

APPOLO STUDY CENTRE

Union Government

10th Civics

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 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.

List of Prime Ministers of India

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 1996
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 10th 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 Dispute between the Centre and the States

To interpret and clarify a provision of the constitution about which there are some doubts and differences of opinion.

Protecting the fundamental rights,

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.

12th vol I

Unit – 3 Executive

Introduction

Form of the state

The preamble of the constitution of India, Declares India a sovereign. Socialist secular Democratic Republic. Unlike England where a hereditary monarch, either a Queen or a king is the head of the State, India has an elected President

The Union Executive

- ❖ The President of India
- ❖ The Vice President of India
- ❖ The Council of Ministers and the Cabinet, Headed By the Prime Minister

The preamble of the constitution of India, Declares India a sovereign. Socialist secular Democratic Republic. Unlike England where a hereditary monarch, either a Queen or a king is the head of the State, India has an elected President as head of the state with fixed tenure of office. The President is the supreme head of all the constitutional wings of the State, i.e the legislature. Executive, judiciary and armed forces. The President supervises their functions and ensures adherence to constitutional provisions by these bodies. The President represents the entire nation and upholds the constitution in every sphere of State's activity. But unlike the President of the USA, Where the President of the republic wields de-facto (real, functional) executive powers, the President of Indian Republic is not vested with direct executive responsibilities; Such direct and real executive responsibilities are assigned by the Constitution, to a Council of ministers led by the prime minister, and such council of ministers, both collectively and individually responsible and accountable to the union legislature. Thus our Republican form of State is different from American form of Republic. Where it is Presidential executive.

President

The President is the head of the Indian State. He is the First Citizen of India and acts as the symbol of Unity, Integrity and Solidarity of the Nation.

Qualification and Election of the President

Article 58 says;

1. No person shall be eligible for election as President unless he is

- ❖ a citizen of India
- ❖ has completed the age of 35 years
- ❖ is qualified for election as a member of the Lok Sabha

2. A person shall not be eligible for election as President if he holds any office of profit under the government of India, or the government of any state, or under any local or other authority subject to the control of any of the said governments.

Article 52 of our Constitution lays down that there shall be a President of India. Article 53 lays down that the executive power of the Union shall be vested in the President and shall be exercised by him directly or indirectly.

Further Article 52 provides that the nomination of a candidate for election to the office of President must be subscribed by at least 50 electors as proposers and seconded by another 50 electors of the Electoral College. Every candidate has to make a security deposit of ₹15,000/- in the Reserve Bank of India.

This amount will be forfeited if the candidate does not secure 1/6 of the votes polled.

The President is elected not directly by the people but by members of Electoral College consisting of ;

The elected members of both the houses of Parliament

The elected members of the legislative assemblies of the states

The elected members of the legislative assemblies of the union territories of Delhi and Pondicherry.

The President's election is held in accordance with the system of proportional representation by means of single transferable vote and the voting is by secret ballot. This system ensures that the successful candidate is returned by the absolute majority of votes.

$$\text{Electoral Quota} = \frac{\text{Total number of valid polled in the election}}{\text{Number of electors to be elected}} + 1$$

Each member of the electoral college is given only one ballot paper. The voter, while casting his vote, is required to indicate his preferences by marking 1,2,3,4

Oath by the President

Before entering upon his office, the President has to make and subscribe an oath or affirmation.

In his oath, the President swears:

To faithfully execute the office;
To preserve, protect and defend the constitution and the law; and
To devote himself to the service and wellbeing of the people of India.

The oath of office to the President is administered by the Chief Justice of India and in his absence in the presence of the senior most judge of the Supreme Court. etc against the names of the candidates. This means the voter can indicate as many preferences as there are candidates in the fray. In the first phase, the first preference votes are counted. In case a candidate secures the required quota in this phase, he is declared elected. Otherwise, the process of transfer of votes is carried out. The ballots of the candidate securing the least number of first preference votes are cancelled and his second preference votes are transferred to the first preference votes of other candidates. This process continues till a candidate secures the required quota.

