/economy-politics/karnataka-cm-race-live-governor-invites-bjp-to-form-karnataka-government-bs-yeddyurappa-to-be-sworn-in-as-cm-tomorrow/story/277023.html>

16 <https://www.theguardian.com/commentisfree/2014/mar/10/federalism-key-democracy-india-social-justice>

17 Reports from various sources are presented as it is without analyzing. Websites references should be provided with date and time of Access.