

Consolidating Power: BJP's Strategic Empowerment of the Lieutenant Governor in IIOJ&K

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Introduction

The Indian Illegally Occupied Jammu and Kashmir (IIOJ&K), an apple of discord between Pakistan and India, has historically enjoyed a special status within India under Article 370 in accordance with the instrument of accession signed by Maharaja Hari Singh.¹ This unique arrangement provided IIOJ&K with autonomy over most of its affairs except for defence, foreign affairs, communications, and finance. However, this setup changed when the ruling Bharatiya Janata Party (BJP) passed the Reorganisation Act² on August 5, 2019, which abrogated Article 370, a decision later upheld by the Indian Supreme Court.³ With this, the state of IIOJ&K was converted into two union territories, Jammu & Kashmir and Ladakh. Likewise, the creation of a Lieutenant Governor post for both union territories transpired.⁴ While both these territories witnessed major administrative restructuring, it is the latest change in the IIOJ&K that has come under the spotlight. The increase in powers of Lieutenant Governor (LG) through amendments in the IIOJ&K Reorganisation Act is garnering concerns over the potential encroachment of BJP government in the administrative matters of IIOJ&K through the LG. This is a strategic move that imparts an important question; whether the next government of IIOJ&K will have powers over the administrative matters, or

will it be infringed by the LG in guise of his new powers?

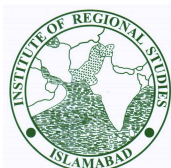
Lieutenant Governor's Powers under the Reorganisation Act

The initial powers of the LG prescribed in the Reorganisation Act of 2019 entitle him to oversee the smooth functioning of the legislative assembly. He has the authority to summon the session of legislative assembly from time to time, prorogue and dissolve it if he deems necessary. Additionally, his powers involve authority to approve a bill endorsed by the assembly, including bills concerning the expenditure from the union territory's consolidated funds. Moreover, under section 55 of this Act, the LG also holds powers over constructing rules for the allocation of business to Ministers.⁵ "Transactions of Business of the Government of the Union Territory of Jammu and Kashmir Rules, 2019," under this very section 55 further clarifies the powers of the LG.⁶ These amendments officially established that in addition to the approval of budget and financial bills, the LG will also manage matters of sale, grant, or lease of government property in the union territory.

Latest Amendments

On 12th July 2024 in a major development⁷, the Indian Ministry of Home Affairs further enhanced the powers of LG

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through amendments in the 2019 Reorganisation Act, termed as “Transaction of Business of the Government of Union Territory of Jammu and Kashmir Rules, 2024.” This is the second amendment done to the 2019 Act to achieve maximum enhancement of LG’s powers in the IIOJ&K region.⁸ The amendments include the insertion of sub-rule 2A, 42A, 42B and 43 that significantly increased the executive, legislative, and judicial powers of the LG enhancing his authority over matters regarding police, public order, bureaucratic transfers, prosecution rights, forensics, and appointments of law officers and advocate general.

Enhanced Powers of Lieutenant Governor: A Strategic Move

The timing of these amendments is important as they surfaced just before the upcoming elections for the Jammu and Kashmir legislative assembly. In December 2023, the Indian Supreme Court had given its verdict to uphold the revocation of Article 370 and had directed the Election Commission of India to hold elections in September 2024 in IIOJ&K. The Supreme Court bench also instructed the government to restore the statehood of IIOJ&K while keeping Ladakh’s status as a union territory.⁹ This decision clearly emphasised the need for IIOJ&K to be restored as a state administered by a properly elected government. The creation of LG post and enhancement of his powers is embedded in the structure of a union territory. The Reorganisation Act and the 1st and 2nd amendments of 2019 and 2024 are chronological episodes in the BJP saga of

rendering next government of IIOJ&K powerless. In case of timely elections, IIOJ&K will see the rise of a government as ineffective as a lion without claws. The current LG of IIOJ&K Manoj Sinha is a seasoned BJP politician from Tura Pradesh and has been serving the interest of BJP in IIOJ&K since 2020 and will continue to safeguard BJP’s interests in the region with the aid of his newly enhanced powers over all three branches of the government, i.e., executive, judiciary and legislation.

