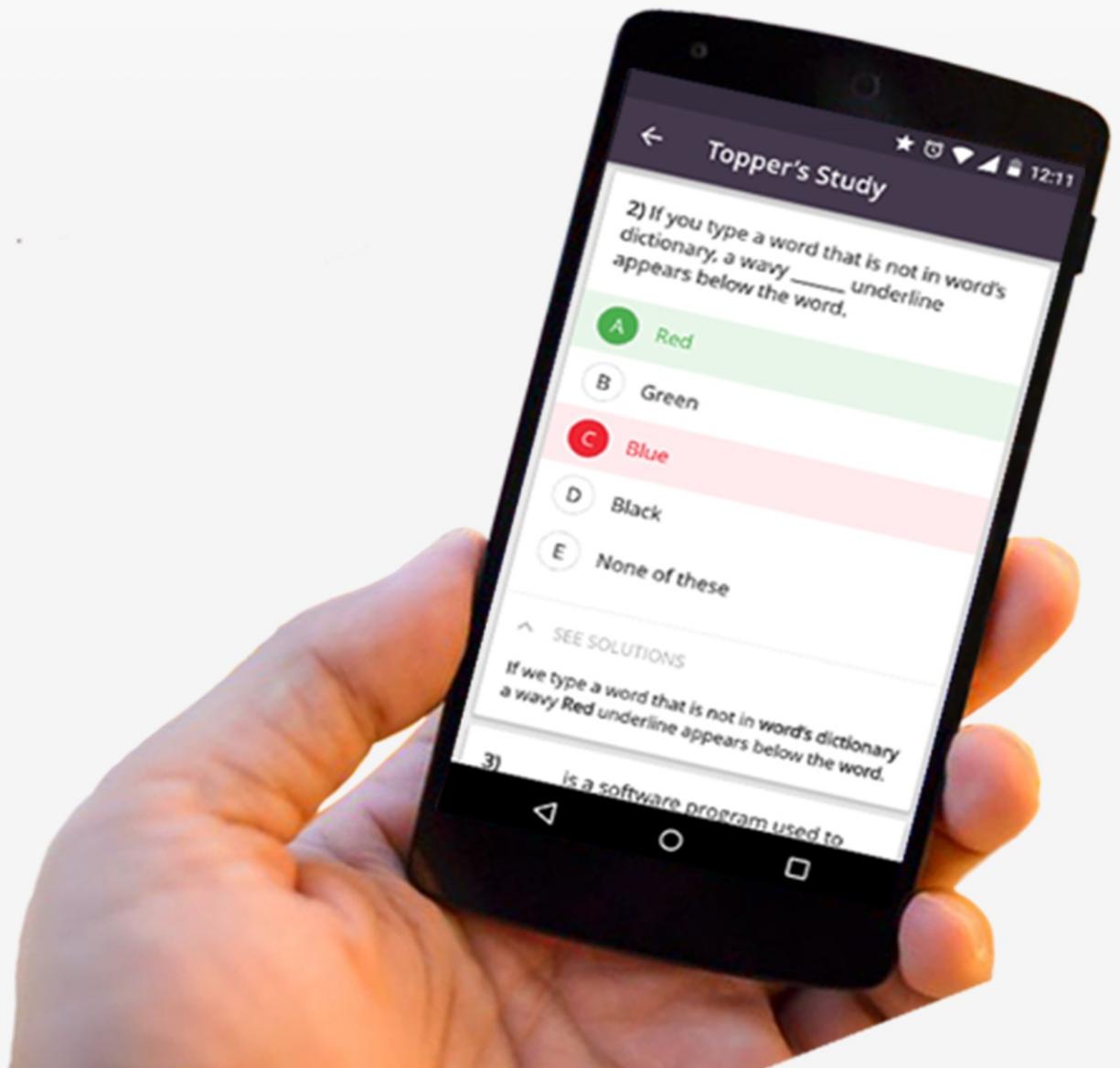




gradeup

Indian Polity Notes

Part - 3



THE STATES

THE GOVERNOR

1. The Governor is the *De Jure* executive head at the state level. His position is analogous to that of the President at the centre.
2. The Governor is appointed by the president.
3. To be appointed as the Governor of any state or two or more states as person
 - (a) Should be a citizen of India.
 - (b) And should have attained 35 years of age.
4. He should not hold any office of profit as well.
5. Like the President, the governor is also entitled to a number of immunities and privileges. During his term of office, he is immune from any criminal proceedings, even in respect of his personal acts.
6. **The oath** - is administered by the chief justice of the corresponding state high court and in case he's absent, the senior-most judge of that particular court.
7. A governor holds office for a term of **five years** from the date on which he enters upon his office. He holds office until the pleasure of the President and he offers his resignation to the President.
8. All executive actions of the government of a state are formally taken in his name. He appoints the chief minister and other ministers. They also hold office during his pleasure.
9. He appoints the **advocate general** of a state and determines his remuneration. The advocate general holds office during the pleasure of the governor.
10. He appoints the **state election commissioner**. However, the state election commissioner can be removed only in like manner and on the like grounds as a judge of a high court.
11. 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.
12. A governor is an integral part of the state legislature. He can summon or prorogue the state legislature and dissolve the state legislative assembly.
13. He nominates one-sixth of the members of the state legislative council.
14. He can nominate one member to the state legislature assembly from the Anglo-Indian Community.
15. The Governor can withhold the assent to bills, return the bills for reconsideration (if they're not money bills), and even reserve the bills for consideration by the President. (He can even reserve a money bill for consideration by the President).
16. He can promulgate ordinances when the state legislature is not in session. The ordinances must be approved by the state legislature within six weeks from its reassembly. He can also withdraw an ordinance anytime (**Article 213**).
17. Money bills can be introduced in the state legislature only with his prior recommendation.
18. He can grant pardons, reprieves, respites and remissions of punishment or suspend, remit and commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the state extends (Article 161).
19. He is consulted by the president while appointing the judges of the concerned state high court.

Important Articles

- 153** - Governors of states
- 154** - Executive power of state
- 155** - Appointment of Governor
- 156** - Term of office of Governor
- 157** - Qualifications for the appointment as the Governor
- 158** - Conditions of the Governor's office
