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## **FEDERALISM IN CONSTITUTION OF INDIA: IT'S FEATURES AND IMPORTANCE**

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### **ABSTRACT**

*Constitution is a grundnorm to rule any country. It tells about the basic principles which needed to run any country by the policies given in the Constitution. Constitution is the set of rules, regulations and law by which the country is governed. It is very important for any country to rule that there should be definite nature such as federalism, unitary and confederation. Once in constituent assembly the drafter of our Constitution Dr. B.R. Ambedkar said, " A student of Constitutional law if a copy of a Constitution is placed in his hand is sure to ask two questions, firstly what is the form of government that is envisaged in the Constitution; and secondly what in the form of the Constitution? For these are the two crucial matters which every Constitution has to deal with....." These words prove the importance of the nature of the Constitution. Constitution of India is federal in nature by its soul but it has some unitary features also. It is the uniqueness of the Indian Constitution but there are a lot of controversies about the nature of the Constitution such as K.C. Where called it 'A Quasi federal' Constitution, Ivor Jennings called it 'A Federation with strong central tendency'. There are other controversies also but the statement of Dr. B.R. Ambedkar cleared that Constitution of India is a federal Constitution and it has some features of unitary Constitution, it was the need of the hour. It has proved after so many discussions and decisions of Supreme Court of India that federalism is the basic feature of the Constitution.*



The nature of federalism is no more Res Integra. There can be no quarrel with the propositions that Indian model of is broadly based on federal form of governance.<sup>1</sup> There are no questions about the nature of Constitution of India as it is decided by the Supreme Court in its various decisions that federalism is the part of basic structure of Constitution.<sup>2</sup> Federalism in India is not the same as USA because the conditions in India, the movement of foreign invaders increased and the powers of India pass in the foreigners so it is the need of India to make a federalism of its own kind where the powers tilt towards the centre. The Indian union has described as the “holding together” of different areas by the Constitution framers unlike the “coming together” of Constituent units as in case of USA and confederation of Canada.<sup>3</sup>

Federalism in India is not a new concept but it is a concept from ancient time. There was a monarchial system in India, there was a king who delegated his powers to the state and head of the state made laws according to need of public and state and followed the policies of central power that was king this used to be a main feature of federalism. This was because it could not be an easy task to rule such a big empire, which is why the king used to delegate his powers. This sharing, division or separation of power between these two bodies is the main characteristics of federalism.

Federation is a system of government in which power is distributed between centre and states i.e. Constituent political units. The model of federalism in India is “Quasi federal type” as it contains the features of federalism as well as union. It can be better phrased as “Federation sui generis” or Federation of its own kind.

### MEANING AND DEFINITION OF FEDERALISM

Federalism is basically derived from a Latin term i.e. “foedus” which means a formal agreement, covenant or a treaty. It basically means sharing of the power of decision making and distribution of authority between the central authority and local governmental units. It can be simply defined as a form of government where there is interdependence of central government at the national level with its Constituent units at the regional, state or local level.<sup>4</sup>

K.C. Wheare, an authority on federalism, said, “Federation is a system which consists of two sets of governments which are independent, coordinate and distinct.”<sup>5</sup>

According to Prof. A.V. Dicey, “Federation is a political contrivance intended to reconcile national unity with the maintenance of state rights.”<sup>6</sup>

<sup>1</sup> Kuldip Nayar vs. Union of India, 22 Aug, (2006) 8 SCC 212

<sup>2</sup> Union of India (1994) 3 SCC 188; (1995) 6 SCC

<sup>3</sup> Shukla V.N., Constitution of India, eastern book company, 10<sup>th</sup> ed. P.no. S-1

<sup>4</sup> Shodhganga, [inlibnet.ac.in](http://inlibnet.ac.in) > etymologically, the expression Federation derived from.

<sup>5</sup> Wheare, K.C., Federation government, oxford university press, London, 1967, p.no 10.