Entitlement to the President

- ❖ He is entitled without payment of rent, to the use of his official residence (The Rashtrapathi Bhavan)
- ❖ He is entitled to such emoluments, allowances and privileges as maybe determined by the Parliament
- ❖ The President is entitled to a number of privileges and immunities. He enjoys personal immunity from legal liability for his official acts. During his term of office, he is immune from any criminal proceedings

Term, Impeachment and Succession

Term

Article 56 says that the President shall hold office for a term of 5 years from the date on which he enters upon his office. However he can resign from his office at any time by addressing the resignation letter to the Vice President. Further he can also be removed from the office before completion of his term by the process of impeachment. The President can hold office beyond his term of five years until his successor assumes charge. He is also eligible for re-election to that office.

Impeachment

Article 61 of the Constitution lays down a detailed procedure for the impeachment of the President. For the impeachment of the President, first, a charge for impeachment has to be made in either House of the Parliament by a resolution signed by at least one fourth of the total number of members of the House and moved by giving at least 14 days' advance notice. Such a resolution must be passed by a majority of not less than two thirds of the total number of members of the House when a charge is so presented by one House, it should be investigated by the other House. After the investigation, if a resolution is passed by the other house by a majority of two thirds of its total number of members, the President stands removed by impeachment from his office from the date of passing of the resolution.

Succession

A vacancy in the President's office can occur in any of the following ways:

1. On the expiry of his tenure of five years
2. By his resignation
3. On his removal by impeachment
4. By his death
5. When he becomes disqualified to hold office or when his election is declared void

If the vacancy occurs due to resignation, removal or death then election to fill vacancy should be held within six months and the Vice President acts as the President until a new President is elected. Further when the sitting President

is unable to discharge his functions due to absence, illness or any other cause, the Vice President discharges his functions until the President resumes his office. In case the office of the Vice President is vacant, the Chief Justice of India or if his office is also vacant, the senior most judge of the Supreme Court acts as the President or discharges the functions of the President.

Functions and Powers of the President

Vast are the functions and powers of the President. He convenes the parliament, addresses and prorogues the same. He nominates 12 members of eminence in different fields to the Rajya sabha and two Anglo Indian members to the Lok Sabha. He enjoys veto power over non-money bills of the parliament and can send back non-money bills for reconsideration of the parliament, he can convene joint sessions of Rajya Sabha and Lok sabha; He can promulgate ordinances for a period not exceeding six months. He can also has veto powers over certain State legislations.

He prompts and facilitates the institution of council of ministers headed by the Prime Minister, and ensures that the council of Ministers enjoy the support of the majority in the Lok Sabha. The President alone installs the ministers and distributes portfolios to them, he can also, dismiss the ministry, if he feels that the ministry does not enjoys the majority support in the Lok sabha. He nominates members to various constitutional bodies, including the judiciary, armed forces and diplomatic corps. The President enjoys enormous powers during the periods of emergencies, can suspend any law, can dissolve ministries and legislatures for specified periods. He can commute capital punishments.

Executive	Legislative	Financial	Judicial	Emergency	Miscellaneous
1. Running of all administration in his name, making of rules for the conduct of government business and allocation of work among the ministers	1. Summoning and proroguing sessions of Parliament and dissolving Lok Sabha.	1. Introduction of money bill in Lok Sabha with his prior recommendation.	1. Granting commutation of sentence, reprieve or pardon, respites or remissions or suspension of punishments by virtue of holding prerogative of mercy.	1. The constitution confers extraordinary powers on the President to deal with three types of emergencies <ul style="list-style-type: none"> ❖ National emergency (Art.352) ❖ President's rule (Art.356 & 365) 	1. Reference of any matter of public importance involving a question of law

