



SNS COLLEGE OF TECHNOLOGY

Coimbatore-35
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DEPARTMENT OF INFORMATION TECHNOLOGY

23HST103- INDIAN CONSTITUTION
I B.TECH – AIML”B” / I SEMESTER

UNIT 3 – STRUCTURE AND FUNCTION OF STATE GOVERNMENT

TOPIC 3 – Governor - Role



Role of Governors in India



- The post of governor of a state is of immense importance in our political system.
- It is considered as one of the pivotal parts of “checks and balances” that our democracy is proud of.
- Powers and functions bestowed upon the governors and lieutenant-governors of the states and union territories of India are similar in nature to that of the President of India at Union level.
- Being de jure head of the state government, all its executive actions are taken in the governor's name.
- While the President of India is ‘elected’, the governor is ‘selected’ by the existing central government via imperative processes.



Role of Governors in India



- As provided by Articles 155 and 156 of the existing Constitution of India, Governors of the States are appointed by the President of India and are answerable to him and hold their offices during the pleasure of the President of India
- The Governor, thus, is an appointee of the Central Government in the State, and, in so far as he acts in his discretion, he shall be answerable to the Union Government.
- Except in matters in which the Governor is required by or under the Constitution to exercise his function in his discretion, the Governor is the Constitutional or formal head of the State and he exercises all his powers and functions on the aid and advice of his council of Ministers.



Role of Governors in India

- This is so because our Constitution embodies generally the Parliamentary or Cabinet system of Government of the British Model both at the Union and the States
- Article 164(1) of the Constitution of India empowers the Governor to appoint the Chief Minister.
- However, like the discretion of the president in the appointment of the Prime Minister, the Governor's discretion in the appointment of Chief Minister is conditioned by an essential form of Parliamentary form of Government that the Council of Ministers shall be collectively responsible to the State legislative assembly.
- This means that the leader of a party which commands majority in the legislative assembly is eligible for appointment as Chief Minister, and the Governor is bound to request him to form the Government.
- If there is no party commanding a clear majority in the legislative assembly, the Governor may exercise his discretion in the appointment of Chief Minister according to his personal assessment of the situation at that time.



Role of Governors in India



- Article 72 of the Constitution of India could be reconciled with Article 161 by limiting the power of the Governor to grant pardons to cases not covered by Article 72.
- If so read, the President alone has the exclusive powers to grant pardons, reprieves, and respites in all cases where the sentence is a sentence of death and both the President and the Governor have concurrent powers in respect of Pardon, Suspension, remission and commutation of a sentence other than that of death.
- In other matters, that is in respect of offences against any law relating to a matter to which the executive power of the State extends, the Governor has all the powers enumerated in Article 161 of the Constitution of India including the power to grant pardons, reprieves and respites.



Role of Governors in India



- To put it briefly, the Power of Governor to grant pardons, reprieves and respites in all cases where the sentence is not a sentence of death, and to suspend, remit or commute the sentence of any person, is co – extensive with the executive power of the State.
- It, therefore, follows that the Governor has the power to grant a pardon or remit the sentence of a person who is transported for life.
- • In a 5 Judge Bench, the Supreme Court of India has held in BP Singhal v. Union of India ((2010) 6 SCC 331) that the role of the Governor of a State is to function as a vital link or bridge between the Union Government and the State Government.
- He is required to discharge the functions relate to his different roles harmoniously, assessing the scope and ambit of each role properly.



Role of Governors in India



- A Governor of a State has dual role.
- The first is that of a Constitutional head of the State bound by the advice of his Council of Ministers.
- The second is to function as vital link between the Union Government and the State Government.
- In certain special or emergent situations, he may also act as a special representative of the Union Government.
- The Governor of a State is neither an employee of the Union Government nor the agent of the party in power nor required to act under the dictates of political parties.
- His office is not subordinate or subservient to the Government of India.
- He is constitutionally the head of the State in whom is vested the executive power of the State and without whose assent there can be no legislation in exercise of the legislative power of the State.
- The fact that the Governor holds office during the pleasure of the President does not make the Government of India an employer of the Governor.
- • There is a distinction between the powers of the President under Article 74 and the Governor under Article 163 of the Constitution.



Role of Governors in India



- There is some qualitative difference between the position of the President and the Governor.
- The President under Article 74 has no discretionary powers but the Governor has certain discretionary powers under Article 163(2) of the Constitution of India.
- In contrast to Article 74, even though Article 163 similarly provides that the Governor of a State is to exercise his functions in consonance with the aid and advice tendered to him by the council of Ministers with the Chief Minister as the head, yet Article 163(2) confers discretionary powers with the Governor when it is so expressly mandated by or under the Constitution.
- To a limited extent Article 163(2) authorizes Governor to act in his own discretion and in that sense there is a clear distinction between the power vested in the President and the power vested in the Governor.
- Governor should act as per the will or advice of the majority party only when the same is in accord with the Constitution and the laws. (B.R. Kapur v. State of T.N. & Another(20017 SCC 231))



Role of Governors in India



- The Governor of the State, like the President, is entitled to specific powers.
- They are-
- Legislative – affiliated with ordinance making and State Legislature;
- Executive – affiliated with administrative appointments and discharge;
- Judicial – affiliated with power to grant pardons and respites;
- Financial – authority over the state budget and money bills;
- • Discretionary – to be exercised at the discretion of the Governor; to, as stipulated under Article 159, preserve, protect and defend the Constitution and the law.
- Unlike the President, however, the Governor does not possess any diplomatic or military powers.



Role of Governors in India



- As per Article 154, the Constitution states that the executive power of the State shall be vested in the Governor who can exercise them through directly or indirectly through subordinate officers
- The State Government undertakes all executive action in the name of the Governor
- As per Article 164, the Governor has the power to appoint the Chief Minister of the State, and upon the Chief Minister's recommendation, the appointment of other ministers.
- The Governor appoints the Advocate General of the State, State Election Commissioners and the chairman and members of the State Public Service Commission.
- However, the Governor cannot remove the members of the State Public Service Commission as they can only be removed by an order of the President.