Subject Name: Constitution Law
Topic Name: President's Rule

Table of Content:-

Failure of Constitutional Machinery in State..... 1
Duration of Proclamation under Article 356..... 2
Revocation of Proclamation under Article 356.....2
Exercise of Legislative Powers under Proclamation..... 3
Control over President's Action under Article 356..... 3
Parliamentary Control.....3
Judicial Review of Presidential Action under Article 356.....4

Failure of Constitutional Machinery in State

If the President, upon receiving a report from the Governor or through other means, determines that a situation has arisen where the government of a State cannot function in accordance with the Constitution, they may issue a proclamation to that effect (Clause 1).

Consequences of such a proclamation under Article 356(1) include:

- The President may assume some or all of the functions of the State Government, or powers vested in the Governor, or any other body or authority in the State except the State Legislature.
- The President may declare that the powers of the State legislature shall be exercised by Parliament.
- The President may enact incidental and consequential provisions deemed necessary or desirable to fulfil the objectives of the proclamation.

However, the President cannot assume powers vested in the High Court or suspend any constitutional provision related to it (Proviso, Article 356(1)).

A proclamation issued under Article 356(1) can be revoked or modified by the President through a subsequent proclamation (Article 356(2)).

It's noteworthy that under Article 356, the President can act based on the Governor's report or other information. This indicates that the President can act even without the Governor's report, emphasising the Centre's obligation under Article 355 to ensure that the State government functions in accordance with constitutional provisions. Given the Centre's ultimate responsibility to safeguard the constitutional machinery of the States, the framers deemed it appropriate not to restrict the Centre's action solely to the Governor's report, considering that the Governor might sometimes fail to make a report.

Article 365 further stipulates that if any State fails to comply with or implement Union directives, the President is empowered to determine that a situation has arisen where the State government cannot function in accordance with constitutional provisions.

Duration of Proclamation under Article 356

Article 356(3) stipulates that a proclamation concerning a State emergency must be presented before each House of Parliament. Unless both Houses approve it by resolution, except for one that revokes the earlier proclamation, it ceases to be effective after two months. However, if approved, it remains valid for six months.

However, the proviso to clause (3) states that if such a proclamation is issued when the Lok Sabha is dissolved or dissolves during the two-month period, and it is passed by the Rajya Sabha but not by the Lok Sabha, it ceases to be effective 30 days after the new Lok Sabha convenes unless it is also passed by the Lok Sabha within that time.

Article 356(4) allows for the extension of the proclamation's duration by six months each time both Houses of Parliament pass resolutions approving its continuation. The proviso to clause (4) specifies that the maximum duration for which a proclamation can remain in force is three years from its issuance under Article 356(1).

After that, President's rule must end, and normal constitutional mechanisms must be restored in the State.

Article 356(5) (Inserted by the 44th Amendment) states that beyond one year, a proclamation can only continue if there is an emergency under Article 352 in the entire country or in the whole or part of the concerned State, and the Election Commission certifies that holding elections to the State Legislature is not feasible.

This provision restricts Parliament's power to extend a proclamation; it can only be extended beyond one year under special circumstances.

Important Links for Judiciary Free Resources (Click on Each to Open Respective Pages)	
Subject Wise Mains PYQ Solution	Essay for Judiciary
Subject Wise Notes	Legal Doctrines
Landmark Judgements	GS Notes
Weekly Current Affair	Subject Wise Prelims PYQ Solution
Free Answer Writing Course	Judgement Writing
Telegram Link	Youtube Link

Revocation of Proclamation under Article 356

A Proclamation issued under Article 356(1) expires under the following circumstances:

