

Constitution of India

Governor (Article 153-167)



Constitution of India: Governor (Article 153-167)

The state executive is made up of the **Governor, Chief Minister, Council of Ministers, and Advocate-General of State. Governor, as President, heads the state government.**

Article 153-167 in the Indian Constitution deals with the provisions related to the state governments of the country.

Governor is a titular head or constitutional head and at the same time, he is the agent of the centre as the union government nominates Governor in each state.

Articles 153-167 of Part VI of the Constitution of India deal with the constitutional post of the Governor. The PDF covers:

1. **Qualification**
2. **Conditions for the Office of Governor**
3. **Privileges and Immunities**
4. **Oath & Term of Office**
5. **Powers and Functions of Governors**
6. **Executive, Legislative, Financial, Judiciary, and Discretionary Powers.**

The Governor

As the President of India, he is the **Nominal Executive Head**. Before 1956, there was the provision of one Governor for only one state but after the **7th Constitutional Amendment Act of 1956**, one Governor can be given charge of two or more states.

Qualifications

The Constitution of India lays down only two criteria for the eligibility of a person for the post of Governor of a state or Union Territory:

1. The candidate should be a Citizen of India.
2. The candidate should have completed 35 years of age.

Conditions for the Office of Governor

The following conditions have to be met for the appointment of a person as the Governor of a state or union territory:

1. The candidate should not be a member of either of the two houses of the Parliament or the two houses of the state legislature.
2. The candidate should not hold any office of profit.



3. The Governor is entitled to the residence without payment of rent in the Raj Bhavan.
4. The Governor is entitled to **remuneration, allowances, and privileges**, which are **decided by the Parliament of India**.
5. In case of **appointment as the Governor of two or more states/UTs**, the remuneration and allowances to be paid to the Governor are **distributed between the respective states/UTs in a ratio** that is **determined by the President**.
6. The **remuneration and allowances** paid to the Governor **cannot be diminished by the Parliament of India during his term of office**.

Privileges and Immunities

Like the President of India, the Governor also enjoys some privileges and immunities due to the virtue of his post:

1. He enjoys **personal immunity from legal liability for official acts**.
2. He is **immune from criminal proceedings**, even personal acts, during his term as Governor.
3. He **cannot be arrested or imprisoned** during his term of office.
4. **Civil proceedings can be initiated** against him, but only after giving a prior **notice of two months**.

Oath

- The oath for office of the Governor is administered by the **Chief Justice of the High Court** of the concerned state/UT.
- In case the Chief Justice of the High Court is not available, due to some reason, the oath can be administered by the senior-most judge of the concerned High Court.

Term of Office

- Normally, the term of office of the Governor is **five years**, however, he can be removed by the President from his post whenever he sees fit.
- If the Governor wants to resign, his letter of resignation is addressed to the President.
- The Constitution does not lay down any grounds for the **removal** of the Governor.
- The President may transfer the Governor from one state to another for the rest of his term.
- The post of the Governor is a continuous post, and the present Governor can hold office even after his term is over, till the time the new Governor enters into office.
- In case of a sudden vacancy in the office, **due to death or resignation**, the Chief Justice of the concerned state's High Court may be appointed as temporary Governor until the next Governor is appointed to take charge.



Powers and Functions of Governor

Unlike the President, the Governor does not hold any powers related to diplomacy, military, or emergency.

The powers of the Governor can be divided into the following five categories:

1. Executive Powers
2. Legislative Powers
3. Financial Powers
4. Judicial Powers
5. Discretionary Powers

Executive Powers

The Governor has the following executive powers:

1. The state government executes all activities in the name of the Governor.
2. The Chief Minister and other ministers of state are appointed by him. Additionally, in the states of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha, an additional post of Tribal Welfare Minister has to be made by the Governor of the respective state.
3. The Attorney General of the state is appointed by him, and his remuneration is also decided by the Governor. The Attorney General can be removed by the Governor whenever he sees fit.
4. The State Election Commissioner is appointed by the Governor and his conditions of service and tenure are also determined by him. The State Election Commissioner cannot be removed by the Governor.
5. He also appoints the chairman and members of the State Public Service Commission. However, they can only be removed by the President.
6. If any matter has been considered only by a minister and not by the council, the Governor can require the Chief Minister to submit the matter for consideration by the council of ministers.
7. He can declare the breakdown of the constitutional machinery of the state, thereby causing President's rule in the state. The Governor holds immense executive power during the President's rule.
8. By the virtue of his post, he is the chancellor of all state universities and has to appoint the vice-chancellor of these universities.

