Amendment to Art 371 D Not A Hindrance for Bifurc ation

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Any Article of the Constitution can only be amended by exercise of Article 368 which says: *''An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two thirds of the members of that House present and voting.."*

It is clear that an amendment to Article 371D attracts Article 368 - that it requires approval of ''a majority of not less than two-thirds of the members of that House present and voting.''
However, the only exception to this rule under Article 368 related to the reorganisation under Art icle 3.

> *''Parliament may by law-*
> *(a) form a new state by separation of territory from any state or by uniting two or more states or parts of states or by uniting any territory to a part of any state...;*
> *Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill a ffects the area, boundaries or name of any of the states , the Bill has been referred by the President to the Legislature of that state for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired."*

Further the Constitution makers also felt that there would be a need to make ''supplemental, incidental and consequential" changes in the law. So they added Article 4 as under:

> *''(1) Any law referred to in Article 2 or Article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary. No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of Article 368."*

The Supreme Court in the Mangal Singh case (1966) rejected the argument that the power of Article 4 to amend without attracting Article 368 is valid only for amendment of the First or Fourth Schedule and held that power under Article 4 was all encompassing.

Thus while normally Article 371D cannot be amended except by an Amendment under Article 368, exceptionally - when the State is being reorganised under Article 2 and 3 - the provision under Article 4 permits such a change without attracting the provisions of Article 368.
Also such an amendment has to be in the nature of "necessary to give effect to the provisions of the law (under Articles 2 and 3) and may also contain such supplemental, incidental and consequential provisions" as decided by the Supreme Court. Thus it cannot change the substance of the Article but only the changes necessary to make it effective to both the successor States.
In fact, the Bombay Reorganisation Act 1960 amended the relevant Article 371 under its section 85 in order to extend the regional quotas as applicable in the old State of Bombay to its successor states of Maharashtra and Gujarat.

In the case of the Punjab Reorganisation Act 1966, the relevant Article 371 was deleted under its Section 26 altogether as not being needed any longer for the new (residuary) state of Punjab. Similarly in the NorthEast Area Reorganisation Act, 1971 the relevant Article 371B was amended textually. In all cases what was amended or deleted found place under the Chapter XXI headed ''Temporary, Transitional and Special Provisions'' and not in Articles main taining the basic structure of the Constitution.

Further, there is no organic link between Articles 3 and 4, on one hand, and Article 371D on the other. Thus even if the Article 371D is not amended or deleted, it does not come in the way of the Andhra Pradesh Reorganisation Bill, 2013. If not amended or deleted, Article 371D will simply become redundant (like Article 371E which allowed for the establishment of a Central Un iversity in Hyderabad).
It is at the request of both Seemandhra and Telangana employees that the Bill amends Article 371D to make it applicable to both the successors states. The Bill makes a textual amendment to Article 371D by substituting the words 'State of Andhra Pradesh' with 'States of Andhra Pradesh and Telangana' or 'Andhra Pradesh' with 'Andhra Pradesh and Telangana' in the Article 371D.
Neither in the Constitution nor in the practice of reorganisation of states, does a textual amendment of Article 371D pose a hindrance to the Andhra Pradesh Reorganization Bill, 2013 as is feared by some and hoped by others.

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