				❖ financial emergency (Art. 360)	or fact to the advisory opinion of the Supreme Court.
2. Having information of all important decisions of the Cabinet, referring any matter for the consideration of the Cabinet.	2. Making nomination of 12 members to the Rajya Sabha and 2 to the Lok Sabha.	2. Keeping control over Contingency Fund of India.	2. He appoints the Chief Justice of India and other judges of Supreme Court and High Courts.	2. Art.352-President declares national emergency when security is threatened due to war, external aggression and internal rebellion.	2. Determining the strength of Judges in the High Court.
3. Making important appointments and removals.	3. Delivering inaugural addresses and sending messages to the Parliament.	3. Causing presentation of budget in the Parliament.	3. He can seek advice from the Supreme Court on any question of law or fact.	3. Provision of emergency in a State(Art 356) in the event of breakdown of constitutional machinery.	3. Making rules for the composition and working of the Union Public Service Commission.
4. Maintaining foreign relations.	4. Exercising veto power over non-money bills-absolute as well as suspensive.	4. Making appointment of Finance Commission.		4. Art 365 - enforcement of President's rule when a State does not obey the union government direction or the Indian Constitution.	4. Setting up official languages Commission and taking steps for the progressive use of Hindi for official purpose

					s on the basis of its recommendations.
5. Holding supreme command of the Defence Forces.	5. Giving prior permission for introducing certain kinds of bills in Parliament.	5. Allowing determination of the shares of States in proceeds of income tax and of the amounts of grants-in-aid in lieu of jute export duty to the States of Assam, Bihar, Odisha and W.Bengal		5. The President under Art 360 has the power to declare financial emergency if he is satisfied that financial stability or the credit of India is threatened.	5. Making special regulations for the administration of the State of Jammu-Kashmir.
6. Approving rules and regulations for the working of the Supreme Court and other independent agencies.	6. Promulgating an ordinance if the Parliament is not in session.				6. Making special rules and regulations for the administration of Scheduled and Tribal Areas.
7. Sending directions and instructions to state governments and invoking Art.356 in case of breakdown of Constitutional machinery in a State.	7. Causing presentation in the Parliament of reports and recommendations of various commissions.				

8. Running of the administration of Union Territories and Scheduled and Tribal Areas.	8. Making appointment of presiding officer pro tem of the Lok Sabha.				
	9. Allowing extension, modification, or abrogation of law in cases of ports and aerodromes.				
	10. Exercising absolute veto power over State l				

Fact

The emergency powers of the President of India are specified in part XVIII of the Indian Constitution.

Vice President

On the pattern of the Constitution of USA, the Indian Constitution provides for the office of the Vice-President of India (Article 63). The Vice-President of India occupies the second highest office in the country.

Election

The Vice-President of India is elected by the elected members of both Houses of Parliament by secret ballot on the basis of proportional representation system, by means of the single transferable vote.

Qualification

To be eligible for election to the office of Vice-President, (a) candidate must be a citizen of India, (b) must have completed the age of thirty five years, (c) must be eligible for election as a member of the Rajya Sabha, and (d) must not hold any office of profit. In this connection provisions similar to those relating to the President apply.

Terms of Office

The Vice-President is elected for a term of five years. He can voluntarily resign from his office before the completion of his term of office by writing to the President. He may also be removed from his office, if a resolution to that effect is passed by the Rajya Sabha by an absolute majority of its members and agreed to by the Lok Sabha. However fourteen days have to be given to move such resolution.

Functions and Duties

The Vice-President is the ex-officio Chairman of the Rajya Sabha (Article 64 of the Indian Constitution). He presides over the meetings of the Rajya Sabha. As the presiding officer of the Rajya Sabha, his functions and powers are similar to those of the speaker of Lok Sabha. He draws his salary as the chairman of the Rajya Sabha, because the Vice-President's office itself carries no salary. In the event of occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until a new President is elected. This period shall not exceed six months. While acting as President the Vice-President gets salary, allowance, emoluments etc., as may be fixed by Parliament by law, and during that time he does not perform the duties of the chairman of Rajya Sabha.