A New Occurrence?

The increase in central government’s power in the union territories through LG is not a new occurrence. Similar manoeuvres were noticed in Delhi and Puducherry where the center intentionally consolidated power over the executive functions of the elected government. For instance, since 2016 the Chief Minister of Puducherry V. Narayanasamy and the then BJP appointed LG Bedi Kiran had clashes over the administration of the union territory which were elevated in 2017 when the Ministry of Home Affairs increased the powers of LG like the current circumstances of IIOJ&K. Upon further disagreements between the LG and the Chief Minister, the question of the real administrative head of the union territory was taken into the Madras High Court in 2019.¹⁰ The court verdict stated that the LG must not interfere in the day-to-day administration of the government and must abide by the advice of the council of ministers. Likewise, similar rifts between the elected government and the LG were observed in Delhi in 2018. Hence, BJP has tried repeatedly to consolidate its authority over the union territories by enhancing the

powers of LGs. The 2019, IIOJ&K Reorganisation Act and the subsequent amendments in this act showcase similar intentions and efforts of the BJP.

Political Reactions

The emergence of chaos in the ranks of Kashmiri political parties is the repercussion of this latest development. Omar Abdullah, the ex-Chief Minister of IIOJ&K state and the Vice President of Jammu and Kashmir National Conference said that the people of IIOJ&K will vote against this nefarious intention of the BJP government to disempower the people of J&K.¹¹ The People's Democratic Party's (PDP) leader and the ex-Chief Minister of IIOJ&K Mehbooba Mufti expressed her disappointment by saying: "The people of Jammu and Kashmir are being rendered powerless." She further added: "If any government is formed in IIOJ&K tomorrow, it will be powerless.¹² It will not be able to transfer its employees, you want to snatch this right from them and give it to Chief Secretary and LG who are outsiders and have no understanding of the place."

The Indian National Congress also openly voiced its opinion against the new amendments in the Reorganisation Act referring to it as a murder of democracy.¹³ To present a united front against the BJP-led NDA government, all opposition parties in IIOJ&K decided to meet on 7th August in Srinagar. The meeting was later postponed on account of National Conference's leader Dr. Farooq Abdullah's inability to attend.¹⁴

Implications for Pakistan

The reorganization amendments not only impacted India's domestic politics but also had significant implications for Pakistan. The amendments in the notorious Reorganisation Act further intensified the tensions between the two countries. The revocation of Article 370 and the restructuring of Kashmir to formally include it in the union of India as a 'union territory' contradicts Pakistan's stance to grant right of self-determination to Kashmiris through a plebiscite as prescribed under the UN resolutions. The decision to establish strong BJP footings in IIOJ&K will leave Kashmiris disempowered and without an effective official voice. The strategic introduction of amendments by BJP will result in increased border tensions between the two, causing more armed violations over the Line of Control (LoC). Mr. Altaf Wani, Chairman of Kashmir Institute of International Relations commented that through these amendments, India can indirectly succeed in creating a wedge between people from Azad Kashmir and the Pakistani state as this move is seen as the failure of Pakistan's policy regarding Kashmir.¹⁵

The restructuring of the Indian Occupied Jammu and Kashmir into a union territory by the BJP government along with the new Lieutenant Governor dominant administrative arrangement set in place by the Transactions of business amendments of the government of Jammu and Kashmir 2019 and 2024 serve as an important chess move of the central government of BJP. By ensuring LG's control over the IIOJ&K, the center wishes to render the next government of IIOJ&K

completely powerless, thereby completing its mission of full annexation of Kashmir.

