

# APPOLO STUDY CENTRE

## August month Test -III (Material)

### Unit 5 INDIAN POLITY

#### 10<sup>TH</sup> Civics (Constitution Of India)

#### **UNIT 1 - INDIAN CONSTITUTION**

##### **Introduction**

- The Constitution is the fundamental law of a country which reflects the fundamental principles on which the government of that country is based. It is the vehicle of a Nation's progress. More particularly, it is concerned with institutional fabric and the framework of the distribution of powers between the various organs of the government and between the Union and the States. The concept of constitution was first originated in U.S.A.

##### **The Need for a Constitution**

- All Democratic countries have a constitution that governs them. A constitution puts down certain principles that form the basis of any kind of a state that we as citizens, desire to live in. A constitution tells us the fundamental nature of our society. A country is usually made up of different communities of people who have different beliefs; it will be helpful in fulfilling the beliefs of different segments of citizens.

## Making of Indian Constitution

- The Constitution of India was framed by a Constituent Assembly setup under the Cabinet Mission Plan, 1946. The Assembly consisted of 389 members representing Provinces (292), States (93), the Chief Commissioner's provinces (3) and Baluchistan (1). The Assembly held its first meeting on December 9, 1946. Dr. Sachchidananda Sinha, the oldest member, was elected as the temporary President of the Assembly. While the work was in progress, Dr. Sahchidananda Sinha died. Dr. Rajendra Prasad was elected as the President of the Assembly. Similarly, both H.C. Mukherjee and V.T. Krishnamachari were elected as the Vice-Presidents of the Assembly. The Assembly met for 11 sessions along with 166 days of meetings. During the discussion, 2473 amendments were presented. Some of them were accepted. The Assembly worked through various committees and the draft of the Constitution was prepared by the Drafting Committee under the chairmanship of Dr. B.R. Ambedkar. He is recognised as the 'Father of the Constitution of India'. After the draft had been discussed by the people, the press, provincial assemblies and others, the Constitution was finally adopted on November 26, 1949, contained a Preamble, 22 parts, 395 Articles and 8 Schedules. The drafted Constitution came into force on 26th January, 1950. Thursday is known as the Republic Day. It is being observed every year.

## Salient features of Indian Constitution

- ❖ It is the lengthiest of all the written constitutions of the world.
- ❖ It has borrowed most of its provisions from the constitutions of various countries.
- ❖ It is partly rigid and partly flexible.
- ❖ It establishes a federal system of government.
- ❖ It establishes the parliamentary system not only at the Centre but also in the states.
- ❖ It makes India as a secular state.

- ❖ It provides an independent judiciary.
- ❖ It introduces Universal Adult Franchise and accords the right to vote to all citizens above 18 years of age without any discrimination.
- ❖ It provides single citizenship.
- ❖ It makes special provisions for minorities, Scheduled Castes, Scheduled Tribes, etc.

## Preamble

- The term 'preamble' refers to the introduction or preface to the Constitution. It consists of the ideals, objectives and basic principles of the Constitution. It contains the summary or essence of the Constitution. It has great value and has been described as the 'key to the Constitution'. The Preamble to the Indian Constitution is based on the 'Objective Resolution', drafted by Jawaharlal Nehru, which was adopted by the Constituent Assembly on January 22, 1947. It has been amended once by the 42nd Constitutional Amendment Act of 1976, which added three new words - socialist, secular and integrity. The Preamble begins with the phrase 'We, the People of India'. This clearly implies that the Constitution derives its authority from the People of India. Thus, we can say that the people of India are the source of our Constitution. The Preamble of our Constitution states that India is a **Sovereign Socialist Secular Democratic Republic**. Its aim is to secure to all Indian citizens Social, economic and political justice. The Constitution guarantees **Liberty** of thought, expression, belief, faith and worship to all. It gives **Equality** of status and of opportunity to all. It wants to promote **Fraternity** among all Indians.

## Citizenship

- The word 'Citizen' is derived from the Latin term 'Civis'. It means resident of a City State. The Constitution of India provides for a single and uniform citizenship for the whole of India. Articles 5 to 11 under part II of the Constitution deals with the citizenship.

## Citizenship Act of 1955

- The Citizenship Act of 1955 provides for acquisition and loss of citizenship after the commencement of the Constitution. This Act has been amended so far eight times. Originally, the Citizenship Act (1955) also provided for the commonwealth Citizenship. But, this provision was repealed by the Citizenship (Amendment) Act, 2003.

## Acquisition of Citizenship

- The Citizenship Act of 1955 prescribes five ways of acquiring citizenship, viz, birth, descent, registration, naturalisation and incorporation of territory:
- According to the Citizenship Act, 1955, the citizenship could be acquired through any of the following methods.
  1. **By Birth**: All persons born in India on or after January 26, 1950 are treated as citizens by birth.
  2. **By Descent**: A person born outside India on or after January 26, 1950 shall be a citizen of India by descent, if his father is a citizen of India at the time of his birth.
  3. **By Registration**: A person can acquire citizenship of India by registration with appropriate authority.
  4. **By Naturalisation**: A foreigners can acquire Indian citizenship, on application for naturalization to the Government of India.
  5. **By Incorporation of Territory**: In the event of a certain territory being added to the territory of India, the Government of India shall specify the persons of that territory who shall be citizen of India.

## **Loss of Citizenship**

- The Citizenship Act of 1955 prescribes three ways of losing citizenship whether acquired under the Act or prior to it under the Constitution, viz, renunciation, termination and deprivation.
  1. It can be voluntarily renounced by a citizen.
  2. It can be terminated if a person acquires the citizenship of some other country.
  3. The central government can deprive a naturalized citizen, if it satisfied that the citizenship was acquired by fraud, false representation or concealment of material facts or indulges in trade with enemy countries or if the person has been sentenced to imprisonment for a period of 2 years.

## **Fundamental Rights**

- The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35. In this regard, the framers of the Constitution derived inspiration from the Constitution of USA. Originally, the Constitution provided for seven Fundamental Rights. At present, there are only six Fundamental Rights. Part III of the Constitution is rightly described as the Magna Carta of India. While Fundamental Rights are available to all persons, certain Fundamental Rights are available only to Indian Citizens.

## **Right to constitutional remedies (Articles 32)**

- A writ is an order or command issued by a court in writing under its seal. It is in the nature of a command or prohibition from performing certain acts that are specified in the orders of the court. Both the Supreme Court and the High Courts are empowered to issue five kinds of writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. That is why the Supreme Court is called the “Guardian of the Constitution”. According to Dr. Ambedkar, Article 32 is “the heart and soul of the Constitution”.

1. **Habeas Corpus**: Safeguards people from illegal arrests.
2. **Mandamus**: It protects the petitioner who requires legal help to get his work done by respective public authorities.
3. **Prohibition**: It prohibits a subordinate court from acting beyond its jurisdiction.
4. **Certiorari**: It quashes an order issued by a subordinate court by overstepping its jurisdiction.
5. **Quo Warranto**: It prevents usurpation of public office through illegal manner.

### **Suspension of Fundamental Rights**

- When the President makes a Proclamation of Emergency under Article 352, the freedoms guaranteed under Article 19 are automatically suspended. The President can suspend other fundamental rights through specific orders. These orders must be approved by the Parliament. But he cannot suspend the freedoms given under Arts. 20 and 21 (protection in respect of conviction for offences and protection of life and personal liberty respectively) in any circumstances.

### **Directive Principles of State Policy**

- The Directive Principles of State Policy are enumerated in Part IV of the Constitution from Articles 36 to 51. The Constitution does not contain any classification of Directive Principles. However, on the basis of their content and direction, they can be classified into three broad categories, viz, socialistic, Gandhian and liberal-intellectual. These principles are not enforceable by the courts. But they are fundamental for the governance of the country. The Government is duty bound to apply these principles while making laws. They aim at promoting the Social Welfare of the people. Dr. B.R. Ambedkar described these principles as 'novel features' of the Indian Constitution.

## Differences between Fundamental Rights and Directive Principles of State Policy

Fundamental Rights	Directive Principles of State Policy
It was derived from the Constitution of the USA.	It was drawn on the model of the Constitution of Ireland.
Even the Government cannot take away or abridge these rights.	These are mere instructions to the Government.
These are enforceable by a court of law.	These are not enforceable in any court.
These have legal sanctions.	These have moral and political sanctions.
These rights strengthen political democracy in the country.	The implementation of these principles ensures social and economic democracy.
These are natural rights.	These lead to protect human rights.