The Prime Minister and Council of Ministers

He describe Prime Minister as 'primus inter pares' (first among equals) and 'key stone of the cabinet arch'. He said, "The head of the cabinet is 'primus intro pares', and occupied a position which so long as it lasts, is one of exceptional and peculiar authority".

- Lord Morely

The Prime Minister

Introduction

Executive: The Constitution provides for a collegiate executive i.e Council of ministers under the chair members of the Prime Minister

Meaning: A body of persons having authority to initiate major policies, make decisions and implement them on basis of the Constitution and laws of the country.

There are two important organs of the Union Government.

- ❖ The Union Legislature (or) the Union Parliament
- ❖ The Union Executive

In the previous unit you have learnt about the Union Legislature. Let us now deal with Union Executive. You should remember that articles 52 to 78 in Part V of the Indian Constitution deal with “Union Executive”.

India has adopted the British Parliamentary executive mode with the Prime Minister as the Head of the Government. Prime Minister is the most important political institution. But in the council of Ministers (Cabinet) the Prime Minister is *primus inter pares* (first among equals).

Appointment

The Constitution does not contain any specific procedure for the selection and appointment of the Prime Minister. There is no direct election to the post of the Prime Minister. Article 75 says, the Prime Minister shall be appointed by the President. Appointment is not by the choice of the President. The President appoints the leader of the majority party or the coalition of the parties that commands a majority in the Lok Sabha, as the Prime Minister. In case no single party gets a majority, the President appoints the person most likely to secure a majority support. The Prime Minister does not have a fixed tenure. He/she continues in power so long as he/she remains the leader of the majority party or coalition.

Functions and Position

The first and foremost function of the Prime Minister is to prepare the list of his ministers. He meets the President with this list and then the Council of Ministers is formed. Very important ministers are designated as Ministers of the Cabinet rank, others are called Ministers of State, while ministers belonging to third rank are known as Deputy Ministers. It is one of the discretionary powers of the Prime Minister to designate a minister as Deputy Prime minister. The President allocates portfolios among the ministers on the advice of the Prime Minister. The Prime Minister may keep any department or departments under his control; he may also advise the President to reshuffle portfolios of his ministers from time to time; he

may bifurcate or trifurcate a department or have different departments amalgamated into one department.

The Prime Minister's pre eminent position is evident from these points:

1. S(he) is the leader of the party that enjoys a majority in the popular House of the Parliament (Lok Sabha).
2. Has the power of selecting other ministers and also advising the President to dismiss any of them individually or require any of them to resign.
3. The allocation of business amongst the Ministers is a function of the Prime Minister. He can transfer a minister from one Department to another.
4. Is the Chairman of the cabinet, summons its meetings and presides over them. The Prime Minister is also the Chairman of many bodies like Inter-State Council, Nuclear command Authority and many more.
5. Is in-charge of co-coordinating the policy of the government and has accordingly a right of supervision over all the Departments.
6. While the resignation of a Minister merely creates a vacancy, the resignation or death of the Prime Minister means the end of the Council of Ministers.
7. The Prime Minister is the sole channel of communication between the President and the Ministers and between the Parliament and his Ministers. He/she is the chief spokesperson of the government in foreign affairs.

**Prime Minister's Office
Meaning**

Being the head of the government and the real executive authority, the Prime Minister plays a very vital role in the politico-administrative realm of our country. In order to fulfill his responsibilities, the Prime Minister is assisted by the Prime Minister's Office (PMO). The Prime Minister's Office is an agency meant for providing secretarial assistance and advice to the Prime Minister. It is an extra constitutional body which offers important role in the top level decision making process of the Government of India. The Prime Minister's Office has the status of a department of the Government of India. The Prime Minister's Office came into existence in 1947. Till 1977 it was called Prime Minister's Secretariat (PMS). The

Prime Minister's Office is headed politically by the Prime Minister and administratively by the Principal Secretary.