- 159** - Governor's Oath or Affirmation
- 161** - Power of the Governor to grant pardons and others
- 163** - Aid and Advice by the Council of Ministers to the Governor
- 165** - Advocate-General for the state
- 200** - Assent to bills (i.e. assent of the Governor to the bills passed by the state legislature)
- 201** - Bills reserved by the Governor for consideration of the President
- 213** - Governor's power to promulgate ordinances
- 217** - Consultation of Governor by the President in the matter of the appointments of the judges of the High Courts

THE CHIEF MINISTER AND THE STATE COUNCIL OF MINISTERS

1. Chief Minister is the real executive authority (*de facto* executive). He is the head of the government.
2. The total strength of the number of ministers, including the C.M, in the state's CoM should not exceed 15 per cent of the total strength of the legislative assembly of that state. However, the number of ministers, including the C.M, in a state should also not be less than 12. This provision was added by the 91st Amendment Act of 2003.
3. A member of either House of state legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister. The provision was also added by the 91st Amendment Act of 2003.

THE STATE LEGISLATURE

Organization of the State Legislature

1. Most of the states in India have a Unicameral Legislature. Seven States have Bicameral Legislature, that is-**Telangana, Andhra Pradesh, Maharashtra, Bihar, U.P, J&K and Karnataka**.
2. The Legislative Council (Vidhan Parishad) is the upper house (second chamber or house of elders), while the Legislative Assembly (Vidhan Sabha) is the lower house (first chamber or popular house). Delhi and Puducherry are the only two UTs that have a Legislative Assembly.

Composition of the State Legislature

1. The legislative assembly consists of representatives directly elected by the people on the basis of universal adult franchise. Its maximum strength is fixed at 500 and minimum strength at 60 depending on the population size of the state. However, in case of Sikkim it is 32; and Goa and Mizoram it's 40.

- The members of the legislative council are indirectly elected. Maximum strength of the legislative council is fixed at $1/3^{\text{rd}}$ of the total strength of the corresponding assembly and the minimum strength is fixed at 40. But an exception being Jammu and Kashmir having 36 members.
- Manner of Election** Of the total number of members of a legislative council:
 - $1/3$ are elected by the members of local bodies in the state such as municipalities etc.,
 - $1/12$ are elected by graduates of three years standing and residing within the state,
 - $1/12$ are elected by teachers of three years standing in the state, not lower in standard than secondary school,
 - $1/3$ are elected by the members of the legislative assembly of the state from amongst persons who are not members of the assembly, and
 - The remainder are nominated by the governor from amongst persons who have a special knowledge or practical experience of literature, science, art, cooperative movement and social service.

