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Political Uncertainty in Tamil Nadu: a Key Indian State

The raging politics of succession to the late J Jayalalithaa, who virtually strode like a Colossus as the Chief Minister of Tamil Nadu, has exposed the fragility of even a stable region. There is much speculation about how the State Governor, an appointee of the Central Government, might resolve the current stalemate. A few scenarios are sketched out in this paper.

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The current and emerging political turmoil in Tamil Nadu, a key Indian State (i.e. province), has the makings of a theatre of the absurd in the extreme. There is too much of fluidity in the evolving situation for any degree of comfortable crystal gazing and predictive analysis.

At this writing, the key players at the State level are Mr O. Panneerselvam and Ms V.K. Sasikala. Panneerselvam had formally (and temporarily) succeeded the late J. Jayalalithaa, a formidable chief minister in her own right. However, he is technically an outgoing Chief Minister having ‘resigned’ unable to bear the political heat from Sasikala’s camp. For her part, Sasikala, now an interim General Secretary of the ruling All-India Anna Dravida Munnetra Kazhagam (AIADMK) party, claims to have inherited Jayalalithaa’s political mantle after having been the late leader’s close personal associate for many years. With both Sasikala and Panneerselvam now staking claims to the chief ministerial post as a regular appointment, the

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emerging chief arbiter is Mr Ch. Vidyasagar Rao, the State Governor. He is an appointee of India's Central Government which in constitutional terms is known as the Union Government.

The constitutional procedure to be followed in such circumstances is not really so complex as to cause a major crisis. But the sparks and fumes of the current political atmosphere in the State have complicated the Governor's decision-making. By the conventional rule book, the Governor can invite Sasikala to become Chief Minister and ask her to prove her credentials in a mandatory vote of confidence on the floor of the State Legislative Assembly within a reasonable timeframe. Such a conventional course flows from precedents of constitutional (not necessarily political) logic.

Favouring Sasikala is a relevant argument that her associate-turned-rival, Panneerselvam, has already 'resigned' as Chief Minister (whether or not under 'duress' by her or her camp). So, the Governor can invite her first to try and prove her credentials for the chief minister's post in a normal or routine fashion. This purely constitutional argument is not vitiated by the allegations that she has adopted unfair means of securing the political loyalty of a sizable number of MLAs (Members of the Legislative Assembly) belonging to the AIADMK party.

No Soft Options to Resolve Crisis

However, the political ground realities do not seem to offer the Governor an easy text-book choice. Panneerselvam had in the past donned the mantle of Chief Minister when Jayalalithaa felt the need for such an interim arrangement during her political crises. If this be his claim to political legitimacy as a normal chief minister in the present circumstances, Sasikala banks on the strength of her personal association with Jayalalithaa for long. This aspect itself makes it difficult for the Governor to settle the raging dispute between Sasikala and Panneerselvam through a narrow but correct constitutional procedure.

As if this is not a sufficient complication, the Governor is well-aware that a judicial ruling pertaining to a disproportionate-assets case, in which Sasikala is an accused, is due any time soon. Some experts believe that she may not be convicted by the Supreme Court which is basically seized of the issue whether a lower court had erred in assessing the magnitude of the alleged disproportionate assets. Yet, the Governor may indeed wish to see the turn that this judicial issue might now take.

From the Governor's standpoint, there is a silver lining at this stage. The main opposition party, the Dravida Munnetra Kazhagam (DMK), while expressing concern, is not openly or eagerly fishing in the AIADMK's troubled waters. However, the emerging battle lines between the camps led by Sasikala and Panneerselvam within the AIADMK make a mockery of this ruling party's absolute majority on the floor of the Legislative Assembly.

In these circumstances, there are two or three scenarios of a possible solution or even a stalemate in Tamil Nadu politics, as this is written before the Governor makes up his mind. These scenarios are not listed in the order in which the Governor might consider them.