<sup>6</sup> Pal, Chandra, State autonomy in Indian Federation, Deep and Deep publications, New Delhi, 1984, p.no. 18



According to B.R. Ambedkar, “the partition of legislative and executive power of the centre and units is the main criteria of Federation.”<sup>7</sup>

Dictionary meaning of federalism, “the distribution of power in an organization (such as government) btw a central authority and the Constituent units.”<sup>8</sup>

So according to the definition stated above, it is clear that Federalism is the system of government in which there are two sets of government one at centre level and other on state level. These two powers works parallel to each other, to make policies and rule the nation or the state. They both are sovereign in their own fields.

### **PROVISIONS OF LAW IN INDIA**

Constitution of India is a federal type of Constitution. India is a member of the family of Federations, of which the better known members are The USA, Canada and Australia.

### **CONCEPT OF FEDERAL PRINCIPLE**

The Constitution of The USA, known by all as a truly federal Constitution, sets up dual polity or dual form of government, the federal government and the state government. Neither of them is sub-ordinate but both of them work by coordinating and they both are independent of each other within the spheres allotted to them.

According to Professor K.C. Wheare, ‘Federal principle is a method of dividing power so that the general and regional governments are each within a sphere coordinate and independent.’<sup>9</sup>

Existence of coordinate authorities independent of each other is the gist of the federal principle.<sup>10</sup>

### **PHENOMENON OF FEDERALISM IN INDIA**

Federalism is an arrangement in India between two adverse powers such as sovereignty and autonomy enjoyed by provinces or states or local units within Constitutionally prescribed limits (schedule 7 list 2<sup>11</sup>) and the need for a sovereign and a strong centre in the view of unity and integrity (as shown in preamble of The Constitution) of the country (schedule 7 list 1<sup>12</sup>).

<sup>7</sup>Shodhganga, [inlibnet.ac.in](http://inlibnet.ac.in)>PDF chapter-2 nature and dynamics of Indian Federalism.

<sup>8</sup> Federalism definition at <http://www.merriamwebster.com/dictionary/federalism> viewed on 10th march, 2019.

<sup>9</sup>Wheare, K.C., Federation government,oxford university press, London, 1963 4<sup>th</sup> ed., p.no 10.

<sup>10</sup> Shukla, V.N., Constitution of India, Eastern book company ed. 10<sup>th</sup>, 2007.

<sup>11</sup> Constitution of India, 1950.

<sup>12</sup> Constitution of India, 1950.



In India, federalism is different from other Federation in all means, we cannot say that we adopted federalism from anywhere but it is a 'Federation sui generis' which is one of its kinds. There are a lot of features of federalism with a pinch of union. Article 1<sup>13</sup> itself declares, "India as a union of states" so there is federalism with unitary features which were very much needed in Indian aspect, so Constitution framers made our Constitution with different approach. This is the reason why Constitution of India is prevailing till now whereas the Constitution of our nearby countries has to make their Constitutions again and again.

### **ESSENTIAL CHARACTERSTICS OF FEDERALISM**

As it was discussed before that federalism in USA is known as ideal federalism and federalism of India does not follow that ideal federalism. But the nature of Constitution of India is federal in its own sense because the conditions prevailed in India was different from the conditions of USA. The federalism which India follows is ideal for Indian perspective. So India adopted such kind of provision which suits its culture, society and policy.

There are 7 characteristics of federalism, which are as follows-

1. Written Constitution.
2. Supremacy of Constitution.
3. Rigidity of Constitution.
4. Independent judiciary.
5. Division/separation of powers.
6. Dual polity.
7. Bicameralism.

#### **1. WRITTEN CONSTITUTION-**

India as well as USA has a written Constitution. The Constitution of India in the written form came into being after long deliberations by the men of eminence representing the aspirations and culture of our ancient nation. Before Constitution makers various Constitutions of the world were there to be looked into, incorporated and relied on. Our Constitution makers have taken best part of the Constitution of different countries including USA, Australia, Germany, Canada and others.<sup>14</sup> Constitution of India includes 395 Articles<sup>15</sup>, 12 Schedules<sup>16</sup> and 22 Parts<sup>17</sup>, which made it the longest written Constitution of world also.

<sup>13</sup> Constitution of India, 1950.