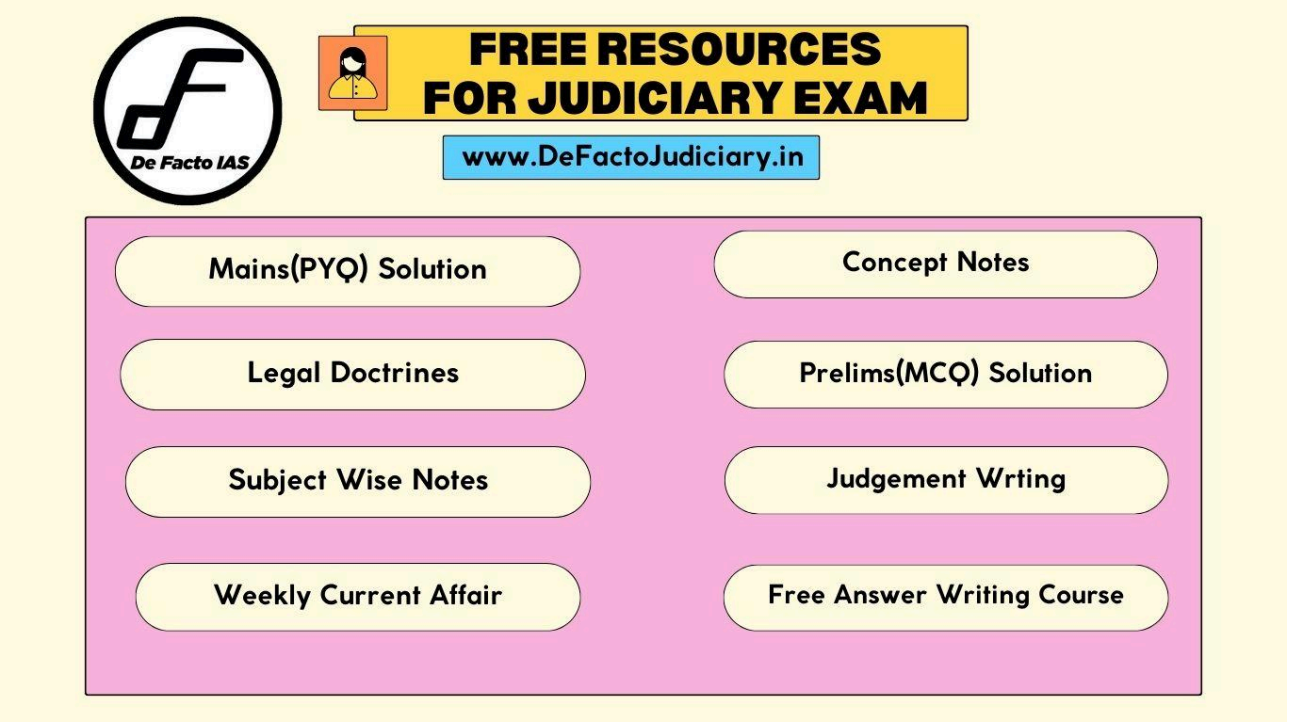
1. After two months of its issuance if it is not presented for approval before both Houses of Parliament.

2. Before two months if presented to the Houses of Parliament but fails to receive approval from either House.

3. After six months from the date of proclamation if no further resolution is passed by Parliament after the initial approval resolution.

4. After the expiry of six months from the passage of the last resolution of approval by Parliament, subject to an overall maximum limit of three years from the date of proclamation. Continuing the proclamation beyond one year is contingent upon special circumstances.

5. On the date when the President issues a proclamation of revocation.



Exercise of Legislative Powers under Proclamation

When a proclamation is made under Article 356(1), Parliament assumes the powers of the State legislature. Parliament may empower the President to enact laws for the States, and the President may delegate such powers to any specified authority under conditions set by him (Article

357(1)(a)). The President may authorise expenditure from the State Consolidated Fund, pending approval by Parliament, when the Lok Sabha is not in session (Article 357(c)).

Laws made under these provisions by Parliament, the President, or the designated authority under Article 357(1)(a) may confer powers and impose duties on Union officers or authorities (Article 357(1)(b)). Such laws remain in effect even after the proclamation ceases, to the extent they could not have been enacted without the proclamation. However, they can be altered, repealed, or amended by the State Legislature (Article 357(2)).

Hence, the lifespan of a law enacted by Parliament/President during the operation of an Article 356 proclamation does not automatically end with the revocation of the proclamation. While the Union's power to enact laws for the concerned State on subjects within the State List ceases, action by the State Legislature is required to change these laws.

Control over President's Action under Article 356

Parliamentary Control

The Constitution vests the consideration of the proclamation of President's rule in States specifically in Parliament. Initially, the proclamation must be laid before each House of Parliament, allowing Parliament to discuss whether the Central Government's decision to issue the proclamation was appropriate.

Moreover, the proclamation must be ratified by Parliament every six months. This periodic parliamentary ratification aims to give Parliament the opportunity to review the situation in the concerned State and prevent the Central Executive from keeping the proclamation in force longer than necessary. The Central Government is accountable to Parliament for its actions, serving as a safeguard against any misuse of power by the Executive. Ultimately, the decision to continue or revoke a proclamation under Article 356 rests with Parliament.

In 1999, a proclamation under Article 356(1) was issued in the State of Bihar, resulting in the suspension of the State Government and Legislature. While the Lok Sabha approved the proclamation, it became apparent that the Rajya Sabha would not approve it due to opposition from the majority opposition parties. Consequently, the Government revoked the proclamation under the power granted by Article 356(2). Subsequently, the State Government resumed office, and the suspended State Legislature was revived.

Judicial Review of Presidential Action under Article 356

The satisfaction of the President under Article 356 and its basis are considered subjective and not subject to objective tests through judicial review. This decision involves high executive and administrative policy, with courts lacking standards to judicially resolve it.

In 1975, the 38th Constitution (Amendment) Act introduced Clause (5) in Article 356, barring judicial review of a Proclamation under Article 356(1) on any ground. The clause deemed the President's "satisfaction" to issue a Proclamation under Article 356(1) as "final and conclusive," not subject to questioning in any court. However, this clause was withdrawn by the 44th Constitution (Amendment) Act, 1978.