The Prime Minister's office performs several functions

Functions

1. Assists the prime minister in his overall responsibilities as head of the government, in maintaining communication with the central ministries/departments and the state governments.
2. Helps the prime minister in his responsibilities as chairman of the Niti Aayog and the National Development Council.
3. Looks after the public relations of the prime minister like contact with the press and general public.
4. Deals with all references, which under the Rules of Business have to come to the Prime Minister.
5. Provides assistance to the Prime Minister in the examination of cases submitted to him for orders under prescribed rules.
6. Maintains harmonious relationship with the President, Governors and foreign representatives in the country.
7. Acts as the `think- tank` of the Prime Minister. It deals with all such subjects that are not allotted to any department/ministry.
8. It is not concerned with the responsibility of the Prime Minister as the chairman of the union cabinet. The cabinet cases are directly dealt by the cabinet secretariat, which also functions under the direction of the prime minister.

Central Council of Ministers

Article 74th of the Constitution lays down that there shall be a council of ministers with the Prime Minister as the head to aid and advise the President, who shall in the exercise of his functions, act in accordance with the advice of the council of ministers. That means, there shall always be a council of ministers. The President accepts the advice of the Council of Ministers. The Council of Ministers consists of three categories of ministers, namely, cabinet ministers, ministers of state and deputy ministers. While the Cabinet ministers are involved in policy decision making, the other two categories have mere administrative responsibilities. The difference between them lies in their respective ranks, emoluments and political importance. At the top stands the Prime Minister, the supreme governing authority of the country.

Appointment of the Council of Ministers

Under Article 75th of the Constitution, the Prime Minister is appointed by the President and the other ministers are appointed by the President on the advice of the Prime Minister. The ministers hold office during the pleasure of the President. While the ministers are also appointed by the President and are said to hold office during the pleasure of the President as per the Constitution, in actual practice, the ministers are selected by the Prime Minister and the President cannot appoint any one not recommended by the Prime Minister.

Collective and Individual responsibility of the Council of Ministers

The Constitution of India provides that the Ministers are collectively and individually responsible to the Lok Sabha. The collective responsibility of the Council of Ministers means that the entire council of ministers is jointly responsible to the Lok Sabha for all the acts of the government. It also means that the ministers must not speak in public in different voices. All the ministers of the government are expected to be unanimous in support of policies on all public occasions and issues.

The Union Cabinet

A Cabinet is the council consisting of ministers of Cabinet rank. It is the inner body within the council of ministers. It is an extra constitutional authority created out of the council of ministers. The whole council of ministers does not meet to discuss business, it is the cabinet which takes policy decisions and advises the President. The Cabinet is the highest decision making executive body which looks after the administrative affairs of the Government of India. It is the nucleus of the council of ministers.

Role and functions of the Cabinet

1. The Cabinet is the highest decision making and policy formulating authority in our politico-administrative system.
2. It deals with all major legislative, financial and foreign policy matters.
3. It exercises control over higher appointments like constitutional authorities and senior secretariat administrators.

4. It recommends ordinances, when the parliament is not in session and supervises the implementation of policies.
5. It appoints enquiry commissions and resolves inter-departmental disputes.
6. It is entitled to recommend to the President declaration of emergencies, dissolution of the Lok Sabha, proroguing and adjourning the parliament sessions.

Cabinet Secretary

Every cabinet minister is assisted by a cabinet secretary. Among them the cabinet chief secretary is given a top place among the civil servants in the official ladder. He is the chairman Senior Selection Board that selects officers for the post of joint secretary in the central secretariat. He presides over the conference of chief secretaries which is held annually. He acts as the chief advisor to the Prime Minister on all aspects of administration and policy. He acts as the link between Prime Minister's Office and various administrative agencies and also between civil service and the political system.