<sup>14</sup> K Lakshminarayanan vs. union of India, 2018, [indiankanoon.org/doc/186346218/](http://indiankanoon.org/doc/186346218/) viewed on 15<sup>th</sup> march 2019.

<sup>15</sup> Constitution of India, 1950.

<sup>16</sup> Constitution of India, 1950.

<sup>17</sup> Constitution of India, 1950.



A written Constitution is necessary in federalism because it makes all the provisions fix and clear. So that there is no confusion about which article will be used or not and which provision will be used or not.

A written Constitution is a supreme and fundamental law. It is supreme in the sense that it is harder to change than ordinary law and prevails over ordinary law in case of incompatibility. It occupies a place at the apex of hierarchy of legal norms, as a *lex superior* from which other law derive their authority. It defines the state proclaims its basic principles, protects the rights of citizens, establishes governing institutions and regulates the relationship between them.<sup>18</sup>

## **2. SUPREMACY OF THE CONSTITUTION-**

Another important feature of federalism is, ‘supremacy of the Constitution’. Supremacy of the Constitution means that there is no other person or power which is above the Constitution. Constitution is a supreme law of country and every organ derives its power from the Constitution. We can call it master of all laws.

Supreme Court in the case of *Minerva Mills vs. Union of India*<sup>19</sup> clearly stated, “Our Constitution is a controlled Constitution which confers powers on the various authorities created and recognized by it and defines the limits of those powers. The Supreme Court of India is *suprema lex*, the paramount law of the land and there is no authority, no department or branch of the state above or beyond the Constitution or has powers unfettered and unrestricted by the Constitution. The Constitution has devised our structure of power relationship which checks and balances and limits are placed on the power of every authority of instrumentality under the Constitution.”

Supreme Court further opined, “It is a fundamental principle of our Constitution that every organ of the state, every authority under the Constitution derives its powers from the Constitution and has to act within the limits of such powers.”<sup>20</sup>

Each organ of the government derives its powers from the Constitution. The three organs of the government are legislative, executive and judiciary. These three organs have their own powers and limitations as provided by the Constitution and they function within the limits such as the legislature legislates, executive executes that legislation and judiciary interprets that legislation as well as check its validity and these all functions are decided and given to them by the Constitution of India.

So in India, Constitution is a supreme body.

<sup>18</sup> <https://www.theosthinktank.co.uk/comment/2019/10/24/do-we-need-a-written-Constitutiontution>, viewed on 15th march 2019.

<sup>19</sup> AIR, 1980, Indiankanoon-<https://-Indiankanoon.org/doc/1939993>, viewed on 14<sup>th</sup> march 2019.

<sup>20</sup> *Minerva Mills Ltd. And ors. Vs union of India*, AIR 1981 SCR (1) 206.



### 3. RIGIDITY OF CONSTITUTION

One of the important characteristic of federalism is rigidity old Constitution. Rigidity or Constitution or rigid Constitution is related to amendment procedure, or its amendment which declares weather Constitution is rigid or flexible.

Rigid Constitution is that Constitution in which it is difficult to amend the provision but in flexible Constitution it is easy to amend the provisions. Constitution of USA is known as a rigid Constitution because the amendment procedure is very difficult this is the reason that only 27 amendments<sup>21</sup> have been made in the Constitution of USA.

Amendment procedure is given in article 368 in the Constitution of India. There are two types of amendments that can be done by the government i.e. special amendment and special amendment with consent of 50% of states.

Article 368 clause (2) provides, “an amendment of this Constitution may be initiated only by the introduction of a bill for the purpose in either house of parliament, and when the bill is passed in each house by a majority of the total membership of that house and by the majority of not less than 2/3<sup>rd</sup> of the members of that house present and voting, it shall be presented to the president who shall give his assent to the bill and there upon the Constitution shall stand amended in accordance with the terms of the bill:

Provided that if such amendment seeks to make any change in –

- (a) Article 54, Article 55, Article 73, Article 162, or Article 241, or
- (b) Chapter IV of part V, chapter V of part VI, or chapter I of part XI, or
- (c) Any of the list in the 7<sup>th</sup> schedule, or
- (d) The representation of states in parliament, or
- (e) The provision of this article,

The amendment shall also require to be ratified by the legislature of not less than ½ of states by resolutions to that effect passed by those legislatures before the billing making provision for such amendment is presented to the president for the assent.”<sup>22</sup>

According to this there are two types of amendments:-

1. By majority of two third members
2. Bymajority of two third members and ratified by half of states

After looking into the provisions it can be said that in Constitution of India amendment procedure is difficult so it can be said that the Constitution of India is mostly a rigid Constitution.