### Fundamental Duties

- The Fundamental Duties in the Indian Constitution are inspired by the Constitution of former USSR. In 1976, the Congress party set up the Sardar Swaran Singh Committee to make recommendations on fundamental duties. The 42nd Amendment Act of 1976 added some responsibilities of citizens to our Constitution called the Fundamental Duties. This amendment added a new part, namely, Part IVA to the Constitution. This new part consists of only one Article that is Article 51A which for the first time specified a code of ten fundamental duties of the citizens.

## List of Fundamental Duties

- Article 51A declares it to be the duty of every citizen of India.
- - a) To abide by the constitution and respect its ideals and institutions, the National Flag and the National Anthem.
  - b) To cherish and follow the noble ideals which inspired the national struggle for freedom
  - c) To uphold and protect the sovereignty, unity and integrity of India
  - d) To defend the country and render national service when called upon to do so
  - e) To promote harmony and the spirit of common brotherhood among all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women
  - f) To value and preserve the rich heritage of our composite culture
  - g) To protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures
  - h) To develop scientific temper, humanism and the spirit of inquiry and reform
  - i) To safeguard public property and to abjure violence
  - j) To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement
  - k) To provide opportunities for education to his child or ward between the age of six and fourteen years. (The 86th Constitutional Amendment Act, 2002 has also introduced the 11th Fundamental



Duty under 51A(k) under which all citizens of India or parents shall provide opportunities for education to their children between age of 6 and 14 years)

## **Centre-State Relations**

- The Constitution of India, being federal in structure, divides all powers between the Centre and the States. The Centre-state relations can be studied under three heads:

### **Legislative relations**

- The Union Parliament has the power to legislate for the whole or any part of the territory of India, which includes not only the States but also the Union Territories or any other area for the time being, included in the territory of India. The Seventh Schedule of the Constitution embodies three lists namely, the Union List, State List and Concurrent List consisting of 97, 66 and 47 items respectively. The Parliament enjoys the exclusive power to legislate on subjects enumerated in the Union List. The State Legislature has exclusive right to legislate on the State List. Both Parliament and State Legislatures have power to legislate on subjects contained in the Concurrent List. But in case of conflict between the law of the State and the Union on a subject in the Concurrent List, the law of Parliament prevails.

### **Administrative relations**

- The Administrative power of a State extends only to its own territory and with respect to which it has legislative competence, whereas the Union has exclusive executive power over:
  - a) The matters with respect to which Parliament has exclusive power to make laws and
  - b) The exercise of its powers conferred by any treaty or agreement.

## **Financial relations**

- Article 268-293 in Part XII deal with the financial relations between centre and the states. The Centre and States are empowered by the Constitution to impose various kinds of taxes. And certain taxes are imposed and collected by the centre and divided between centre and states based on the recommendation of the Finance Commission appointed by the President under Article 280 of the Constitution. Late Prime Minister Indira Gandhi appointed the Sarkaria Commission in 1983 to make an enquiry into the Centre-State relations. The Central government has implemented 180 (out of 247) recommendations of the Commission. The most important is the establishment of the Inter-State Council in 1990.

## **Official Language**

- Part XVII of the Constitution deals with the official language in Articles 343 to 351. Its provisions are divided into four heads namely, Language of the Union, Regional languages, Language of the judiciary and texts of laws and Special directives. The First language committee was appointed in 1955. It submitted its report in 1956. As a follow up of the report, parliament enacted the Official Language Act, 1963. The act laid down that even after 15 year, English may continued to be used along with Hindi for all official purposes of the Union and also for transaction of business in parliament. Again through the Official Languages (Amendment) Act, 1967, it was provided that the use of English would continue indefinitely. The Constitution also permitted certain regional languages to be used for intra-state official transactions. Initially, the Constitution recognised 14 regional languages which were included in the Eighth Schedule. At present, 22 languages are recognised.

## **Emergency Provisions**

- The Central Government has been vested with extraordinary powers to deal with conditions of emergency. Three types of emergencies are envisaged in the Constitution:

## **National Emergency (Article 352)**

- The President under Article 352 can declare emergency if he is satisfied that India's security is threatened due to war, external aggression or armed rebellion, or if there is an imminent danger or threat. When a national emergency is declared on the ground of war or external aggression it is known as external emergency. On the other hand, when it is declared on the ground of armed rebellion it is known as internal emergency. This type of emergency has been declared three times so far: in 1962, 1971 and 1975.

## **State emergency (Article 356)**

- Under Article 356, the President can declare an emergency in a state if the Governor reports that a situation has arisen under which the government of a State cannot be carried on in accordance with the provisions of the Constitution. The continuance of such an emergency beyond one year is possible only if emergency under Art. 352 are in operation or the Election Commission certifies that there are difficulties in holding Assembly elections. Maximum duration of the emergency can be three years. In this kind of emergency, the States lose much of their autonomy in legislative and executive matters. After such an announcement state legislature is suspended and the State is governed by the Governor on behalf of the President. For the first time, the President's Rule was imposed in Punjab in 1951.

## **Financial emergency (Article 360)**

- Article 360 authorises the President to declare financial emergency if he is satisfied that the financial stability or credit of India or of any of its parts is in danger. In this type of emergency, salaries and allowances of any class of persons serving State or Union, including judges of the Supreme Court and High Court can be reduced by an order of the President. This type of emergency has not been declared in India so far.

## Amendment of the Constitution

- The term amendment denotes change, improvement and modification. Usually this term is associated with one or more changes made in the Constitution of a country. Article 368 of the Constitution in Part XX, deals with the powers of Parliament to amend the Constitution and its procedure.

## Procedure of Amendment

- 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 shall be presented to The President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill. The constitution amendment can be brought about only by the Parliament. State legislatures cannot initiate for any amendment to the Constitution.

## Types of Amendments

- Article 368 provides for three ways of amendments, that is, by a special majority of Parliament and also through the ratification of half of the states by a simple majority. But, some other articles provide for the amendment of certain provisions of the Constitution by a simple majority of Parliament, that is, a majority of the members of each House present and voting (similar to the ordinary legislative process). Notably, these amendments are not deemed to be amendments of the Constitution for the purposes of Article 368. Therefore, the Constitution can be amended in three ways:
  1. Amendment by simple majority of the Parliament
  2. Amendment by special majority of the Parliament

3. Amendment by special majority of the Parliament and the ratification of half of the state legislatures.

### Constitutional Reform Commissions

- The National Commission to Review the Working of the Constitution was set up by a resolution of the Government of India in 2000 headed by M.N.Venkatachaliah. In April 2007, a three member commission headed by the former Chief Justice of India M.M.Punchchi was set up by the then Government to take a fresh look at relative roles and responsibilities of various levels of Government and their inter-relations.

### NOTE

- ❖ **Prem Behari Narain Raizada** was the calligrapher of the Indian Constitution. The original constitution was handwritten by him in a flowing italic style.
- ❖ **Liberty, Equality and Fraternity** were the important slogans during the **French Revolution in 1789**. They are given importance in the Preamble of our Constitution.
- ❖ '**Magna Carta**' is the Charter of Rights issued by **King John** of England in **1215** under pressure from the barons. This is the **first written document relating to the Fundamental Rights of citizens**.
- ❖ **Right to Property (Art. 31)** was deleted from the list of Fundamental Rights by the **44th Amendment Act, 1978**. It is made a legal right under **Article 300-A** in **Part XII** of the Constitution.
- ❖ The **86th Amendment Act of 2002** changed the subject -matter of **Article 45** and made elementary education a fundamental right under **Article 21(A)** The amended directive requires the State to provide early childhood care and education for all children until they complete the age of six years.
- ❖ The Union List, State List and Concurrent List consisting at present **100, 61 and 52** items respectively. The **42<sup>nd</sup> Amendment Act of**

**1976 transferred five subjects** to Concurrent List from State List, that is, education, forests, weights and measures, protection of wild animals and birds, and administration of justice; constitution and organisation of all courts excepts the Supreme Court and the high courts.

- ❖ In **1969**, the Tamil Nadu Government appointed a three-member committee under the chairmanship of **Dr. P V Rajamannar** to examine the entire question of **Centre-state relations**.
  
- ❖ In **2004**, the Government of India decided to create new category of languages called as “**classical languages**”. So far, the **six languages** are granted the classical language status namely **Tamil (2004), Sanskrit (2005), Telugu (2008), Kannada (2008), Malayalam (2013) and Odia (2014)**.
  
