

## Part V of the Indian Constitution: The President of India

### Part V (Chapter I) consists of the following articles:

- Article 52: The President of India
- Article 53: Executive Power of the Union
- Article 54: Election of President
- Article 55: Manner of Election of President
- Article 56: Term of Office of President
- Article 57: Eligibility for Re-election
- Article 58: Qualifications for Election as President
- Article 59: Conditions of President's Office
- Article 60: Oath or Affirmation by the President
- Article 61: Procedure for Impeachment of the President
- Article 62: Time of Holding Election to Fill Vacancy in the Office of President and the Term of Office or Person Elected to Fill Casual Vacancy

### Election of the President

1. The President shall be elected by the members of an "**Electoral College**" consisting of:
  - (a) The Elected MPs
  - (b) The Elected MLAs of the states
  - (c) The Elected MLAs of National Capital Territory of Delhi (added by 70<sup>th</sup> Amendment Act, 1992 and with effect from 1-06-1995) and Union territory of Puducherry.
2. Thus, nominated members of parliament and legislative assemblies and members of legislative councils do not participate in the presidential election.
3. Article-55 provides for the manner of election and there should be uniformity and representation throughout the Nation as per the constitution. Hence, MPs and MLAs have been assigned votes as per their representation.
4. The election is held in accordance with the system of proportional representation by means of single transferable vote and voting is done by secret ballot.
5. All doubts and disputes arising out of the Presidential elections are decided into and enquired by the Supreme Court whose decision is final.
6. The elections are monitored and conducted by the Election Commission of India.
7. Only one President, that is, **Neelam Sanjiva Reddy** has been elected unopposed so far.
8. Dr Rajendra Prasad is the only President to have been elected twice.
9. Two Presidents – Dr Zakir Hussain and Fakhruddin Ali Ahmed have died in the office.



## Term of office (Article 56) and Re-election (Article 57)

1. Term – 5 years.
2. Resignation is addressed to the Vice-President.
3. The President is eligible for re-election for any number of terms.

## Qualification (Article 58), Conditions (Article 59) & Oath (Article 60)

1. Eligibility:
  - (a) Citizen of India
  - (b) 35 years
  - (c) Is eligible for election as an MP of the House of the People.
2. Shouldn't hold any office of profit.
3. The President shall not be a member of either House of Parliament of any Legislature. Even if such a member is elected, he is deemed to have vacated that seat.
4. The nomination of a candidate for election must be subscribed by at least 50 electors as proposers and 50 electors as seconders.
5. Oath administered by the Chief Justice of India or in his absence the senior-most judge of the Supreme Court available.
6. Emoluments, allowances and privileges etc. as may be determined by the parliament and which can't be diminished during his term.
7. He is immune from any criminal proceeding during his term. He can't be arrested or imprisoned. However, after two-month' notice civil proceedings can be initiated against him during his term in respect of his personal acts.

## Impeachment of the President (Article 61)

1. A formal removal of the President from his post by constitutional means.
2. He is impeached for the 'Violation of the Constitution'. However, the term is defined nowhere in the constitution.
3. The charges can be preferred by either house of the parliament. However, a 14-days' notice shall be served to the President before the acceptance of such a resolution.
4. Also, that notice must be signed by at least one-fourth members of the total members of that house which initiated the charges.
5. After the acceptance of that bill in that house, that impeachment bill must be passed by the majority of 2/3<sup>rd</sup> of the total membership of that house.
6. Then that bill goes in another house which should investigate the charges and the President shall have the right to appear and to be represented at such an investigation.
7. If another house sustains the charges and finds the President of the violation, and passes that resolution by 2/3<sup>rd</sup> of the total membership of that house, the President stands removed from the date the resolution is so passed.



8. Hence, impeachment is a quasi-judicial process. And though, the nominated members of Parliament do not participate in his election, they take part in the impeachment process. Also, states' legislatures do not have a role in the impeachment process.

## Powers of the President

### Executive Powers

1. All executive actions are taken in his name. He is the formal, constitutional, titular head or *de jure* head of the Government.
2. Appoints the P.M and other ministers on P.M's advice.
3. Appoints the Attorney General of India, CAG, Chief Election Commissioner and other Commissioners, the chairman and members of UPSC, Governors of states, Chairman and members of Finance Commission etc.
4. He appoints Inter-State Council and he is the one who can declare any area as scheduled area and decides on the matter of the declaration of any tribe as the scheduled tribe.