In one scenario, not necessarily the first option before the Governor, he appoints Sasikala as Chief Minister and mandates her to seek a vote of confidence on the floor of the Tamil Nadu Legislative Assembly. If she fails to win the vote of trust, the Governor explores the possibility of either Panneerselvam or even the opposition DMK being able to form a government. The Governor will need to tread with extraordinary care in such a situation, because of two reasons.

First, Sasikala's failure to win the confidence vote would have already exposed the deep fissures within the ruling party on the floor of the House. To this extent, Panneerselvam's capacity to win over the votes of those who were earlier with Sasikala will be a tough call for the Governor to make.

Second, the DMK, which is not far short of an absolute majority in the House, cannot be expected to easily win a confidence vote if that party were to be called in to succeed a defeated Sasikala. This is because of the strict provisions of the Anti-Defection Law. At least two-thirds of the members of an existing political formation in the House will have to switch loyalty towards the DMK in a way in which this party can then command an absolute majority in the House. If fewer members than two-thirds of the strength of a political formation in the House defect to any other side, all those defectors might stand disqualified as legislators altogether. There is a caveat here, though. Experts point out that the implications of the Anti-Defection Law have been whittled down in a number of court cases as well as by the speakers of several State legislatures. In the event, a strict application of this law in a potential scenario in Tamil Nadu might even lead to a further judicial review.

In these circumstances, if the Tamil Nadu Governor decides that the numerical permutations and combinations of political loyalties in the House cannot resolve the stalemate, he can recommend the proclamation of President's Rule in the State. The scene will then shift to the

Centre where the Prime Minister, Mr Narendra Modi, may have to weigh his options before advising the President on this issue.

In the event of President's Rule, the Tamil Nadu Legislative Assembly will stand in 'suspended animation' in accordance with the relevant constitutional provisions and the rules of procedure thereof. Of course, Prime Minister Modi may want to have a Legislative Assembly in place in Tamil Nadu (especially a House well-disposed towards him) in time for the country's presidential election by about the middle of this year. Parliamentarians at the Centre and State legislators across the country constitute the Electoral College that chooses the President.

In all, the Governor will attract criticism on constitutional grounds if he starts to veer towards the option of President's Rule in the first place itself even before the Tamil Nadu Legislative Assembly has had its say.

A 'What If?' Scenario

In another scenario, not necessarily the secondary consideration before the Governor, Sasikala wins the vote of confidence in the Assembly if she is given the first chance to form a government and to prove her credentials within a reasonable period of time. If, in this scenario, she is thereafter politically hurt in the disproportionate-assets case (although the Supreme Court is essentially seized of a technical assessment of the alleged disproportionate assets), the Governor may have to explore alternatives similar to those outlined above in the case of her defeat on the floor of the House. This time round, all the AIAMDK MLAs, who had earlier voted for Sasikala might now want to switch their loyalty to Panneerselvam (if he plays his political cards well) or to some other AIADMK leader. The inherent logic at work in this situation will be the survival instinct of the AIADMK MLAs who would not like to lose another opportunity to stay in power.

Yet another scenario will be applicable to the Governor's decision of inviting either Sasikala or indeed Panneerselvam in the first place to prove her or his credentials (as the case might be) in the House. If Panneerselvam wins an outright vote of confidence, without sparking political controversies or crises, the Governor can go back to the pavilion. On the other hand, it might be much ado about nothing if Sasikala wins the vote of trust in a transparent process and does not also get politically hurt by the Supreme Court ruling in the disproportionate-assets case.

Above all, the crux of the matter is about the game plan, if any, under which Panneerselvam is staking claim to chief ministership after having ‘resigned’ under whatever circumstances. Is he acting entirely on his own volition or also at the behest of some other force at the State or Central level? The answer is not easy to decipher in the current fog of controversies in Tamil Nadu politics. Sasikala is accused of ‘herding’ a majority of AIADMK MLAs at a ‘safe haven’ – a charge she has sought to disprove at a press conference. This kind of politics is not entirely unprecedented in India. But the Tamil Nadu Governor is faced with the task of ensuring that a stable State does not slip into a systemic political fragility.

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