<sup>21</sup><https://www.whitehouse.gov/about-the-white-house/theConstitutiontution> viewed on 20th march 2019.

<sup>22</sup> Constitution of India, 1950.



#### 4. INDEPENDENT JUDICIARY:-

For the establishment of true federalism it is essential to set up an independent judiciary as judiciary is the key to interpret the constitution and it can also stop the legislature and executive from their arbitrary works. Independent judiciary means a judiciary who do their work without any boundation, pressure, influence or interference of legislature or executive. Constitution of in Article 50 declares that the state make law to separate judiciary from the executive. It provides, “the state shall take steps to separate the judiciary from the executive in the public services of the state.”<sup>23</sup>

Article 50 is a part of directive principles of state policy which is not justifiable by the judiciary but constitution of India provides about separation of judiciary from the organs so judiciary could remain independent.

On the subject of independence of judiciary supreme court opined that the concept of independence of judiciary is a noble concept which inspires the constitutional scheme and constitutes the foundation on which rests the edifice of our democratic polity. If there is one principle which runs through the entire fabric of the entire constitution, it is the principle other rule of law and under the constitution, it is judiciary which is entrusted with the task of keeping every organ of the state within the limits of law and thereby making the rule of meaningful and effective.<sup>24</sup>

Supreme Court further said that the concept of independence of the judiciary was not limited only to the independence from executive pressure or influence, but it was a wider concept, which took within its sweep, independence from many other pressures and prejudices. It had many dimensions, namely, fearlessness of power centre, economic or political, and freedom from prejudices acquired and nourished by the class to which the judges belong. It was held that the principle of independence of judiciary had to be kept in mind, while interpreting the provisions of the constitution.<sup>25</sup>

To secure the independence of judiciary constitution framers made judges economically as well as socially strong like the salary of judges is charged on the consolidated fund of India<sup>26</sup>, appointment of judges or the workers in court does by the judiciary itself but the appointment of chief justice is a controversial issue in India but Article 124 provides that the CJI shall be appointed by the president as well as other judges but every judge shall be appointed by the president by the consultation of Chief Justice of India, and this consultation is binding on president.<sup>27</sup>

How important is the independence of judiciary can be gauged from the fact that the united nations has given guidelines related to the independence of the judiciary which are as follows:-

<sup>23</sup> Constitution of India, 1950

<sup>24</sup> Supreme Court Advocates on Record Association and Anr. vs. Union of India, 2015

<sup>25</sup> Supreme Court Advocates on Record Association and Anr. vs. Union of India, 2015

<sup>26</sup> Article 113, constitution of India, 1950

<sup>27</sup> Article 124, constitution of India, 1950



1. Independence of judiciary shall be guaranteed by state enshrined in constitution.
2. Judiciary shall decide cases according to the facts and decision should be impartial and without any influence or fear.
3. Judiciary shall have the entire jurisdiction upon legal matters.
4. There shall not be any interference in the working of judiciary by any other organ.
5. Every person of the country shall have the right to go to court for their legal matters.
6. Judicial proceedings should be fair.
7. Rights of the parties should be respected.
8. Judges should perform their functions properly.<sup>28</sup>

In India there is independent judiciary who follows all the national and international measures.