Legislative Powers

The Governor has the following legislative powers:

1. He has the power to summon, prorogue and dissolve the houses of the state legislature.



2. He addresses the legislature on the first session after every general election and on the first session of the new year.
3. During the vacancy of the Speaker or Deputy Speaker of the Legislative Assembly or the Chair or Deputy Chair of Legislative Council, he can appoint any member of the respective house to preside over the meetings of that house.
4. The Governor has the power to nominate one-sixth of the members of the state legislative council from amongst persons having special knowledge or experience in fields of literature, science, art, cooperative movement, and social service.
5. He has the authority to make a decision relating to the disqualification of a member of the state legislature, in consultation with the President.
6. Till January 2020, the Governor had to nominate two Anglo-Indians to the legislative assembly. However, in the 104th Constitutional Amendment Act, this reservation has been removed from both Parliament and the state legislature.
7. After being passed by the state legislature, a bill is sent to him for consideration. He has the following options:
 - Give assent to the bill.
 - Withhold his assent.
 - In the case of an ordinary bill, he can return it for reconsideration by the state legislature (Suspensive Veto). However, if the bill is passed by the legislature, with or without amendment, he has to give assent to the bill. The Suspensive veto is not available in case of a money bill.
 - The Governor can reserve a bill (including a money bill) for consideration by the President in the following cases:
 - It endangers the position of the state high court.
 - It is Ultra-vires which means against the provisions of the Constitution.
 - It is against the Directive Principles of State Policy.
 - It is against the welfare of the public interest.
 - It is of grave national importance.
 - It is related to the compulsory acquisition of property under Article 31A of the Constitution of India.
8. He has the power to promulgate ordinances when the legislature of the state is not in session. The ordinance-making power of the Governor can only be exercised in consultation with the council of ministers. The ordinance has to be either passed or rejected by the state legislature within six weeks of coming into the session. So, the ordinance can have a maximum life of six months and six weeks, after which it is either made a law or it ceases to exist.
9. He has to lay three reports before the state legislature. These reports are given by:
 - State Finance Commission
 - State Public Service Commission
 - Comptroller and Auditor-General relating to accounts of the state.



Financial Powers

The Governor has the following financial powers:

1. He has to lay the Annual Financial Statement of the state before the state legislature.
2. He has to give a prior recommendation to a money bill before it is introduced in the state legislature. Therefore, he cannot exercise Suspensive Veto in case of a money bill (sending it back for the reconsideration of the house) as it is introduced with his prior recommendation.
3. Every demand for the grant has to be made with his recommendation.
4. He has the power to utilize funds from the Contingency Fund of the State to meet the expenses of any unforeseen circumstances.
5. He has to constitute a finance commission every five years.

Judicial Powers

The Governor has the following judicial powers:

1. He can grant pardons, reprieves, respites, and remissions of punishment or suspend, remit, and commute the sentence of any person convicted of any offense against state law.

He cannot pardon a death sentence, even if the death sentence is awarded for violation of state law. He has no pardoning powers relating to sentences of court-martial.

2. The President consults the Governor while appointing the judges of the concerned state high court.
3. He makes appointments, posting, and promotions of district judges in consultation with the state high court.
4. He is responsible for appointing persons to judicial service of the state (except district judges), in consultation with the state high court and the State Public Service Commission.

Discretionary Powers

The discretionary powers of the Governor can be divided into two categories:

1. Constitutional discretion
2. Situational discretion

Constitutional Discretion can be exercised in the following cases:

1. Reserving a bill for consideration by the President.
2. Declaration of failure of constitutional machinery in the state, leading to President's Rule.



3. In case of having an additional charge of adjoining state, he can exercise his power indiscretion.
4. The Governments of Assam, Meghalaya, Tripura, and Mizoram pay compensation to autonomous Tribal District Councils as royalty for mineral exploration. The Governor has the discretion to decide the amount of this compensation.
5. He can seek from the Chief Minister information regarding administrative and legislative matters of the state.

Situational Discretion can be exercised in the following cases:

1. Appointment of Chief Minister when no party has a clear-cut majority.
2. Dismissal of the council of ministers when they cannot prove their confidence on the floor of the state legislature.
3. Dissolution of state legislative assembly if the council of ministers has lost its majority.



Features :



Live Classes by
Top Faculty



Comprehensive Study
Material



Daily Study Plan



Latest Pattern Test Series



Complete Doubt
Resolution



Regular Assessments with
Report Card