- ❖ **42nd amendment** of the Constitution is known as the **mini Constitution**

# **(Legislature State Executive & Local Government Panchayat Raj)**

## **UNIT 2 - CENTRAL GOVERNMENT**

### **Introduction**

- The Central Government is the supreme government in our country. The head quarter of the Central Government is at New Delhi. Articles 52 to 78 in part V of Indian Constitution deals with the Union Executive. Our Constitution provides for a democratic form of government. The makers of the Indian constitution, by giving due recognition to the vastness and plural character of our nation, have provided a federal arrangement for her governance. The Central Government consists of three organs, namely, Union Executive, Legislature and Judiciary. The Union Executive consists of the President of India, the Vice-President, and the Council of Ministers headed by the Prime Minister, and the Attorney General of India. The Legislature is known as the Parliament. It consists of two houses, namely the Rajya Sabha and the Lok Sabha. The Union Judiciary consists of the Supreme Court of India.

### **The President of India**

- In the scheme of parliamentary system of government provided by the constitution, the President is the nominal executive authority. The chief executive of the Indian union is the President. He is designated as the First citizen of India. He is the supreme commander of the armed forces. The President is also the Constitutional head of the Union Executive. He is also responsible for constituting the judiciary. According to Article 53 of the constitution, the executive power of the Union shall be vested in the President which shall be exercised by him directly or through officers subordinate to him in accordance with Constitution.

## **Qualification for the election as President**

The constitution lays down qualifications for a Presidential candidate.

- ❖ He should be a citizen of India.
- ❖ He must have completed the age of thirty five years.
- ❖ He must not hold any office of profit under the Union, State or local Government.
- ❖ He should have the other qualifications required to become a member of the Lok Sabha.
- ❖ His or her name should be proposed by at least ten electors and seconded by another ten electors of the Electoral College which elects the President.
- ❖ The President cannot be a Member of Parliament or of a State Legislature; if he is a member of any legislature, his seat will be deemed to have been vacated on the date he / she assumes the office of President.

## **Election of the President**

- The President is elected by an electoral college in accordance with the system of proportional representation by means of single transferable vote. The Electoral College consists of the elected members of both houses of Parliament and the elected members of the states and elected members of National Capital Territory of Delhi and Puducherry. Once elected as the President has to take an oath of office before the Chief Justice of India. The President is elected for a term of five years and can be re-elected.

## **Powers of the President**

- The powers and functions of the President of India can be broadly classified under the following categories.



## Executive Powers

- The constitution vests in the President of India all the executive powers of the Central Government. Article 77 requires that every executive action of the Union shall be taken in the name of the President. So he has to make many appointments to key-offices to run the administration.
- He appoints the Prime Minister and the other members of the Council of Ministers, distributing portfolios to them on the advice of the Prime Minister. He is responsible for making a wide variety of appointments. These include the appointment of Governors of States, the Chief Justice and other Judges of the Supreme Court and high Courts, the Attorney General, the Comptroller and Auditor General, the Chief Election Commissioner and other Election Commissioners the Chairman and other Members of the Union Public Service Commission Ambassadors and High Commissioners to other countries.
- He appoints a commission to investigate into the conditions of SCs, STs and other backward classes. He is the supreme commander of the defence forces of India, in this capacity the President can appoint Army, Navy, and Air Chiefs.

## Legislative Powers

- The President is an integral part of the Union Parliament. He inaugurates the session of the Parliament by addressing it after the general election and also at the beginning of the first session each year. This address is essentially identical in nature to a Speech from the Throne. The President summons Parliament at least twice in a year. He may send messages to either House of the Parliament with respect to a bill pending in the House. All bills passed by the Parliament become "Laws of Acts" only after getting assent of the President. Money bills cannot be introduced in the Parliament without his approval. President terminates the sessions of both or any of the Houses of Parliament. He can even dissolve the Lok Sabha before the expiry of the term of the House. He nominates 12 persons who are eminent in literature, science, sports, art and social service to

the Rajya Sabha. He can also nominate two persons belonging to Anglo- Indian Community to the Lok Sabha, if in his opinion, that community is inadequately represented in the House.

### **Financial Power**

- Money bill can be introduced in the Parliament only with his prior recommendation. Annual Budget of the Central Government is presented before the Lok Sabha by the Union Finance Minister only with the permission of the President. He causes to be laid before the Parliament the annual financial statement (the Union Budget). The Constitution of India places the Contingency Fund of India is at the disposal of the President. No demand for a grant can be made except on his recommendation. He can make advances out of the contingency fund of India to meet any unexpected expenditure. He constitutes a finance commission after every five years or on the demand of the states to recommend the distribution of revenues between the Centre and the States.

### **Judicial Powers**

- Article 72 confers on the President power to grant pardons, reprieves, respites or remissions of punishment, or to commute the sentence of any person convicted of an offence. In all cases where the punishment or sentence is by a court martial; in all cases where the punishment or sentence is for and offence against a Union law; and in all cases where the sentence is a sentence of death. The President is not answerable to any court of law for exercise of his/she power (however He can be subjected to impeachment by the Parliament).

### **Military Powers**

- Article 53(2) lays down that “the supreme command of the Defence Force of the Union shall be vested in the President and the exercise thereof shall be regulated by law”. The President is thus declared to be the Supreme Commander of the defence Force of the country. In the exercise of this power, it is the President, who can declare war against a country and make peace.

## Diplomatic Powers

- The President appoints Indian diplomats to other countries and receives foreign diplomats posted to India. The ambassador designate becomes ambassador after calling on the President and presenting his credentials. All treaties and agreements with foreign States are entered into, in the name of the President.

## Emergency Powers

- The President has been empowered by the Constitution to proclaim Emergency. They are follows:
  - ❖ Article 352 confers power on the President to make a proclamation of Emergency on the grounds of war, external aggression, or armed rebellion. This is known as National Emergency.
  - ❖ Article 356 confers power on the President to make a proclamation of State Emergency by declaring that the Government in a State cannot be run on in accordance of the provisions of the Constitution.
  - ❖ Under Article 360, the President is vested with the power to proclaim Financial Emergency, if he is satisfied that the financial stability or, the credit of India or any part of India is threatened, by any reason.

## Removal of the President

- The President shall hold office for a term of five years from the date on which He enters the office. The President may by writing under his hand addressed to the Vice-President, resign his office. The President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in Article 61; The Impeachment action can be brought about in the form of resolution in either house of the Parliament. It must be supported by not less than One- Fourth of the total strength of the House for its introduction.

The President shall, in spite of the conclusion of his term, continue to hold office until his successor enters upon his office.

## Privileges of the President

- According to Article 361(1) the President, or the Governor of a state, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties.

### List of Presidents of India

1. Thiru. Rajendra Prasad	1950 to 1962
2. Thiru. Sarvepalli Radhakrishnan	1962 to 1967
3. Thiru. Zakir Hussain	1967 to 1969
4. Thiru. V.V Giri	1969 to 1974
5. Thiru. Fakhruddin Ali Ahmed	1974 to 1977
6. Thiru. Neelam Sanjiva Reddy	1977 to 1982
7. Thiru. Giani Zail Singh	1982 to 1987
8. Thiru. R Venkataraman	1987 to 1992
9. Thiru. Shankar Dayal Sharma	1992 to 1997
10. Thiru. K R Narayanan	1997 to 2002
11. Thiru. APJ Abdul Kalam	2002 to 2007
12. Tmt. Pratibha Patil	2007 to 2012
13. Thiru. Pranab Mukherjee	2012 to 2017
14. Thiru. Ram Nath Kovind	2017 to till now

## Vice-President

- The vice-President occupies the second highest office in the country. He is accorded a rank next to the President in the official warrant of precedence. This office is modelled on the lines of the American Vice-President. Article 63 of the constitution provides for a Vice President of India. This office has been created to maintain the political continuity of the state.

## Qualification for the election as Vice President

- The constitution lays down qualifications for a Vice Presidential candidate.

- ❖ He should be a citizen of India.
- ❖ He must have completed the age of thirtyfive years.
- ❖ He must not hold any office of profit under the Union, State or local Government.
- ❖ He should have the other qualifications required to become a member of the Rajya Sabha.

### **Election and term of the Vice-President**

- Article 66(1) the Vice- President, like the president, is elected not directly by the people but the method of indirect election. He is elected by the members of an electoral college consisting of the member of both Houses of Parliament. The term of office of the Vice President is five years. His office may terminate earlier than the fixed term either by resignation, death or by removal. He is eligible for re-election. The Constitution does not provide a mechanism of succession to the office of the Vice - President. Under such circumstances, election to the Vice President shall be held early as possible. Till then deputy chairman of the Rajya sabha can perform the duties of the chairman of the Rajya sabha.

### **Removal of the Vice President**

- The Vice President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the council and agreed to by the House of the People. A resolution for this purpose may be moved only after a notice of at least a minimum of 14 days has been given of such an intention.