### **5. DIVISION/SEPARATION OF POWERS:-**

There are three branches of government –

1. Legislative
2. Executive
3. Judiciary

All three are different from each other and have their own specific features and powers and these features and powers are respectively described and provided by the constitution. The doctrine of 'separation of powers' deals with the mutual relations among the three organs of the government. Montesquieu, a French scholar, found that concentration of power in one person or a group of persons results in tyranny.<sup>29</sup> Montesquieu stated the principle of separation of powers in the following words-

“there would be an end of everything, were the same man or same body, whether of the nobles or of the people, exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.”<sup>30</sup>

This principle of separation of powers divides the legislative from the executive and judicial functions to prevent any person or group becoming a judge of their own cause.<sup>31</sup>

The legislative organ of the government makes laws for the state, the executive organ of the system execute those laws in the state and the judiciary who is apart and free from the other two organs, works like interpreter of those laws and also works as a guardian of the constitution who protect constitutional norms. If there is no division of powers among these three pillars no country can stand properly so in a federalism it is the most important feature, UK, USA, Canada, Australia etc which were the country this doctrine is followed in almost every country.

<sup>28</sup> Independence of judiciary- <https://www.un.org-basicprinciplesontheindependenceofjudiciary> , viewed on 10 march, 2019

<sup>29</sup> Separation of powers and the constitution of India, <https://www.shodhganga.inflibnet.ac.in> , viewed on 13 march 2019

<sup>30</sup> Montesquieu, Baron De, The Spirit of Laws

<sup>31</sup> Bellamy, Richard, The Rule of Law and Separation of Powers, Rutledge Taylor and Francis Group, 2<sup>nd</sup> ed., 2011





The question which assumes significance over here is that what should be the relation amongst the three organs of the state. Whether there should be complete separation of powers or there should be coordination amongst them.<sup>32</sup> Here it can be said that it is not possible for any country that there cannot be complete separation of powers, it is not practically possible.

There is no rigid separation of power in India like American constitution. In India we follow a separation of functions and not of powers. And hence, we don't abide by the principle in its rigidity.<sup>33</sup> Separation of powers is the basic structure of constitution.<sup>34</sup> So this is the main characteristic of constitution of India as well as federalism so we can say that India is a follower of federal group of countries but this feature is also sui generis.

## **6. Dual polity**

Dual polity is a system of government where there are two types of government that works together.

Supreme court said, "a federal constitution is marked: (1) by the existence of a central polity and subsidiary polities side by side, and (2) by each being sovereign in the field assigned to it."<sup>35</sup>

Supreme Court in its decision said that federal constitution is that constitution where there is dual polity and it is a two tier system in which both tiers work together without any interference of others. Both are sovereign in their own field. Supreme Court said that there are two tiers one is at central or federal level and other is at state or province level. There is union government at the central level in India and state government at the province level. There can be cooperation or competition between both of them so these are the two types of federalism, also followed in India.

Supreme court observed, "in the US, the sovereign state enjoy their own existence which cannot be impaired."<sup>36</sup> Here, Supreme Court compared federalism of USA with the federalism of India and asked that there is full sovereignty given to states so that it is the essential feature of constitutional federalism.

Federalism means that the establishment of dual polity. The draft of constitution is federal constitution in as much as it establishes what maybe called dual polity. The dual polity under the constitution consists of the union at the centre/ federal and states at the periphery each endowed

<sup>32</sup> Separation of powers: its scope and changing equation, <http://www.legalserviceindia.com/article/116-separation-of-powers.html> viewed on 10th march 2019.

<sup>33</sup> Separation of powers: its scope and changing equation, <http://www.legalserviceindia.com/article/116-separation-of-powers.html> viewed on 10th march 2019.

<sup>34</sup> Keshavanandbharti vs. union of India.

<sup>35</sup> K lakshminarayanan vs. union of India, 2018, [indiankanoon.org/doc/18634218](http://indiankanoon.org/doc/18634218) viewed on 16<sup>th</sup> march 2019.