The Executive of the Constituent State

Introduction

Articles 153 to 167 in Part VI of the Indian Constitution deal with the State Executive. The same pattern of parliamentary form of government is followed in the states. The state executive consists of the Governor, the Council of Ministers headed by the Chief Minister. At the head of the executive power of a State is the Governor just as the President stands at the head of the executive power of the Union. All states of the Indian Union have the same pattern of government. Some States have Bicameral legislature and some states have unicameral legislature. Part VI of the Constitution which deals with the government in the states, is not applicable to the state of Jammu and Kashmir, which enjoys a special status and has a separate constitution of its own (Article 370).

The State Executive

- ❖ The Governer.
- ❖ The Council of Ministers Headed by the Chief Minister.

The Governor Provision for Governor

Article 153 of the Constitution lays down that there shall be a Governor for each state. Normally, there will be a Governor for each state but the constitution amendment of 1956 makes it possible to appoint the same person as the Governor for two or more states

Appointment of the Governor

The Governor of a state is appointed by the President of India. (Article 155). No person shall be appointed as a Governor unless he/she:

- ❖ is a citizen of India
- ❖ has completed the age of 35 years
- ❖ does not hold any other office of profit
- ❖ is not a member of parliament or state legislature.

Term of office and position

The prescribed term of office for the Governor is 5 years. But he holds office at the pleasure of the President. (Article 156). He may be removed by the President at any time. He may be transferred by the President from one state to another too. The Governor draws a salary which is fixed by the parliament. He is also entitled to certain allowances and benefits.

As per the Constitution of India, the Governor is the constitutional and executive head of the state. The executive power of the state is vested with the Governor. All executive actions are carried on in the name of the Governor. In actual practice, the real executive powers of the State lie with the council of ministers headed by the Chief Minister. The Governor acts according to the advice of the council of ministers, who are collectively responsible to the legislative assembly of the state.

The Governor of a state has more powers and performs a number of functions. The powers and functions of the Governor are:

1. Executive Powers

(i) The Governor is the executive head of the State Government. The executive powers of the Governor are to be exercised by him either directly or through officers subordinate to him (i.e., ministers). (Art. 154). All executive actions are taken in his name. His executive powers extend to the administration of all matters included in the State List.

(ii) The Governor appoints the leader of the majority party in the legislative assembly as the Chief Minister. He appoints the other ministers of the council of ministers according to the advice of the Chief Minister. The council of ministers hold office during the pleasure of the Chief Minister, because the Governor acts in accordance with the advice of the Chief Minister.

(iii) The Governor appoints the Advocate General of the state, the chairman and members of the state public service commission, and determines the questions of appointments, postings, promotions, etc. of the judges of subordinate courts.

(iv) The Governor is responsible for the smooth running of the administration of the state. In case he finds that the constitutional machinery of the state has broken down or the administration of the state cannot be carried on in accordance with the provisions of the constitution, he may recommend to the President to proclaim constitutional emergency and impose President's rule under Article 356. During the President's rule, as there is no council of ministers, the Governor carries on the administration of the state on behalf of the President.

2. Legislative Powers

The Governor is a part of the state legislature (Article 168). So, he has legislative powers. His legislative powers cover the following

i) He summons prorogues and dissolved the legislative assembly.

ii) He addresses the members of the state legislature.

iii) Without the Governor's assent, no Bill can become law even after it is passed by both the houses. The Bills passed by the legislature are sent to

the Governor for his assent. He may give his assent or withhold it or may reserve the bill for the consideration of the President. The bills may be returned by the Governor for reconsideration. (It may be noted that if the bill is again passed by the legislature with or without amendments, the Governor has to give his assent.)

iv) Under Article 213, the Governor may promulgate ordinance during the period when legislature is not in session. (However, for the continuation of such an ordinance, it has to be approved by the state legislature within six weeks from the re-assembly of the legislature.)

v) In State where bicameral legislature exists. The Governor nominates one-sixth of the members of the legislative council from among persons having special knowledge or practical experience in respect of literature, science, art, co-operative movement or social service. He may also nominate a person from the Anglo-India community to the legislative assembly.