### **Functions of the Vice President**

- The Vice-President is Ex-Officio Chairman of the Rajya Sabha. As the Chairman of the House, he carries out several functions.
  - ❖ He regulates the proceeding of the House.

- ❖ He decides the order of the House.
- ❖ He decides the admissibility of a resolution or questions.
- ❖ He suspends or adjourns the House in case of a grave disorder.
- ❖ He issues directions to various committees on matters relating to their functions.
- ❖ When the President is unable to discharge his duties due to illness or absence from the country, he attends to the functions of the President. When the President is unable to do so due to sickness or when the post of President becomes vacant due to resignation, death, or removal by impeachment etc. the Vice-President can act as the President for a maximum period of six months.

## **Prime Minister**

- Article 74 (1) says: There shall be a council of ministers with the Prime Minister as the head to aid and advice the President. He may direct the council to reconsider their advice, but is bound by the advice given after reconsideration. The post of Prime Minister of India has adopted the Westminster (England) model of constitutional democracy. The leader of the majority party in Lok Sabha is appointed by the President as the Prime Minister. The other ministers are appointed by the President on the advice of the Prime Minister. If no party commands absolute majority in the Lok Sabha, the President can summon the leader of any party who, in his opinion, can manage to form a ministry. The President administers to the ministers the oath of office and of secrecy. The salaries and allowances of the Prime Minister and the ministers are determined by the Parliament. A person who is not a member of the Parliament can be appointed as a minister but he has to get himself elected to the Parliament within six months. Ministers are individually as well as collectively responsible to the Lok Sabha.

## **Duties and functions of Prime Minister**

- Article 78 mentioned the duties of the Prime Minister:

- ❖ The Prime Minister decides the rank of his ministers and distributes various departments.
- ❖ The Prime Minister decides the dates and the agenda of the meeting of the Cabinet which he presides.
- ❖ The Prime Minister is the Head of the Cabinet and the other ministers are his colleagues.
- ❖ The Prime Minister informally consults two or three of his senior colleagues when he does not convene a Cabinet meeting.
- ❖ The Prime Minister supervises the work of various ministers.
- ❖ To converse to the President all decisions of the Council of Ministers connecting to the government of the affairs of the Union and proposals for legislation.
- ❖ The Prime Minister act as the link between the President and the Council of Ministers.
- ❖ The Prime Minister is the leader of the Nation and chief spokesman of the country.
- ❖ As the leader of the nation, the Prime Minister represent our nation at all international conferences like the commonwealth, summit of the non aligned nations and SAARC nations.

<b>List of Prime Ministers of India</b>		
1	Thiru. Jawaharlal Nehru	1947-64
2.	Thiru. Lal Bahadur Shastri	1964-66
3.	Tmt. Indira Gandhi	1966-77
4.	Thiru. Morarji Desai	1977-79
5.	Thiru. Charan Singh	1979-80
6.	Tmt. Indira Gandhi	1980-84
7.	Thiru. Rajiv Gandhi	1984-89
8.	Thiru. V.P. Singh	1989-90
9.	Thiru. Chandra Shekhar	1990-91

10.	Thiru.P.V. Narasimha Rao	1991-96
11.	Thiru, Atal Bihari Vajpayee	May 96
12.	Thiru. D.Deve Gowda	1996-97
13.	Thiru. I.K. Gujral	1997-98
14.	Thiru. Atal Bihari Vajpayee	1998-2004
15.	Thiru. Manmohan Singh	2004-14
16.	Thiru. Narendra Modi	2014-till now

## Council of Ministers

- After the elections, the President of India, on the advice of the Prime Minister, appoints the council of ministers. Sometimes a non - member of the Parliament too may be appointed. However, he must get elected to either of the Houses of the Parliament within a period of six months. The Constitution of India restricts the number of the Council of Ministers including the Prime Minister to fifteen per cent of the total members of the Lok Sabha.

## Categories of the Ministers

The ministers are classified under three ranks

- (i) Cabinet Ministers
- (ii) Ministers of State
- (iii) Deputy Ministers.

## Cabinet Ministers

- The Cabinet is an informal body of senior ministers who form the nucleus of administration. Important decisions of the government are taken by the Cabinet, such as defence, finance, external affairs and home.
- The Cabinet recommends to the President to promulgate an ordinance. It is instrumental in moving Amendments to the Constitution. The Finance bills have their origin in the Cabinet and then they are introduced in the Lok Sabha with the Presidents recommendations. The Cabinet decides the foreign policy of the



Government approves international treaties and plays a significant role in the appointment of Ambassadors to various countries.

### **Ministers of State**

- These ministers belong to the second category of ministers in the council. They are also in charge of ministries or departments but they do not participate in the meetings of the cabinet unless invited to do so.

### **Deputy Ministers**

- They are the lowest ranked ministers in the cabinet. They assist either the Ministers of Cabinet or State in the performance of the duties entrusted to them.

### **PARLIAMENT OF INDIA**

- The parliament is the legislative organ of the Union government. Article 79 to 122 in Part V of the constitution deal with the organization, composition, duration, officers, procedures, privileges, powers and so on of the Parliament. The Parliament of India consists of three parts they are the President, Rajya Sabha (the council of States) and Lok Sabha (the House of the People). The Rajya Sabha is the Upper House and the Lok Sabha is the Lower House it is termed as bicameral legislature.

### **Rajya Sabha**

- The council of State or Rajya Sabha consists of 250 members out of whom 238 represent the states and the Union Territories, elected by the method of indirect election. The 12 nominated members shall be chosen by the President from amongst persons having 'special knowledge or practical experience in the field of literature, science, sports, art and social service.

### **Qualification of the Members**

- A person seeking membership of Rajya Sabha must possess the following qualifications
  - ❖ He should be a citizen of India
  - ❖ He should not be less than 30 years of age.
  - ❖ He should not hold any office of profit under any Government.
  - ❖ He should be a person with sound mind and monetarily solvent.
  - ❖ He should have such other qualification as may be approved by the Parliament for that reason from time to time.
  - ❖ He should not be the member of Lok Sabha or any other legislature.

### **Term of House**

- The Rajya Sabha is a permanent house and it cannot be dissolved. The members of the Rajya Sabha are elected for a term of six years. One third of the members of Rajya Sabha retire every two years, and new members are elected to fill the seats thus vacated. The Vice President of India is the Ex-officio Chairperson of the Rajya Sabha. The Deputy Chairperson of the Rajya Sabha is elected by the members of the Rajya Sabha.

### **Election**

- Members of Rajya Sabha are elected by the elected members of the 'State Legislative Assemblies' in accordance with the system of proportional representation by means of the single transferable vote. This process of election is called "indirect election" as they are not elected by the people directly.

### **Functions of the Rajya Sabha**

- ❖ Any bill (except the money bills) needs to be approved by Rajya Sabha to get passed. If the bill gets stuck for more than six months then President calls for a joint session of both the houses to resolve the deadlock.
- ❖ It has the same power as Lok Sabha, for passing any bill for constitutional amendment.
- ❖ The members of Rajya Sabha have the electoral power for selection of President, Vice President. Together with the members of Lok Sabha and all the State Legislative Assemblies they elect the President and Vice President.
- ❖ It has power in the impeachment procedure of president and judges of Supreme Court and high court.
- ❖ Rajya Sabha has the power to make a state list subject into National Importance. If two third majority of the members of Rajya Sabha passes a resolution to support it. Rajya Sabha can also create or abolish an All India Service. If majority of members (2/3 of Total Members) supports it.

## **Lok Sabha**

- The Lok Sabha is the popular house of the Indian Parliament and contains elected representatives of the people. Maximum number of members can be elected for Lok Sabha is 552. The Lok Sabha as of today has 543 elected members. Out of these, 530 members are elected from different states and 13 members from the Union Territories. The President generally nominates two members belonging to the Anglo-Indian community. At present, the Lok Sabha consists of 545 members.

## **Qualification of the Members**

- ❖ He should be a citizen of India.
- ❖ He should not be less than 25 years of age.

- ❖ He should have his name in electoral rolls in some part of the country. He should not hold any office of profit under the Union or State Government.
- ❖ He should be mentally sound and economically solvent.

### **The term of the House**

- Generally the Lok Sabha enjoys a term of five years from the date of its first session. It can be dissolved by the President before the expiry of its term on the advice of the Prime Minister. The emergency provisions of the Constitution enable the President to prorogue or dissolve the Lok Sabha either on the advice of the Prime Minister or on being convinced that no party or no alliance of parties enjoys necessary majority support in the House.