Notes and References

- ¹ "Instrument of Accession of Jammu and Kashmir," *Citizens for Justice and Peace*, August 2019, https://cjp.org.in/wp-content/uploads/2019/08/instrument_of_accession_of_jammu_and_kashmir_state.pdf.
- ² Government of Jammu and Kashmir, "The Jammu and Kashmir Reorganization Act, 2019," <https://igr.jk.gov.in/files/J&K%20Reorganisation%20Act.%202019.pdf>.
- ³ "India's Top Court Upholds End of Special Status for Held Kashmir, Orders Polls," *Dawn*, 11 December 2023, <https://www.dawn.com/news/1796946>.
- ⁴ "The Jammu and Kashmir Reorganization Act, 2019," 7.
- ⁵ "The Jammu and Kashmir Reorganization Act, 2019," 8-20.
- ⁶ "The Transactions of Business of the Government of the Union Territory of Jammu and Kashmir Rules, 2019," *High Court of Tripura*, 27 August 2020, <https://thc.nic.in/Central%20Governmental%20Rules/Transaction%20of%20Business%20of%20the%20Government%20of%20Union%20territory%20of%20Jammu%20and%20Kashmir%20Rules,%202019.pdf>.
- ⁷ Vijaita Singh, "MHA Amends Rules of Jammu and Kashmir Reorganization Act, Widens Administration of L-G," *The Hindu*, 12 July 2024, <https://www.thehindu.com/news/national/jammu-and-kashmir/mha-amends-rules-to-widen-the-administrative-role-of-jk-l-g/article68396963.ece>.
- ⁸ Ananya Singh, "Centre Amends J&K Reorganization Act, LG Gets More Powers," *LawBeat*, 13 July 2024, <https://lawbeat.in/top-stories/centre-amends-jk-reorganization-act-lg-gets-more-powers>.
- ⁹ "Hold Elections in J&K by September 30 next Year: SC Directs Election Commission," *The Economic Times*, 11 December 2023, <https://economictimes.indiatimes.com/news/politics-and-nation/conduct-elections-of-jk-assembly-by-september-30-2024-sc-directs-election-commission/articleshow/105894031.cms?from=mdr>.
- ¹⁰ "Puducherry Lieutenant Governor; Union of India v K. Lakshminarayanan," *Supreme Court Observer*, 17 December 2021, <https://www.scobserver.in/cases/union-of-india-v-k-lakshminarayanan-puducherry-lieutenant-governor-background/>.
- ¹¹ Omar Abdullah (@Omar Abdullah), "People of J&K, especially Jammu, must vote against BJP's intentions to disempower them. A strong J&K government is vital to reclaim statehood," X, 14 July 2024, 9:20 am, <https://x.com/OmarAbdullah/status/1812341329856287085>.
- ¹² "'You Have Made Our Lives Hell': Mehbooba Mufti Slams Centre over Decision to Amend Rules of J-K Reorganisation Act," *ANI News*, 13 July 2024, <https://www.aninews.in/news/national/politics/you-have-made-our-lives-hell-mehbooba-mufti-slams-centre-over-decision-to-amend-rules-of-j-k-reorganisation-act20240713212939/>.
- ¹³ "'Full-Fledged Statehood for J&K Does NOT Seem...': Congress Attacks Modi Govt over Move to Give More Powers to LG," *Mint*, 13 July 2024, <https://www.livemint.com/politics/policy/fullfledged-statehood-for-j-k-does-not-seem-congress-attacks-modi-govt-over-move-to-give-more-powers-to-lg-11720870404658.html>.
- ¹⁴ "J&K Opposition Parties' August 7 Meeting Postponed," *Kashmir Observer*, 27 July 2024, <https://kashmirobsrver.net/2024/07/27/jk-opposition-parties-august-7-meeting-postponed/>.
- ¹⁵ Altaf Hussain Wani, Personal correspondence, 24 July 2024.