

Opinion (Premium), Mumbai
Thursday, 17th July 2025

BOMMAI JUDGMENT DRAWS THE LINE FOR DEMOCRACY



Ashish
Bharadwaj



Insiyah
Vahanvaty

Indian politics is no stranger to power struggles, party splits, and mid-term shake-ups. But when this starts affecting elected state governments, constitutional principles — and institutions — are tested.

One of the most important cases to ever deal with this was *SR Bommai vs. Union of India, 1994*. A constitutional firewall against arbitrary dismissal of elected governments, it was a landmark ruling.

And yet, the 2022 Maharashtra crisis involving the Shiv Sena split showed how political machinations can strain even the strongest constitutional guardrails.

But first, what was the *Bommai* case? SR Bommai was the Chief Minister of Karnataka. His party had recently undergone a merger, leading to political instability. A few legislators were said to have withdrawn support. The governor quickly concluded that Bommai no longer enjoyed a majority and advised the President to dismiss the government. Crucially, Bommai was not allowed to prove his majority in the Assembly — there was no floor test.

But this wasn't an isolated case. By then, Article 356 of the Constitution — which allows the Centre to dismiss a state government if it fails to function according to constitutional norms — had been used 95 times. Sometimes legitimately, but often as a political tool to unseat opposition governments.

The Babri Masjid demolition in 1992 caused serious political unrest, prompting the dismissal of four more state governments. Three states challenged the dismissals alongside Bommai. The stage was set for a nine-judge Supreme Court bench to hear these petitions together and draw red lines around the constitutional limitations of Article 356.

The bench concluded that a floor test is mandatory to prove majority and the power to impose President's Rule under Article 356 is not absolute — it is subject to judicial review.

Secularism was held to be part of the basic structure of the Constitution, and any state government violating secular principles could be dismissed — a point powerfully expanded on in a separate 37-page concurring opinion by Justice AM Ahmadi — grandfather to one of the authors here, Insiyah Vahanvaty. And so, the Court struck down Bommai's dismissal. The other three, rooted in principles of secularism, were upheld.

These principles of federalism in centre-state relations have returned to the limelight in recent times with the Maharashtra political crisis. In 2022, the Shiv Sena was hit by internal turmoil. One group of legislators remained loyal to Chief Minister Uddhav Thackeray; the other to Eknath Shinde who had joined hands with the BJP.

Both claimed to be the “real” Shiv Sena. Amid this turmoil, the Governor asked Thackeray to prove his majority through a floor test. But before this could happen, Thackeray resigned. Shinde was sworn in as Chief Minister, but serious constitutional questions lingered. Was the governor justified in calling for a floor test without any formal claim that Thackeray had lost the majority?

In 2023, a five judge bench answered. The governor’s decision to call a floor test was unjustified as it was based on internal party dissent, not a constitutional crisis. Mere expressions of discontent by a few legislators do not amount to a formal withdrawal of support. Yet, for all the constitutional clarity offered by the Court, the political outcome remained unchanged.

Because Thackeray had voluntarily resigned – without facing a floor test – the court could not reinstate him as chief minister. The Election Commission of India (ECI) allotted the name and symbol of Shiv Sena to Eknath Shinde. The Supreme Court will hear Thackeray’s appeal against ECI’s decision next month.

In *Bommai*, the governor had relied on letters and speculation instead of a floor test. In *Shiv Sena*, the governor misapplied the floor test. In both, a sitting CM was pushed out without due process.

The Supreme Court’s 2023 ruling in the Maharashtra case proved that the historic judgment (*Bommai*) is far from history — it’s very much alive in India’s political and legal landscape. Over the years, the Court has turned to this landmark verdict in several crucial moments.

In 1999, the Rabri Devi government was reinstated in Bihar. In 2016, status quo ante was restored in Arunachal Pradesh citing governor’s decisions to be “unconstitutional”. That same year, a dismissed Uttarakhand government was reinstated. More recently in Karnataka, the Court reaffirmed that intra-party rebellion alone doesn’t justify a floor test.

Three decades on, *Bommai* is still doing what it was meant to: holding the line. As political turmoil challenges and tests Indian democracy, *Bommai* stands as a critical reminder: in a democracy, power must shift through process — not politicking.

Ashish Bharadwaj is professor & dean of BITS Pilani’s Law School in Mumbai and Insiyah Vahanvaty is the author of The Fearless Judge. The views expressed are personal.