### **Election**

- The members of the Lok Sabha are directly elected by the people of the constituencies created on the basis of population. The Election Commission of India arranges, supervises and conducts elections to the Lok Sabha. For sake of elections to Lok Sabha the entire nation is divided into number of constituencies which are formed more or less on the basis of the population. “Universal Adult Franchise” is followed while electing the members of the Lok Sabha. All Indian Citizens above 18 years of age who are registered as voters will vote for their representatives.

### **Functions of the Lok Sabha**

- ❖ Any bill can be introduced and passed in the Lok Sabha (Including Money Bill).
- ❖ It has the same power as Rajya Sabha to participate in case of impeachment of president and the judges of Supreme Court.
- ❖ It has equal power as Rajya Sabha in passing any bill for constitutional amendment.

- ❖ Lok Sabha members have the power to elect the president, vice president.
- ❖ Motion of no confidence can only be introduced in Lok Sabha. If it is passed then the prime minister and other council of ministers need to resign from their post.

## **The Speaker**

- The Lok Sabha is presided over by the 'speaker' who is elected by its members. The office of the Speaker occupies an essential position in our Parliamentary democracy. The Speaker continues to be in the office even in the houses dissolved, till a new Speaker is elected by the new Lok Sabha. The Speaker presides over a joint sitting of the two Houses of Parliament. He has the power to decide whether a Bill is Money Bill or an ordinary one. The decision of the Speaker on whether a Bill is Money Bill is final. Under the anti defection of 1985, the speaker is empowered to decide whether a member of the Lok Sabha is disqualified or not on the basis of the 10<sup>th</sup> schedule of the constitution. While the office of speaker is vacant or the speaker is absent from the sitting of the house, the deputy speaker presides, except when a resolution for his own removal is under consideration.

## **Powers and Functions of the Parliament**

- ❖ The Parliament of India has the functions of Legislation, overseeing of administration, passing of Budget, ventilation of public grievances, discussion of various subjects like development plans, international relations and internal policies
- ❖ Parliament is also vested with powers to impeach the President and to remove Judges of the Supreme Court and High Courts, Chief Election Commissioner and Comptroller and Auditor-General of India in accordance with the procedure laid down in the Constitution.
- ❖ The Parliament exercises control over the executive through asking questions and supplementary questions, moving motions of

adjournment, discussing and passing resolutions, discussing and pushing censure motion or vote of no-confidence.

- ❖ The Parliament has the power to change the boundaries of the States.

### **Attorney General of India**

- The Constitution (Article 76) has provided for office of the Attorney General for India. He is the highest law officer in the country. He is appointed by the President. He must be a person who is qualified to be appointed the Judge of the Supreme Court. In other words, he must be a citizen of India and he must have been a judge of some High Court for five years or an advocate of some High Court for 10 years or eminent jurist, in the opinion of the President. He holds office during the pleasure of the President. This means that he may be removed by the President at any time. He may also quit his office by submitting his resignation to the President.

### **Duties and Functions of Attorney General of India**

- To give advice to the Government of India upon such legal matters which are referred to him by the President. To perform such other duties of a legal character that are assigned to him by the President and discharge the functions conferred on him by the constitution are any other law. In the performance of his official duties, Attorney General of India has the right of audience in all courts in the territory of India. Further he has the right to speak and to take part in the proceedings of both Houses of the Parliament or their joint sitting and any committee of the Parliament of which he may be named a member, but without a right to vote. He enjoys all the privileges and immunities that are available to a member of Parliament.

### **JUDICIARY**

- Judiciary is the third organ of the government. It plays a vital role in protecting the rights and freedom of the citizens. It also plays an

important role in analyzing and interpreting the provisions of laws and the Constitution.

## **Supreme Court**

- The “Supreme Court is the Guardian of the Constitution”. Our constitution provides for the establishment of an independent and integrated judiciary with ‘supreme court’ as the uppermost court in the country. Our judiciary is autonomous of the Legislative and Executive wing of the Union and State Government. An integrated judiciary means a single judicial hierarchy for the whole country. The judiciary plays an important role in defensive the rights and freedom of the citizens. It plays an important role in analyzing and interpreting the necessities of laws and the constitution.

## **Composition of the Supreme Court**

- At the commencement of the constitution in 1950 our supreme court consisted of 8 judges including the chief justice. At present, the Supreme Court consists of 28 judges including the chief justice.

## **Appointment of Judges**

- The Chief Justice of Supreme Court in India is appointed by the President of India. The other judges are appointed by the President in consultation with the collegiums with Chief Justice Head.

## **Qualification of Supreme Court Judges**

- ❖ He must be a citizen of India.
- ❖ He should have worked as a Judge of a High Court for at least 5 years.
- ❖ He should have worked as an advocate of High Court for at least 10 years.

- ❖ He is in the opinion of the President, a distinguished Jurist.
- The constitution also provides for the appointment of judges to the Supreme Court on an ad-hoc (temporary) basis. The Chief Justice and other judges of the Supreme Court hold the office up to the age of 65 years. The judges of the Supreme Court can resign before their term by giving their resignation in writing to the President. The Parliament also has power to remove the Judges by invoking impeachment provisions. The Supreme Court has its permanent seat in “New Delhi”. It may also sit any other place in India which may be decided by the Chief Justice of India with the approval of the President of India.

## **Powers and Functions of the Supreme Court**

### **(a) Judicial Functions**

The “Supreme Court is the Guardian of the Constitution”. The followings are the functions of the Supreme Court.

### **(b) Original Jurisdiction**

- The cases which are brought directly in the first instance to the Supreme Court come under original jurisdiction. These may be (i) dispute between the Government of India and one or more States of (ii) Dispute between two or more states (iii) the cases involving fundamental rights (dispute over the enforcement) come under the jurisdiction of the Supreme Court. The writs issued by the Supreme Court for the enforcement of the fundamental rights are, (a) Habeas Corpus (b) Mandamus (c) Prohibition (d) Certiorari (e) Quo Warranto.

### **(c) Appellate Jurisdiction**

- The Supreme Court is the final appellate court in the country. As regard the Appellate jurisdiction, the Supreme Court hears appeals against the decisions of High Court in “civil, criminal and Constitutional” cases with a certificate from the High Court that it is fit to appeal in the Supreme Court. Such a case can be brought before the Supreme Court only if the High Court certifies that the case invites a substantial of law as to the interpretation of the Constitution.



**(d) Advisory Jurisdiction**

- The Constitution confers on the President the power to refer to the Supreme Court any question of law or fact which in his opinion is of public importance.

**(e) Miscellaneous Jurisdiction**

The Supreme Court is

- ❖ The law declared by Supreme Court is binding on all courts within the territory of India.
- ❖ The Supreme Court is authorized to make rules for regulating, generally the practice and procedure of the court with the approval of the President.
- ❖ The Supreme Court has complete control over its own establishment.

**(f) Judicial Review**

- The power of the judiciary to declare a law as unconstitutional is known as “Judicial Review”. The Supreme Court enjoys this power. The Supreme Court of India has Individual Review Power with regard to
  1. Dispute between the Centre and the States
  2. To interpret and clarify a provision of the constitution about which there are some doubts and differences of opinion.
  3. Protecting the fundamental rights,
  4. Those laws passed by the legislatures which are not in accordance with the Constitution.

## NOTE

- ❖ It is a well known fact that the President of India resides at **Rashtrapati Bhavan** in New Delhi. The residence and the office of the President are located in the same building. However he has two other office cum residences where he conducts office at least once a year. They are '**The Retreat Building**' at Shimla and the '**Rashtrapati Nilayam**' at Hyderabad. These locations one in North and other one is South symbolise the unity of the country and unity of the diverse culture of the people.
- ❖ **Kerala and Punjab** are the States where the President's Rule was imposed for maximum number of times i.e., **nine times in both States**.
- ❖ **Casting Vote**: According to **Article (100)** of the Constitution, the **vice-president can only cast his vote when there is a tie** over the Bill in the **Rajya Sabha**. It means that there is need for one vote only to pass the Bill. So vice-president using his discretion power cast his vote in favour or against the Bill. No members have any right to oppose his decision. If the posts of **President and Vice-President lie vacant**, Chief Justice of India works as President. This situation happened in 1969 when **Chief Justice M.Hidayutalla** was appointed as President of India.
- ❖ **Money Bill**: **Rajya Sabha does not have any power to amend or reject the Money bill**. Lok Sabha can only introduce Money bill and once it is approved by the Lok Sabha, it is passed to Rajya Sabha for its approval. If Rajya Sabha fails to pass **it within 14 days** then the bill gets passed without the approval of Rajya Sabha. Also, Lok Sabha does not need to consider the amendments proposed by the Rajya Sabha. Lok Sabha can reject all the proposals and pass it.
- ✓ Elected members of the Parliament from Tamil Nadu.
- ✓ Rajya Sabha - 18 members
- ✓ Lok Sabha - 39 members

❖ **Parliament Session**

- ✓ Budget Session from February to May
  - ✓ Monsoon Session from July to September
  - ✓ Winter Session from November to December
  - ✓ The Supreme Court of India, New Delhi was inaugurated on January 28, 1950. It succeeded the Federal Court of India, established under the Government of India Act of 1935.
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## **UNIT 3 - STATE GOVERNMENT**

### **Introduction**

- The Constitution of India envisages for a federal government, having separate systems of administration for the union and the states. There are 29 states, 6 union territories and one national capital territory known as Delhi in India. The constitution contains provisions for the governance of both the union and the states. It lays down a uniform structure for the State Government, in part VI of the constitution from Article 152 to 237, which is applicable to all the states, save only the state of Jammu and Kashmir which has a separate constitution for its government under Article 370. The structure of the State Government, as formed in the Centre, consists of three branches. These are the Executive, the Legislature and the Judiciary.