<sup>36</sup> Kuldeepnayar vs. union of India 22<sup>nd</sup> august (2006) 8SCC 212.



with sovereign power to be exercised in the field assigned to them respectively by the constitution.<sup>37</sup>

Dr Ambedkar in constitutional assembly said that our constitution is federal in as much as it establishes dual polity. In the constitution of India there is division of function btw union and states, part V<sup>38</sup> which provides about the executive in which the president, vice president, attorney general etc are the executive heads and the president of India is the head of all executive powers,<sup>39</sup> so part V is related to union, part VI<sup>40</sup> is related to states accordingly part XI (article 245 to 255)<sup>41</sup> deals with the legislative relation between the state and the centre as well as schedule 7 is concerned, there are three lists which completely tells about the powers of centre and state in India.

These three lists are:-

1. Union list<sup>42</sup>
2. State list<sup>43</sup>
3. Concurrent list<sup>44</sup>

Union list discusses those matters which are related to union govt. On which union government made laws, state list provides the matter of state importance and on those matters state have entire powers to make laws. Last list is concurrent list and it consists of those matters which are equally important in national and state, so on this third list both union and state government make laws so here, it can be said that the constitution of India follows the rule of dual polity.

#### 7. Bicameralism:-

Bicameralism is also one of the main features of federalism. It is necessary to run a federal government because a rule of federalism is also a division of powers and all powers cannot be vested in anyone institution.

Bicameralism means a government with two houses one is upper house and other is lower house. The association between bicameralism and federalism is founded on solid historical evidence.<sup>45</sup>

Lower house is the house of people where elected representatives of the public come. They work for the public interest and laws are made for the public as they come from the public so most of the time they are not the scholar of each and every subject but in Rajyasabha there are 12

<sup>37</sup> K lakshminarayanan vs. union of India, 2018, [indiankanoon.org/doc/18634218](http://indiankanoon.org/doc/18634218) viewed on 16<sup>th</sup> march 2019.

<sup>38</sup> Constitution of India, 1950.

<sup>39</sup> Article 53, constitution of India 1950

<sup>40</sup> Constitution of India, 1950.

<sup>41</sup> Constitution of India, 1950.

<sup>42</sup> Schedule 7, constitution of India

<sup>43</sup> Schedule 7, constitution of India

<sup>44</sup> Schedule 7, constitution of India

<sup>45</sup> Arretche, Marta, Federalism, Bicameralism And Institutional Change: General Trends And One Case Study, *Brazilian Political Science Review*



members are there who are nominated by the president and they are the scholar of their fields so it is easy to loksabha to make policies by the help of Rajyasabha and also use their experience in the law making.

Thereasons for favoring and preferring two chamber legislatures are many. Some of them are as follows:-

1. There is need for sober and second look at the legislation which may be the result of political passionsof a monetary nature or calculated tyranny of a dogmatic majority in the popular house.<sup>46</sup>
2. The second chamber is capable of giving opinions less dependent on the transient political emotions.<sup>47</sup>
3. It provides a more careful scrutiny of any issue.<sup>48</sup>
4. It is good for the legislative bodies as they share the burden of each other.
5. The country may secure the services of its best talent by sending it to the second chamber since such a talent generally shy of facing the rough and tremble of the hustings.<sup>49</sup>
6. Though the executive is responsible to the popularly elected house, it can be influenced, if not controlled by the deliberations of the second house.<sup>50</sup>
7. Bicameralism is almost indispensable in federations both go hand in hand.<sup>51</sup>
8. Last but not least upper house can serve as a mechanism for promoting unity and integrity in a country composed of diverse castes, creeds, religion, languages and ethnic groups.<sup>52</sup>

In India, there are two houses on the centre level;

1. Loksabha ( the house of people)
2. Rajyasabha (the house of state council)

Loksabha is known as a lower house but Rajyasabha is upper house of parliament. Loksabha is the house where members of parliament come after direct election and they are the representative of “we, the people of India”. There are two nominated members which come from anglo-Indian community. This lower house has a time limit of five years and after each five years there are elections conducted by the election commission of India. Rajya Sabha is a permanent house of parliament and it never ends but the one-third members are elected in every two years after completing their work tenure of six years. There are indirectly elected by the people of India as well as 12 members of Rajyasabha are elected by the president of India.

