

Competition Cosmos

Governor in Indian Constitution

Governor is a nominal executive head of the state. He forms an important part of the state executive where he acts as the chief executive head. Central Government nominates the governor for each state.

The Governors under the Government of India Act 1935 were “by the Raj, of the Raj and for the Raj”. The constituent assembly wanted elected governors as proposed by a sub-committee of B.G. Kher, K.N. Katju and P. Subbarayan.

The apprehension of the clash between powers of Governor and Chief minister led to the system of appointed Governor in the state.

The draft constitution of 1948 was ambivalent – the drafting committee leaving it to the constituent assembly to decide whether governors should be elected or nominated.

ELIGIBILITY

Governor has to meet only two qualifications:

1. He should be an Indian Citizen
2. He should be 35 years old or more

TERM OF OFFICE OF GOVERNOR

(1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office: Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

LEGISLATIVE POWERS

The Governor enjoys vast and formidable legislative powers under the Constitution. He is an integral part of the State Legislature. The main legislative powers of the Governor may be enumerated as follows:

1. The Constitution confers upon the Governor the power to nominate one member to the Lower House and some members to the Upper House of the State. He can nominate one member from the Anglo-Indian community to the State Legislative Assembly, if in his opinion this community is not adequately represented in that House. In a State with a Legislative Council, the Governor nominates one-sixth of the total number of its members.

2. The Governor can summon the State Legislature, prorogue either House or dissolve the Legislative Assembly.

3. The Constitution gives the Governor the right to address the House or Houses of the state Legislature separately or jointly. At the beginning of each new session and immediately after a general election to the Assembly, he has to deliver an address to the Legislature in which he lays down the policy of his Government for ensuing year.

4. The Governor can also send messages to any House of the State Legislature. The Constitution lay down that a House to which any message is so sent shall consider any matter required by the message to be taken into consideration.

5. Every Bill passed by the State Legislature has to receive the Governor's assent before it can become a law. The Governor has three alternatives before him with respect to such a Bill:

a. he can give his assent to the Bill; or

b. withholds assent; or

c. he may reserve the Bill for the consideration of the President; or

d. he can return it to the Legislature, if it is not a Money Bill, for reconsideration, suggesting alterations and modifications in part or in the whole. But such Bills when passed again by the Legislature must receive the assent of the Governor, which means that the Governor cannot withhold his assent to a bill if it is passed a second time by the State Legislature (Article 200).

6. The annual reports of various bodies like State Public Service Commission (Article 323), State Finance Commission, he may decide a matter relating to the

disqualification of a member of the Legislature if that member's election is challenged through a petition by some voter of his State (Article 192).

FINANCIAL POWERS

The financial powers and functions of the governor include,

1. No Money Bill and Financial Bill can be introduced in the State Legislative except on Governor's recommendation.
2. No demand for a grant can be made in the Legislative Assembly except on his recommendation.
3. It is the duty of the Governor to get prepared and introduced in the State Legislature the annual budget showing the estimated revenue and expenditure of the State for that year and, if necessary, the supplementary budget for the State.
4. The Governor can also make advances out of the Contingency Fund of the State in case of unforeseen expenditure, pending its authorization by the Legislature.
5. He constitutes a Finance commission after every five years to review the financial position of the Panchayats and the municipalities.

JUDICIAL POWERS

1. **Pardoning Power (Art. 161):** Under Article 161, the Governor can grant pardons, reprieves, respites and remission 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. However, the pardoning power of the Governor differs from that of the President in the manner that the President can pardon death sentence whereas the governor is deprived of this pardoning power. The Governor does not have the power that could empower him to par-don sentences inflicted by court martial as this power is entitled only to the President of India.

2. Judicial Appointments: The Governor is consulted by the President, the Governor of the State appoints the judges of the concerned State High Court. And with the consultation of the State High Court, he makes appointments, State High Court and the State High Court and the State Public Service Commission he appoints persons to the judicial service of the state other than the district judges.

EMERGENCY POWERS

The Governor has the power to make a report to the President, whenever he is satisfied that a situation has arisen in which Government of the State cannot be carried on in accordance with the provisions of the Constitution (Article 356), thereby, inviting the President to assume to himself the functions of the Government of the State or any of them.

When the President's rule is imposed in a State, an important change in the position of the Governor takes place. Instead of being a constitutional head of the State, who is guided by his Council of Ministers in the discharge of his duties, he becomes the "agent of the Union Government in the State". He takes over the reins of administration directly into his own hands and runs the State with the aid of the civil services.

Thus, during the period of emergency, the executive power of the State is exercised by the Governor in accordance with the instructions received from the President.

DISCRETIONARY POWERS OF THE GOVERNOR

The discretionary powers of the governor have made him the lynchpin of constitutional democracy in the States. If any question arises whether any matter is a matter on which the Governor can use discretionary power, the decision of the Governor is final. The functions which are specially required by the Constitution to be exercised by the Governor in his discretion are

1. The Governor of a State as the administrator of an adjoining Union Territory can exercise his functions as such administrator, independently of his Council of Ministers.
2. Some of the Governors may have to discharge certain special responsibilities also under the articles 371 to 371 J. In the discharge of such special responsibility, the Governor has to act according to the directions issued by the President from time to time, and subject, therefore, he is to act "in his discretion". In such cases, the Governor shall seek the advice of his Council of Ministers, but he is not bound by the advice tendered by his Council of Ministers.

These special cases are mentioned as follows:

(1) **Maharashtra:** Establishment of separate development boards for Vidarbha and Marathwada and Rest of Maharashtra. (Art. 371)

(2) **Gujarat:** Establishment of separate development boards for Saurashtra and Kutch. (Art. 371)

(3) **Nagaland:** with respect to law and order in the State for so long as the internal disturbance in the Naga Hill Tuensang Area continues. (Art. 371A)

(4) **Assam:** With respect to the administration of the tribal areas. (Art. 371B)

(5) **Manipur:** With respect to the administration of the Hill areas in the state. (Art. 371C)

(6) **Andhra Pradesh:** with respect to regional development of Andhra Pradesh (Art. 371D)

(7) **Sikkim:** For peace and for ensuring social and economic advancements of the different sections of the population. (Art. 371F)

(8) **Arunachal Pradesh:** Regarding the law and order in the state. (Art. 371H),

(9) **Goa (Art. 371 – I),**

(10) **Mizoram (Art. 371G)**

(11) **Karnataka:** Regarding development of Hyderabad – Karnataka region. (Art. 371J)

IMPORTANT CONSTITUTIONAL ARTICLES RELATED TO THE GOVERNOR

Articles	Provisions
153	Governors of states
155	Appointment of Governor
156	Term of office of Governor
157	Qualifications for appointment as Governor
158	Conditions of Governor's office

160	Discharge of the functions of the Governor in certain contingencies
161	Power of the Governor to grant pardons and others
175	Right of the Governor to address and send messages to the house or houses of the state legislature
176	Special address by the Governor
201	Bills reserved by the Governor for consideration of the President
213	Power of Governor to promulgate ordinances
217	Governor is consulted by the President in the matter of the appointments of the judges of the High Courts
233	Appointment of district judges by the Governor
234	Appointments of persons (other than district judges) to the judicial service of the state by the Governor

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