### **The Executive**

#### **The Governor**

- The Governor is the constitutional head of the state executive. The administration of a State is carried on in the name of the Governor. Generally, there is a separate Governor in each State but if the situation warrants so, the same person may be appointed as the Governor of two or more States. Article 154 vests the executive power of the State in the Governor. Article 154(1) holds that the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinates to him in accordance with this Constitution.

### **Appointment**

- The Governor of a State shall be appointed by the President. His usual term of office is five years but he holds office during the pleasure of the President. Generally, the Governor does not belong to the State where he is appointed. He can also be transferred from one

state to another by the President. He can also resign any time by addressing his resignation to the President.

- The Legislature of a State or a High Court has no role in the removal of a Governor. A person may be appointed as a Governor for any number of terms. Two conventions have been set up in the matter of appointing a person as Governor of a State. He should not be a resident of the State concerned and, the State Government concerned is consulted and its views are sought regarding the proposed choice.
- According to Article 158 (3A), where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.

### **Qualification**

Article 157 and Article 158 of the Constitution of India specify eligibility requirements for the post of governor. They are as follows:

- ❖ He should be a citizen of India.
- ❖ He must have completed 35 years of age.
- ❖ He should not be a member of Parliament or of any State Legislature. If he is a member of any of Legislature, he automatically vacates his seat on assuming the office.
- ❖ He should not hold any other profitable occupation.

### **Powers and Functions of the Governor**

- The Governor is the head of the state executive and he has enormous powers. In the exercise of functions and powers, the Governor, except in certain cases, is to be guided by the aid and advice of the Council of Ministers headed by the Chief Minister (under Article 163). As the executive head in the state level, the Governor has following functions and powers.

## Executive Powers

- The Constitution vests all executive powers of the State Government in the Governor. He may exercise this power either directly or through officers subordinate to him. He is the constitutional head of the State. All the administration is carried on in his name.

The executive powers and functions of the Governor are:

- ❖ He appoints the leader of the majority party in the State Legislative Assembly as the Chief Minister of the State.
- ❖ He appoints other members of the Council of Ministers on the recommendation of the Chief Minister.
- ❖ He appoints the Advocate - General of the state and determines his remuneration.
- ❖ The Advocate General holds office during the pleasure of the Governor.
- ❖ He appoints the Chairman and Members of the State Public Service Commission. However, they can be removed only by the president and not by a governor.
- ❖ He appoints the state election commissioner and determines his conditions of service and tenure of office.
- ❖ However, the state election commissioner can be removed only in like manner and on the like grounds as a judge of a high court.
- ❖ He acts as the chancellor of universities in the state. He also appoints the Vice Chancellors of universities in the state.
- ❖ He directly rules a State when there is the imposition of the President's rule in the State.

## Legislative Powers

- The Governor is an integral part of the state legislature. But, he is not a member in the either house of the legislature. In this capacity, he enjoys the following legislative powers and functions:
  - ❖ He has the right to summon, prorogue the state legislature and dissolve the State Legislative Assembly.
  - ❖ He can address the state legislature at the commencement of the first session after each general election and the first session of each year.
  - ❖ He can send messages to the houses of the state legislature relating to a bill pending in the legislature.
  - ❖ He can appoint any member of the Legislative Assembly to preside over its proceedings when the offices of both the Speaker and the Deputy Speaker fall vacant.
  - ❖ He can nominate one member to the state legislature assembly from the Anglo- Indian Community.
  - ❖ He nominates 1/6 of the members of the State Legislative Council from amongst the persons having special knowledge or practical experience in literature, science, art, cooperative movement and social service.
  - ❖ He decides on the question of disqualification of members of the state legislature in consultation with the Election Commission.
  - ❖ Every bill passed by the state legislature will become law only after his signature.
  - ❖ But, when a bill is sent to the Governor after it is passed by the legislature, he has the options to give his assent to the bill or

withhold his assent to the bill or return the bill for the reconsideration of the legislature.

- ❖ He has to reserve any bill passed by the state legislature which endangers the position of the state High Court, for the consideration of the President.
- ❖ He can promulgate ordinances when the state legislature is not in session under Article 213. But, these ordinances must be approved by the legislature within six months. He can also withdraw an ordinance at anytime.
- He has to lay the annual reports of the State Finance Commission, the State Public Service Commission and the Comptroller and Auditor General relating to the accounts of the state, before the state legislature.

### **Financial Powers**

- The Constitution confers on the Governor, the duty to get prepared and introduced to the State Legislature, the annual budget and also the supplementary budgets, if necessary.
- He causes the Annual Financial Statement (Budget) of the State to be presented in the Legislative Assembly.
- He presents through the Minister of Finance of the State the Supplementary Budget of the State to the Legislative Assembly if there be such a need.
- Money Bills can be introduced in the State Legislature only with his the prior recommendation.
- No demand for any grant can be made except on his recommendation.
- He can make advances out of the state Contingency Fund to meet any unforeseen expenditure.



- He constitutes a Finance Commission after every five years to review the financial position of the panchayats and the municipalities.

### **Judicial Powers**

- He appoints the Advocate-General of the State.
- He appoints Judges to the Subordinate Courts in the State.
- He makes appointment, postings and promotions of the District Judges in consultation with the State High Court.
- The Chief Justice of the High Court in the State is appointed by the President in consultation with him.
- He can pardon, commute or reprove punishment on receipt of appeals for mercy.

### **Discretionary Powers**

- The Governor can reserve a bill for the consideration of the president.
- He recommends for the imposition of the President's rule in the state.
- He seeks information from the Chief Minister relating to the administrative and legislative matters of the state.
- He can call the leader of any party to form ministry in the state when there is no clear-cut majority to any party in the Legislative Assembly after the general elections.
- He can dismiss the Council of Ministers when it is unable to prove the confidence of the Legislative Assembly; and He can dissolve the Legislative Assembly if the Council of Ministers has lost its majority.

### **Emergency Powers**

- If the Governor is satisfied that the government of the state is not carried on in accordance with the provisions of the Constitution, he may, under Article 356, recommend to the President to impose President Rule in that State. As soon as the President Rule is imposed,

the administration of the State is carried on by the Governor as the representative of the President.

## Privileges of the Governor

Article 361(1) provides for the following privileges for the Governor;

- ❖ The Governor of a State, is not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties.
- ❖ No criminal proceedings whatsoever shall be instituted or continued against the Governor of a State, in any court during his term of office.
- ❖ No process for the arrest or imprisonment of the Governor of a State, shall issue from any court during his term of office.
- ❖ No civil proceedings in which relief is claimed against the Governor of a State.

## Chief Minister

- **In the scheme of Parliamentary system of government provided by the constitution, the governor is the nominal executive authority and the Chief Minister is the real executive authority. In other words, the governor is the head of the State while the Chief Minister is the head of the government.**

## The appointment of the Chief Minister

- The Chief Minister is appointed by the Governor of the State. The leader of the majority party or majority group in the State Legislative Assembly is appointed as the Chief Minister. In case no party commands absolute majority, in the Legislative Assembly or the majority fails to elect its leader, the Governor can use his power and invite the leader of the other largest party to form the ministry. He has to prove the confidence (majority support) in the Legislative

Assembly within the period stipulated by the Governor. The term of the Chief Minister is not fixed. He may remain as the Chief Minister as long as he enjoys the support of the majority of the members of the Legislative Assembly. He has to resign when he loses confidence of the majority in the assembly. It is 'understood that normally he completes 5 years term like other members in the Legislative Assembly.

