

Paper clippings

DEPARTMENT / SUBJECT: COURT

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# 'Centre, House can't take unilateral decision on J&K special status'

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NEW DELHI, DHNS

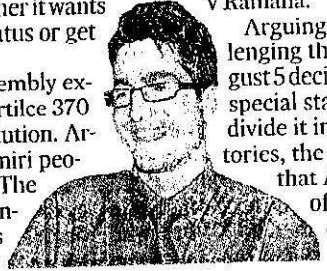
The Supreme Court was told on Wednesday that there cannot be any role for the Union government or Parliament in absence of Constituent Assembly of Jammu and Kashmir, to take away the special status ascribed to the erstwhile state.

Senior advocate Raju Ramachandran, arguing on behalf of IAS top-per-turned-politician Shah Faesal,

contended that Article 370 of the Constitution left it to the Constituent Assembly to decide whether it wants to continue its special status or get it abrogated.

"The Constituent Assembly exercised its choice, and Article 370 continued in the Constitution. Article 370 gave the Kashmiri people the right to choose. The Centre could not have annulled the special status of Jammu and Kashmir

unilaterally," he submitted before a five-judge bench presided over by Justice N V Ramana.



Arguing on the petition challenging the validity of the August 5 decision to take away the special status of the state and divide it into two Union Territories, the counsel maintained that Article 370 was part of the basic structure of the Constitution, which can't be

amended through a short-cut like the Presidential route.

To this, the bench asked him if there was no constituent Assembly, then who has the power to reconstitute the Constituent Assembly.

"It is for the state to devise it, based on the democratic process involving people of Jammu and Kashmir... the solution should emanate from the people through democratic process... It is for the people to take a call on deciding their relationship with the Union and

unilateral decision cannot be taken." "Who should be the competent authority to form the Constituent Assembly? Will it be a case of referendum, concurrence or consultation," the bench asked him.

Ramachandran replied that the ultimate decision should be left to the people as the Constituent Assembly power can be given to the legislative Assembly.

He also submitted the Governor is just an agent of the President of the country and cannot act independently.