### Legislative Powers

1. Summons and Prorogues the Parliament and dissolves the Lok Sabha.
2. Summons the joint sitting of the two houses of Parliament (which is presided over by the Speaker of Lok Sabha).
3. Nominates 12 members to Rajya Sabha from amongst people having achievements in art, literature, science and social service and may nominate 2 members to Lok Sabha from the Anglo-Indian Community.
4. His prior recommendation is required in case of presentation of certain types of bills such as money bills, bills seeking expenditure from the consolidated fund of India etc.
5. He can withhold his assent to bills, return the bills to the legislatures, apply pocket veto to bills etc.
6. He can promulgate ordinances when the parliament is not in session.
7. He presents the reports of Finance Commission, CAG, and UPSC etc. before the Parliament.
8. No demand for the grant can be made except on his recommendation. Also, he constitutes a Finance Commission every five years for distribution of revenues between center and states.

### Judicial Powers

1. Appoints the Chief Justice and other judges of the Supreme Court and High courts.
2. Seeks advice from the Supreme Court on any question of law.
3. He can grant pardon etc.

### Emergency Powers

1. National Emergency (Article 352)



2. President's Rule (Article 356)
3. Financial Emergency (Article 360)

## Veto Powers

The President of India has three types of Veto powers, namely

1. Absolute Veto- Withholding the assent to the bill. The bill then ends and does not become an Act. Example- in 1954, Dr. Rajendra Prasad withheld his assent to the PEPSU Appropriation Bill. Also, in 1991 R. Venkataram withheld his assent to the MPs Salaries, allowances bill.
2. Suspensive Veto- Returning the bill for reconsideration. In 2006, President APJ Abdul Kalam used the suspensive veto in the office of profit bill. However, the President can return the bill for reconsideration to the legislature only once, after which he has to give his consent.
3. Pocket Veto- Taking no action on the bill sent to the President. There's no time limit provided in the constitution within which the President has to give his assent or sign the bill. Hence, he has a 'bigger pocket' than the American President. In 1986, President Zail Singh applied Pocket Veto to Indian Post Office Amendment bill.

**NOTE: The President has no veto power in case of a constitutional amendment bill. He is bound to give his assent to such bills.**

## Ordinance Making Powers (Article 123)

1. An ordinance can be issued by the President only when both houses of Parliament are not in session or when only one house is in session.
2. The ordinance must be approved by the Parliament within six weeks of its reassembly.
3. Hence, the maximum life of an ordinance is – six months + six weeks.
4. He can issue an ordinance only on the advice of the council of ministers headed by the P.M

## Pardoning power of the President (Article 72)

1. The President has the power to grant pardon, reprieve, commutation, remission, respite to any persons convicted in any Union Law, or by a court-martial or in cases of death penalty.
2. It is executive power. And the Governor also has those powers under Article 161, however, the Governor can't pardon a death sentence nor can he interfere in court-martial cases.
3. The President exercises this power on the advice of the Union Cabinet.

## Discretionary Powers of the President

1. Appointment of the P.M when no party has a clear majority in the Lok Sabha or when the P.M in office dies suddenly and there's no obvious successor.
2. Dismissal of the council of ministers when it can't prove the confidence of the Lok Sabha.
3. Dissolution of the Lok Sabha if the council of ministers has lost its majority.



4. Use of Suspensive Veto in case of bills.

Facts related to the President of India:

1. Under The Presidential and Vice-Presidential Elections Act, 1952, a candidate, to be nominated for the office of president of India needs at least 50 electors as proposers and 50 electors as seconders for his or her name to appear on the ballot.
2. The general principle in the Presidential election is that the sum total number of votes cast by Members of Parliament should equal the total number of votes cast by State Legislators.
3. There are a total of 776 voters in the Lok Sabha & Rajya Sabha. The Electoral College also consists of 4120 MLAs in the states.
4. The formula to determine the value of the vote of an MLA =  $\text{Population of the state} \div (\text{No. of M.L.A.s in the state} \times 1000)$ .
5. The formula to determine the value of the vote of an MP =  $\text{Total value votes assigned to all the M.L.A.s} \div \text{Total number of MPs}$ .
6. The monthly salary of the Indian President is Rs.5 lakh. Until 2017, the President used to get a monthly salary of Rs 1.50 lakh. In Budget 2018, it was increased to Rs 5 lakh per month.
7. The Members of Legislative Assembly are involved in the Presidential election, but they have no role in President's impeachment. President's impeachment resolution requires a special majority of both houses (Lok Sabha & Rajya Sabha) of the parliament to pass.