Thus, $5/6$ of the total number of members of a legislative council is indirectly elected and $1/6$ are nominated by the governor. The members are elected in accordance with the system of proportional representation by means of a single transferable vote.

Duration of the two Houses

- Analogous to the Lok Sabha, the legislative assembly is also not a permanent chamber. Term of the assembly is five years from the date of its first meeting after the general elections.
- Analogous to the Rajya Sabha, the legislative council is a continuing chamber, that is, it is a permanent body and is not subject to dissolution. But, one-third of its members retire on the expiration of every second year.

Membership of the State Legislature

- The Constitution lays down the following qualifications for a person to be chosen a member of the State legislature.
 - Citizen of India.
 - He must be not less than 30 years of age in the case of the legislative council and not less than 25 years of age in the case of the legislative assembly.
- He should not have been found guilty as per the provisions of RPA, 1951. In defection case also a member is liable to be disqualified as per Anti-Defection Act (10TH Schedule).
- Also, he should not be of unsound mind, he should not hold any office of profit; he isn't declared an un-discharged insolvent etc.

Presiding Officers of State Legislature

- Each House of state legislature has its own presiding officer. There is a Speaker and a Deputy Speaker for the legislative assembly and Chairman and a Deputy Chairman for the legislative council. A panel of chairmen for the assembly and a panel of vice-chairmen for the council are also appointed.
- The Speaker is elected by the assembly itself from amongst its members.
- Like the Speaker, the Deputy Speaker is also elected by the assembly itself from amongst its members. He is elected after the election of the Speaker has taken place.

- The Chairman is elected by the council itself from amongst its members.
- The Speaker decides whether a bill is a Money Bill or not and his decision on this question is final.

Important points related to the State Legislature

- The maximum gap between the two sessions of state legislature cannot be more than six months, that is, the state legislature should meet at least twice a year.
- Quorum** is the minimum number of members required to be present in the House before it can transact any business. Either its 10 or $1/10^{\text{th}}$ of the total number of members in that particular House (including the presiding officer).
- In addition to the members of a House, every minister and the advocate general of the state have the right to speak and take part in the proceedings of either House or any of its committees of which he is named a member, but Advocate General can't vote.
- A Money Bill cannot be introduced in the legislative council. It can be introduced in the legislative assembly only and that too on the recommendation of the governor. Every such bill is considered to be a government bill and can be introduced only by a minister.

THE PANCHAYATI RAJ INSTITUTIONS THE PANCHAYATS

- The local self-government at the grass-root levels signifies the panchayati raj institutions.
- They were constitutionalized by 73rd and 74th constitutional amendment acts 1992 respectively.
- In January 1957, the Government of India appointed a committee to examine the working of the Community Development Programme (1952) and the National Extension Service (1953) and to suggest measures for their better working. The chairman of this committee was **Balwant Rai G Mehta**. It was as per the recommendations of this committee that Panchayati Raj Institutions came up in India post-independence.
- Rajasthan** was the first state to establish Panchayati Raj. The scheme was inaugurated by the prime minister on October 2, 1959, in Nagaur district. Next was Andhra Pradesh, which too adopted the system in 1959. Gradually, more states followed.
- In December 1977, the Janata Government appointed a committee on panchayati raj institutions under the chairmanship of Ashok Mehta to revive and strengthen the declining PRIs in India.
- The Committee on Administrative Arrangement for Rural Development and Poverty Alleviation Programmes under the chairmanship of G.V.K. Rao was appointed by the Planning Commission in 1985.
- In 1986, Rajiv Gandhi government appointed a committee on 'Revitalisation of Panchayati Raj Institutions for Democracy and Development' under the chairmanship of L M Singhvi.
- The 73rd constitutional amendment act 1992 has added a new Part-IX to the Constitution of India titled 'The Panchayats' and consists of provisions from Articles 243 to 243 O. In addition, the act has also added a new Eleventh Schedule to the Constitution. This schedule contains 29 functional items of the panchayats. It deals with Article 243-G.
- The Amendment created a constitutional institution known as Gram Sabha, which is a body at the village level comprising of all the registered voters in the village within the area of the Panchayat.