In constitutional literature, the Rajyasabha is regarded as a second chamber but the Rajya Sabha does not play a secondary role. It is not a replica of the other house.<sup>53</sup> The relationship of both

<sup>46</sup>Rajyasabha- its contribution to Indian polity, rajyasabha secretariat, new delhi, pg-2

<sup>47</sup> Supra 46

<sup>48</sup> Supra46

<sup>49</sup> Supra 46

<sup>50</sup> Supra 46

<sup>51</sup> Supra 46

<sup>52</sup> Supra 46

<sup>53</sup> Supra 46



house runs smoothly and they have their own personality and identity. They work with the cooperation of each other and this harmony is the beauty of constitution, parliament and the bicameralism.

By all the above discussions, it proves the constitution of India is federal but it is not federal but some unitary features are also there which make it a unique blend of federal constitution with unitary features. Some unitary features are as follows:-

1. Strong centre under article 200
2. Single constitution for both centre and state
3. Single citizenship
4. Flexibility in amendment
5. Appointment of governor 155 – 156
6. Emergency provisions article 352 – 360
7. Formation of new states article 2 – 4
8. Parliament power to legislate in national interest article 249
9. Residuary powers which are vested in union and not in state article 248
10. Domination of state in taxing power article 265 – 279, etc.

### **Importance of federalism in India**

Federalism in Indian constitutionalism is the most relevant factor as constitution of India generally follows the doctrine/principle of federalism. The most important objectives of federalism in India are unity in diversity, devolution in authority, decentralization in administration. As India is a country of various cultures and there are a lot of diversities in India and federalism help in uniting them all. India being a very big country in the context of land, so it is not possible for one person to handle all the things singlehandedly so federalism helps authority to delegate its powers. India is a country of states or union of states according to the article 1, so it needs decentralization or it will collapse. Federalism decentralizes the centre which makes the country runs smoothly.

India follows its goals because of federalism. The goals which are discussed in the preamble and the goals which are provided by the part IV of the constitution of India .i.e. public welfare and federalism makes the government remember about these goals by the constitution itself.

### **Conclusion**

As discussed that federalism is a system of government and this system of governments should be according to the constitution. There are lots of controversies related to the nature of Indian constitution, whether it is a federal, quasi federal, confederation or unitary constitution. It is a matter of discussion from the time of its establishment like K.C. Wheare called it a quasi federal



constitution.<sup>54</sup> Professor Ivor Jennings called it a federal with strong centralizing tendency.<sup>55</sup> In the end Dr. B.R. Ambedkar said that our constitution is a federal constitution but there are many differences from the other federalisms because the condition and the situation of India are different when compared to other countries. There are two types of federations:

1. Coming together type of federation
2. Holding together type of federation

Coming together type of federation is that in which independent states come together to form a bigger state and give up some of their interests, so that the bigger state can enjoy the status of central authority. In this form of federation they enjoy more of the autonomy than holding together type of federation. USA, Australia and Switzerland etc are some examples of coming together type of federation.

Holding together type of federation is a type of federation in which the powers are shared amongst various parts of government to help the diversity present in the India. In this type of federation all the powers are tilted towards the central authority. India, Belgium, Spain etc are some examples of holding together type of federation.

Supreme court in its cases discusses the nature of constitution many times but in the case of *Keshvanand Bharti and the State of Kerala*<sup>56</sup>, supreme court opined that “the constitution has all the essential elements of federal structure as was the case in the Government of India Act 1935”. In the case of *Kuldipnayar vs. Union of India*<sup>57</sup>, Justice Ramaswamy declared federalism as a basic feature of constitution in India.

So, in the end it can be said that federalism in India is a backbone of the constitution like other written provisions of part III, IV. It is as important as the preamble of the constitution is. It is a part of basic structure and now it is no more *Res- Integra* after the decisions of Supreme Court.

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<sup>54</sup> Pandey, J.N, constitutional law of india, central law agency, 39<sup>th</sup> edition 2003, page 28.

<sup>55</sup> Supra 54

<sup>56</sup> 24 April 1973, sc, <http://indiankanoon.org/doc/257876/>

<sup>57</sup> 22 August 2006, sc, <http://indiankanoon.org/doc/1903935/>