#### Chief Ministers of Tamil Nadu from 1947

Thiru.O. P. Ramaswamy	1947-1949
Thiru.P. S. Kumaraswamy Raja	1949 – 1952
Thiru.C. Rajagopalachari	1952 – 1954
Thiru.K. Kamaraj	1954 - 1963
Thiru.M. Bakthavatsalam	1963 – 1967
Thiru.C. N. Annadurai	1967 – 1969
Thiru.M. Karunanidhi	1969 – 1976
Thiru.M. G. Ramachandran	1977 – 1987
Tmt. JanakiRamachandran	January 1988
Thiru.M. Karunanidhi	1989 – 1991
Selvi.J. Jayalalithaa	1991 – 1996
Thiru.M. Karunanidhi	1996 – 2001
Selvi.J. Jayalalithaa	2001
Thiru.O.Panneerselvam	2001 – 2002
Selvi.J. Jayalalithaa	2002 – 2006
Thiru.M. Karunanidhi	2006 – 2011
Selvi. J. Jayalalithaa	2011 – 2014
Thiru.O.Panneerselvam	2014 – 2015
Selvi.J. Jayalalithaa	2015 – 2016
Thiru.O.Panneerselvam	2016 – 2017
Thiru.Edappadi K. Palaniswami	2017 – till now

### Powers and functions of the Chief Minister

- The Chief Minister is the real executive head of the State administration. He has the following powers and functions.

- ✓ Relating to the council of ministers
- ✓ Relating to the Governor
- ✓ Relating to the State Legislature Other functions and powers.

### **Relating to the Council of Minister**

- As the head of the Council of Ministers, the Chief Minister enjoys the following functions and powers.
  - ❖ The Chief Minister recommends the persons who can be appointed as ministers by Governor.
  - ❖ He allocates the portfolios among the ministers.
  - ❖ He shuffles and reshuffles his ministry.
  - ❖ He can ask a minister to resign or to advise the Governor to dismiss him in case of difference of opinion.
  - ❖ He presides over the meetings of the Council of Ministers and influences its decisions.
  - ❖ He can bring about the collapse of the council of ministers by resigning from office.
  - ❖ He guides, directs, controls and coordinates the activities of all the ministers.

### **Relating to the Governor**

The Chief Minister is the principal channel of communication between the Governor and the Council of Ministers, and he advises the Governor in relation to the appointment of the following officials:

- Advocate General of the State.
- State Election Commissioner.
- Chairman and Members of the State Public Service Commission.
- Chairman and Members of the State Planning Commission.
- Chairman and Members of the State Finance Commission.

## Relating to State Legislature

- ❖ The Chief Minister advises the Governor with regard to the summoning and proroguing the sessions of the state legislature.
- ❖ He announces the government policies on the floor of the house.
- ❖ He can introduce the bills in the Legislative Assembly.
- ❖ He can recommend for the dissolution of the Legislative Assembly to the Governor anytime.

## Other function and powers

- ❖ As the leader of the ruling party, the Chief Minister has to control the party and develop the disciplines.
- ❖ As the leader of the state, he has to keenly consider the demands of the different sections of the people.
- ❖ As the political head of the various services, he has to supervise, control and co-ordinate the secretaries of various departments in the state level.
- ❖ For smooth functioning of the state and for good centre-state relations, he has to develop a rapport with the union government.

## Council of Ministers

- The Council of Ministers are collectively responsible to the State Legislature. All the members of the Council of Ministers must be the members of the State Legislature. Those who are not the members at the time of their appointment must secure their seats in the Legislature within a period of 6 months. All the ministers work as a team under the Chief Minister. As long as the Chief Minister is in office, the Council of Ministers will also be in power. If a no-confidence motion is passed by the Legislative Assembly, the State Ministry shall resign.

- Article 163 provides for a Council of Ministers to aid and advice the Governor. According to Article 163(1) there shall be a Council of Ministers with the Chief Minister at the head to aid and advice the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

### **Other Provisions relating to Ministers**

- Article 164(1) holds that the Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor: Article 164(1A) states that the total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen percent of the total number of members of the Legislative Assembly.

### **The functions and powers of the Council of Ministers**

- ❖ It formulates and decides the policies of the state and implements them effectively.
- ❖ It decides the legislative programmes of the Legislative Assembly and sponsors all important bills.
- ❖ It controls the financial policy and decides the tax structure for the public welfare of the state.
- ❖ It chalks out programmes and schemes for the socio-economic changes so that the state makes headway in various interrelated fields.
- ❖ It makes the important appointments of the Heads of Departments.
- ❖ It discusses and takes efforts on the dispute with other states
- ❖ It advises the Governor on the appointment of Judges of the subordinate courts.

- ❖ It frames the proposal for incurring expenditure out of state reserves.
- ❖ It decides all the bills whether ordinary bills or money bills to be introduced in the Legislative Assembly
- ❖ Each minister of the Council of Ministers supervises, controls and coordinates the department concerned.
- ❖ Annual Financial Statement called as the Budget is finalised by the Council of Ministers.

## **The State Legislature**

- The Constitution provides a legislature for every state. Most of the States have only unicameral legislature i.e., Legislative assembly. Some State has bicameral legislatures (example Bihar, Karnataka, Maharashtra, Uttar Pradesh, Andhra Pradesh, Telangana and Jammu-Kashmir). The lower house, legislative assembly represents the people of the state the upper house; Legislative Council represents special interests like teachers, graduates and local governments.

## **The Legislative Assembly (Lower House)**

- The Legislative Assembly is a popular house. It is the real centre of power in the State. It consists of members directly elected by the people on the basis of adult franchise. The strength of the Assembly varies from State to State depending on the population. However the maximum strength of the Assembly must not exceed 500 or its minimum strength not below 60. The term of office of the legislative assembly is 5 years. It can be dissolved even before the expiry of its term.
- The size of the Legislative Council cannot be more than one-third the membership of the Legislative Assembly (lower house) of that state.
- But its size cannot be less than 40, except in Jammu and Kashmir where there are 36 by an act of Parliament. The members draw the

salary and allowances passed by the State legislature from time to time.

## **Composition**

- The Legislative Assembly of Tamil Nadu consists of 235 members out of which 234 members are directly elected by the people from the constituencies on the basis of adult franchise and one member is nominated by the Governor from the Anglo-Indian community.
- However, seats shall be reserved in the house for the scheduled castes and scheduled tribes.

## **Cabinet and Cabinet Committees**

- A smaller body called Cabinet is the nucleus of the council of minister. It consists of only the cabinet ministers. It is the real centre of authority in the state government. The cabinet works through various committees called cabinet committees. They are of two types - standing and ad hoc. The former are of a permanent nature while the latter are of a temporary nature.

## **The Speaker**

- The Legislative Assembly elects two of its members as the Speaker and Deputy Speaker. The Speaker vacates his office, if he cannot continue to be a member of the Assembly. He may also resign his office at any time. The speaker may be removed from office by a resolution of the Assembly after giving a 14days' notice. Such a resolution must be passed by a majority of the members present at the time of voting. The speaker does not vacate his office, when the Assembly is dissolved. He continues to be the Speaker until the first sitting of the new Assembly. While the office of the speaker is vacant, the Deputy Speaker performs his functions.



## The Legislative Council(Upper House)

- The legislative Council is the upper House of the State Legislature. It is constituted as a permanent House. Article 171(1) provides that the total number of members in the Legislative Council of a State shall not exceed one-third of the total number of members in the Legislative Assembly of that State, but not less than 40 members in any case.
- The Vidhan Parishads (Legislative Council) forms a part of the state legislatures of India. In Seven of India's 29 states (Bihar, Karnataka, Maharashtra, Uttar Pradesh, Andhra Pradesh, Telangana and Jammu - Kashmir) the Legislative Council serves as the indirectly elected upper house of a bicameral legislature. It is also a permanent house because it cannot be dissolved. Every Member of Legislative Council (MLC) serves for a six-year term, with terms staggered so that the terms of one-third of members expire every two years. MLCs must be citizens of India not under 30 years of age, mentally sound and not bankrupt, and his name should be in the voter's list of the state from which he or she is contesting the election.

## Election to Legislative Council

- ❖ 1/3 of the members are elected by local bodies.
- ❖ 1/12 of the members are elected by Graduates of the universities in the State.
- ❖ 1 /12 of the members are elected by Graduate teachers.
- ❖ 1/3 of the members are elected by the members of the Legislative Assembly.
- ❖ 1/6 is nominated by the Governor who is eminent in the field of literary excellence, art, social services or Co-operation.