10. The 73rd CAA provides for three-tier system of PRIs in every state-village, intermediate and district levels.
11. The members of panchayat shall be directly elected by the people. Further, the chairperson of panchayats at the intermediate and district levels shall be elected indirectly—by and from amongst the elected members thereof. However, the chairperson of a panchayat at the village level shall be elected in such manner as the state legislature determines.
12. Normal term of the Panchayat at every level shall be five years. The dissolution can also take place before the expiry of the term of the Panchayat. Fresh elections must be held before the expiry of the incumbent Panchayat and if there's dissolution, then before the expiration of 6 months.
13. The superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to the panchayats shall be vested in the state election commission.
14. The minimum age to contest elections at the panchayat level is 21 years.
15. Some states where this act does not apply in totality – J&K, Mizoram, Meghalaya and Nagaland and some other scheduled and tribal areas.
16. The act came into effect from 24th April, 1993 and added a new part – part ninth and ninth-A; and new schedules- 11th and 12th to the constitution of India.

THE MUNICIPALITIES

1. The term 'Urban Local Government' in India signifies the governance of an urban area by the people through their elected representatives. The jurisdiction of an urban local government is limited to a specific urban area which is demarcated for this purpose by the state government.
2. The system of urban government was constitutionalised through the **74th Constitutional Amendment Act of 1992**. It added a new part – part **9th-A**; and a new schedule- schedule 12th to the constitution of India. There are eight types of urban local governments in India in totality.
3. In 1687-88, the first municipal corporation in India was set up at Madras.
4. In 1726, the municipal corporations were set up in Bombay and Calcutta.
5. Lord Ripon is regarded as the father of local-self-government in India. His resolution of 1882 is considered as the 'Magna Carta' of local self-rule in this regard.
6. **NOTE** – The part 9th B was added by 97th constitutional amendment act, 2012 and provides constitutional status to the co-operative societies.

CENTRE-STATE RELATIONS

1. Articles 245 to 255 in Part XI of the Constitution deal with the legislative relations between the Centre and the states.
2. The constitution mentions about three types of Lists.

- (a) Union List
 - (b) State List
 - (c) Concurrent List
3. The Union List mentions about those subjects on which only the Union Parliament can legislate.
 4. The State list mentions about those subjects on which only the states in India 'under normal circumstances' can legislate.
 5. The Concurrent list mentions about those subjects on which both the Union as well as the States can legislate.
 6. The Union list contains 100 subjects presently (originally 97 subjects).
 7. Examples of subjects in Union list - defence, banking, foreign affairs, currency, atomic energy, insurance, communication, inter-state trade and commerce, census, audit and so on.
 8. The State contains 61 subjects presently (originally 66 subjects).
 9. Examples of subjects in State list - public order, police, public health and sanitation, agriculture, prisons, local government, fisheries, markets, theatres, gambling and so on.
 10. The Concurrent list contains **52** subjects presently (originally 47 subjects).
 11. Examples of subjects in Concurrent list - criminal law and procedure, civil procedure, marriage and divorce, population control and family planning, electricity, labour welfare, economic and social planning, drugs, newspapers, books and printing press, and others.
 12. However, if the Rajya Sabha declares that it is necessary in the national interest that Parliament should make laws on a matter in the State List, then the Parliament becomes competent to make laws on that matter. Such a resolution must be supported by two-thirds of the members present and voting. The resolution remains in force for one year; it can be renewed any number of times but not exceeding one year at a time (**Article 249**).
 13. Also, the Parliament acquires the power to legislate with respect to matters in the State List, while a proclamation of national emergency is in operation (**Article 250**).
 14. Furthermore, when the legislatures of two or more states pass resolutions requesting the Parliament to enact laws on a matter in the State List, then the Parliament can make laws for regulating that matter. A law so enacted applies only to those states which have passed the resolutions. However, any other state may adopt it afterwards by passing a resolution to that effect in its legislature. Such a law can be amended or repealed only by the Parliament and not by the legislatures of the concerned states (**Article 252**).
 15. The Parliament can make laws on any matter in the State List for implementing the international treaties, agreements or conventions (**Article 253**).
 16. **Note** – Parliament has the exclusive power to legislate on any matter not mentioned in either the State list or Concurrent list (**Article 248**) – Residuary powers of legislation.
 17. Sarkaria Commission, Rjamannar Commission and Punchhi Commission are some important commissions related to the Centre-State Relations.



Banking & SSC Online Mock Test Series

- Based on Latest Exam Pattern
- Available in Hindi & English
- Get all India rank & result analysis
- Detailed Solutions
- Can be taken on web & mobile