3. Financial Powers

The Governor has financial powers. His financial powers cover the following:

i) The finance minister submits the budget or financial statement before the legislature. But no money bill can be introduced in the legislative assembly without the prior permission of the Governor.

ii) No demand for grants can be made without the recommendation of the Governor.

iii) The Governor is the custodian of the contingency funds of the state from where he can make payments to meet the emergency without the prior sanction of the legislature.

4. Judicial Powers

The Governor has judicial powers. His judicial powers cover the following:

(i) He determines the questions of appointments, postings, promotions, etc. of subordinate courts (ie., district courts and munsiff courts).

(ii) He may be consulted by the President of India, while making appointments of the judges of the high court.

(iii) The Governor has the power to pardon, suspend, remit or commute the sentence of any person convicted of an offence against any law relating to a matter to which the executive power of the state extends

5. Discretionary Powers

The Governor also has discretionary powers, i.e., he has the powers to act independently using his wisdom and discretion. His discretionary powers relate to:

- i) Appointing a new Chief Minister in a situation where no single party or leader commands majority support.
- ii) Dismissing a ministry where it refuses to resign even after losing majority support in the house or after being defeated on a non-confidence motion.
- iii) Dissolution of assembly on the advice of a Chief Minister who has lost majority support.
- iv) Sending to the President report about the failure of constitutional machinery and to impose President's rule in the state.
- v) Giving assent to bills passed by the legislature.

Advocate General

Each state has an advocate general who is an official corresponding to the Attorney-General of India and having similar functions for the state. He is a person who is qualified to be a judge of a High Court and he is appointed by the Governor.

Council of Ministers headed by the Chief Minister Position of the Chief Minister

The Chief Minister is the head of the cabinet and the council of ministers. In practice, he is the real executive head of the state. As per Article 164(1) of the Constitution of India, the Chief Minister of a state shall be appointed by the Governor of the State.

Powers and functions of the Chief Minister

As the real executive head of the state, the Chief Minister enjoys wide powers and performs a number of functions. The important powers and functions of the Chief Minister are:

i) As the head of the council of ministers, the Chief Minister has more powers in ministry-making. He can recommend appointment of ministers and designate them as cabinet ministers or ministers of state or deputy ministers. He can change the portfolios of the ministers. He can even recommend the removal of ministers.

ii) He presides over the meetings of the cabinet and makes major policy decisions of the Government.

iii) He acts as the sole channel of communication between the council of ministers and the Governor. He communicates to the Governor all the decisions of the cabinet relating to administrative and legislative proposals.

iv) He scrutinizes all papers, bills, resolutions, etc. that are to be placed before the legislature.

v) Though, in theory, all major appointments are made by the Governor, in practice, all such appointments are actually made on the advice of the Chief Minister.

State Council of Ministers Introduction

Article 163(1) of the Constitution of India provides that there shall be a council of ministers headed by the Chief Minister to aid and advise the Governor in the exercise of his functions except when he is required by the Constitution to act in his discretion. The state council of ministers is formed in the same manner as the union council of ministers is formed. The leader of the majority party or coalition of parties in the legislative assembly is appointed as the Chief Minister by the Governor. The other ministers in the council of ministers are appointed by the Governor on the advice of the Chief Minister.

Term of office of the council of ministers

As per the constitution, the council of ministers hold office during the pleasure of the Governor. But, in reality, the council of ministers hold office during the pleasure of the Chief Minister, because the Governor acts on the advice of the Chief Minister. The council of ministers are individually responsible to the Chief Minister. The council of ministers are collectively responsible to the legislative assembly of the state. That means, the council of ministers shall speak in one voice.

The State Cabine

The council of ministers consists of cabinet ministers, ministers of state and deputy ministers. Of the council of ministers, the cabinet ministers constitute the state cabinet. The cabinet ministers of the state cabinet are, generally, the prominent ministers of the council of ministers. It is headed by the Chief Minister. The cabinet takes decisions on behalf of the council of ministers, and so, all the ministers are bound by the decisions of the cabinet.