

CHAPTER-I

CONSTITUTIONAL PROVISIONS

1.1 The Constitution of India clearly defines the role of Central and State Governments in the federal structure. As per the constitutional provision, all activities in Government sphere are categorised as falling in Central List, State List or Concurrent List. While there is no ambiguity with regard to the Central List and State List, activities falling under Concurrent List are subject to overlapping of jurisdiction of the Government of India and the State Governments. States are primarily responsible for major sectors like health, education, employment, etc. which often involve large public expenditures. Since successful implementation of development programme requires availability of adequate funds, appropriate policy framework, and effective delivery machinery, Central Government needs to work with the States to undertake their responsibility in effective manner. Recognising the higher resource requirements of the States relative to their resource raising powers, the Constitution mandates to transfer funds to the State Governments through statutory transfer of tax receipts collected by Centre through the Finance Commission award. In addition, the States access central plan funds through Centrally Sponsored Schemes (CSS) and Central assistance to State Plans.

1.2 The Constitution has under Part-IV mentions the Directive Principles of State Policy. These inform the policies of various wings of the Government and act as an overriding philosophical basis. While these are not enforceable in the same way the Fundamental Rights mentioned in

the Constitution, they indicate the overall policies which should govern various laws. It is, therefore, important that these are fully kept in mind when the policies for development of the economy are made.

1.3 These policies specifically mention several areas. Article 38 of the Constitution mentions as follows:

“38. State to secure a social order for the promotion of welfare of the people. –

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.”

1.4 It is clear, therefore, that it is important for the national government to make policies to minimize inequalities not only amongst individuals or groups of people living in States but also amongst these people residing in different areas of the country. Similarly, Article 47 of the Constitution mentions that it is the duty of the State to raise the level of nutrition, standards of living of its people and improve public health. Specifically, under Article 45 of the Constitution mentions ***“45. Provision for early childhood care and education to children below the age of six years. – The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.”*** Given the need for employment, the Directive Principles have made a special mention of this. Article 41 mentions Right to work as an important

principle which should govern the policies of the States. It states “**41. Right to work, to education and to public assistance in certain cases.** – *The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.*” It is, thus, clear that the provisions of the Constitution specifically mandate the governments to ensure provision of certain basic services including employment, education, health and raise the level of welfare.

1.5 Other federations like Australia and Canada make provisions in their Constitutions for equalizing levels of service. The provisions in the Canadian and Australian Constitutions are mentioned at Annexure-I. For this purpose, they provide for transfer of resources from Central Government to State Governments so that people living in different parts of the federation are given similar level of public services. While the Finance Commission transfers in India, under Articles 275–280 of the Constitution have similar purpose, these are meant to transfer resources to the States to meet their requirements of expenditure. There is no specific mention in our Constitution unlike those of other federations.

1.6 The Government of India is involved in a large number of programmes in sectors/area such as education, health, labour, skill development etc. that are in the State List through operation of CSS and provision of Central Assistance to State Governments. These programmes essentially arose from the above national objectives and cut across State boundaries. The CSS are operationalized by Central Ministries based on

scheme specific guidelines and are implemented by State Governments or their designated agencies. The Central Assistance to State Plans has two components viz. normal Central Assistance that is based on modified Gadgil Formula; and Additional Central Assistance that consists of Assistance for Externally Aided Projects and Assistance for Special Programmes based on specific criteria and guidelines.

1.7 Until the Fourth Five Year Plan, Central Assistance to States for implementation of plan programmes within the States' jurisdiction was given in the form of scheme-wise allocation of funds resulting in rigidities and inefficiencies in the system and inequitable distribution of Central Assistance. The quantum of such assistance depended on the financial position and requirements of both Centre and the States. It was only from the Fourth Plan onwards that a separate classification of schemes as CSS was introduced. These schemes had a national character, and dealt with areas/concerns like family planning, agricultural workers, research and training etc. Since then the number of schemes covered under the Centrally Sponsored category has multiplied.