## The Chairman

- The Chairman (chair person he / she) is the Presiding Officer of the Upper house. The Members elect a Chairman and a deputy chairman from among themselves. In the absence of the chairman, the deputy chairman officiate the functions of the Legislative Council.

## Abolition or Creation of Legislative Councils

- Article 169 deals with the creation or abolition of Legislative Council in a State. Article 169 holds that if the state Legislative Assembly passes a resolution by a majority of not less than 2/3rd of the members present and voting and by the majority of total strength of the House, requesting the Parliament to create or abolish the state Legislative council then the Parliament may by law provide for the abolition and creation of the Legislative Council.

## Functions of the State Legislature

- The powers and functions of the State Legislature are almost the same as that of Parliament.

## Legislative powers

- The State Legislature can pass laws on all subjects mentioned in the State List as per the constitution. It can also pass laws on concurrent subjects. The State made law in a concurrent subject will become inoperative when the centre also passes a law on the same subject. The passing of Bill into law follows the same procedure, as in the union parliament. Every bill passes through three readings. Then it becomes an Act with the Governor's assent.

## Financial Powers

- The Legislature controls the finances of the State. The Lower House enjoys greater power than the Upper House in money matters. Money bills can be introduced only in the Lower House or the

Assembly. No new tax can be levied without the sanction and permission of the Assembly.

## **Controls over the Executive**

- The Legislature controls the Executive. The Council of Ministers is responsible to the Assembly. The Ministers have to answer questions asked by the members of the Legislature. They can be removed from office if the Assembly passes a vote of “no confidence motion” against the Ministry.

## **Wide powers**

- In State having two Houses, the Legislative Assembly enjoys more powers than the Legislative Council. The Assembly has complete control over the state finance. The Council cannot vote for grants. The Council of Ministers is responsible only to the Assembly.

## **JUDICIARY OF STATE**

### **High Courts**

- The institution of high court originated in India in 1862 when the high courts were set up at Calcutta, Bombay and Madras. In the course of time, each province in British India came to have its own high court. After 1950, a high court existing in a province became the high court for the corresponding state. The High Courts are the highest courts at State level, but being part of integrated Indian judiciary they work under the superintendence, direction and control of the Supreme Court. The Constitution of India provides for a high court for each state, but the Seventh Amendment Act of 1956 authorised the Parliament to establish a common high court for two or more states or for two or more states and a union territory. For example, the States of Punjab and Haryana and the Union Territory of Chandigarh have a common High Court situated at Chandigarh. Similarly, the High Court of Guwahati is common for seven north eastern States of Assam, Nagaland, Manipur, Meghalaya, Mizoram, Tripura and Arunachal Pradesh. Delhi, though not a State, has its own separate High Court. Every High Court has a Chief Justice and a

number of judges. The number of judges varies from State to State. The number of judges of each High Court is determined by the President. At present there are 25 High Courts for 29 States (including new Andhra Pradesh High Court established in 1st January 2019 at principal seat in Amravati) and seven Union Territories.

### **Appointment of the Judges**

- Every High Court consists of a Chief Justice and such other Judges as appointed by the President from time to time (Article 216).

### **Jurisdiction and Powers of High Court**

- At present, a high court enjoys the following jurisdiction and powers:

#### **Original Jurisdiction**

- In their judicial capacity, the High Courts of the Presidency towns (Bombay, Calcutta and Madras) have both original and appellate jurisdictions, while other High Courts have mostly appellate jurisdiction. Only in matters of admiralty, probate, matrimonial and contempt of Court, they have original jurisdiction. The Presidency High Courts have original jurisdiction in which the amount involved is more than `2000 and in criminal cases which are committed to them by the Presidency Magistrates.

#### **Appellate Jurisdiction**

- As Courts of appeal, all High Courts entertain appeals in civil and criminal cases from their subordinate Courts as well as on their own. They have, however, no jurisdiction over tribunals established under the laws relating to the Armed Forces of the Country.

#### **Writ Jurisdiction**

- Under Article 226 of the constitution, the High Courts are given powers of issuing writs not only for the enforcement of the Fundamental Rights, but also for other purposes. In exercise of this

power, a Court may issue the same type of writs, orders or directions which the Supreme Court is empowered to issue under Article 32. The jurisdiction to issue writs under this Article is larger in the case of High Courts, for which the Supreme Court can issue them only where a Fundamental Right has been infringed, a High Court can issue them not only in such cases, but also where an ordinary legal right has been infringed.

### **Habeas Corpus**

- The writ of habeas corpus is issued to a detaining authority, ordering the detainer to produce the detained person in the issuing court, along with the cause of his or her detention, if the detention is found to be illegal, the court issues an order to set the person free.

### **Mandamus**

- The writ of mandamus is issued to a subordinate court, an officer of government, or a corporation or other institution commanding the performance of certain acts or duties.

### **Prohibition**

- The writ of prohibition is issued by a higher court to a lower court prohibiting it from taking up a case because it falls outside the jurisdiction of the lower court. Thus, the higher court transfers the case to it.

### **Quo Warranto**

- The writ of quo Warranto is issued against a person who claims or usurps a public office. Through this writ the court inquires 'by what authority' the person supports his or her claim.

### **Certiorari**

- The writ of certiorari is issued to a lower court directing that the record of a case be sent up for review, together with all supporting

files, evidence and documents, usually with the intention of overruling the judgment of the lower court. It is one of the mechanisms by which the fundamental rights of the citizens are upheld.

### **Supervisory Jurisdiction**

- High court has the power of superintendence over all courts and tribunals functioning in its territorial jurisdiction (except military courts or tribunals) Thus, it may
  - a) Call for returns from them;
  - b) Make an issue, general rules and prescribe forms for regulating the practice and proceedings of them.
  - c) Prescribe forms in which books, entries and accounts are to be kept by them; and
  - d) Settle the fees payable to the sheriff, clerks, officers and legal practitioners of them.

### **Control over Subordinate Courts**

A high court has an administrative control and other powers over them

- a) It is consulted by the governor in the matters of appointment, posting and promotion of district judges and in the appointments of persons to the judicial service of the state (other than district judges).
- b) It deals with the matters of posting, promotion, grant of leave, transfers and discipline of the members of the judicial service of the state (other than district judges).
- c) It can withdraw a case pending in a subordinate court if it involves a substantial question of law that requires the interpretation of the Constitution. It can then either dispose of the case itself or determines the question of law and return the case to the subordinate court with its judgment.

d) Its law is binding on all subordinate courts functioning within its territorial jurisdiction in the same sense as the law declared by the Supreme Court is binding on all courts in India.

### Court of Record

- All the decisions and decrees issued by the High Court are printed and are kept as a record for future references by the Court as well as by the lawyers, in such a need arises. Thus, it also acts as a Court of Record.

### Power of Judicial Review

- Judicial review is the power of a high court to examine the constitutionality of legislative enactments and executive orders of both the Central and state governments. Though the phrase judicial review has nowhere been used in the Constitution, the provisions of Articles 226 and 227 explicitly confer the power of judicial review on a high court. The 42nd Amendment Act of 1976 curtailed the judicial review power of high court. It debarred the high courts from considering the constitutional validity of any central law. However, the 43rd Amendment Act of 1977 restored the original position.

### NOTE

- The Constitution of Jammu and Kashmir was adopted on the 17 November, 1957 and came into force on 26 January, 1957. The Constitution of India grants special status to Jammu and Kashmir among Indian states, and it is the only state in India to have a separate constitution. The Directive Principles of the State Policy and fundamental duties of the constitution are not applicable to the state of Jammu and Kashmir. Right to Property, which is denied as a fundamental right to rest of the India, is still guaranteed in Jammu and Kashmir.
- Sarkaria Commission on Centre, State relations suggested that the appointment of the Governor should be made:

- i. From a panel to be prepared by the State Legislature or
  - ii. From a panel to be prepared by the State Government (in effect the Chief Minister) or invariably with the concurrence of the State Chief Minister ; or
  - iii. Invariably in consultation with the State Chief Minister. In Tamil Nadu, according to the strength of Legislative Assembly (234 members), the number of ministers may be up to 36, i.e. 15 percent of 234.
- The **Tamil Nadu Legislative Council was abolished** by Tamil Nadu Legislative Council (Abolition) Bill, 1986. The Act came into force on the **1st November 1986**.
  - The **High Court of Madras is the one of the three High Courts** in India established in the three Presidency Towns of Bombay, Calcutta and Madras by letters patent granted by Queen Victoria, bearing date **26 June 1862**. The High Court building is the second largest judicial complex in the world after London.