

POLITICAL SCIENCE NOTES – PART V

18. GOVERNOR OF STATE

Appointment of Governor

- Appointed by President for 5 years but can be removed before his office terms, by the President on advice of PM
- Even can be transferred from one state to other by President on advice of PM
- Rajasthan high court held that CJ of HC can be appointed as an acting governor in place of vacancy in governor's office due to death, resignation etc.

Qualifications

- Must be citizen of India & of 35 years of age
- Must not be member of any house of Parliament or of state legislature
- Must not hold any office of profit

Oath

- Before CJ of HC or in his absence, before senior most judge available

Salary

- 1, 10,000 + Rent free official accommodation + other allowances
- From consolidated fund of state

Immunities to Governor

- Shall not be answerable to any court for exercise & performance of powers & duties of his office
- No criminal proceedings can be instituted or continued in any court during his terms of office
- No process for arrest or imprisonment of governor from any court during his terms of office
- Civil proceedings against him, in which relief is claimed, can be instituted giving 2 months prior notice

Sarkaria Commission report on office of Governor (Recommendations only)

- A politician belonging to ruling party at the center should not be appointed as governor of state being run by some other party
- Must be appointed after consultation with state concerned
- Must be a detached figure from state politics & must retain power to refer any bill to center for assent

Powers & functions of Governor

Executive Powers of governor

- All executive powers of the state are vested in governor & all executive actions of state government are taken in his name
- Executive powers of governor extend to all matters on which state legislature can make laws
- In case of concurrent list executive powers of governor are subjected to executive powers of the President
- Make rules for convenient transaction of business of government & for its allocation among ministers

- to 94th amendment, In Jharkhand, MP, Chhattisgarh & Orissa, it is special responsibility of the governor to see that a minister is placed incharge of tribal welfare
- In Assam, he is given certain special powers with respect to administration of tribal areas
- Appoints CM (Leader of majority party in legislative assembly) & on his advice COMs
- Appoints the Advocate General, Chairman and members of the respective State Public Commission; Although the later cannot be removed by him but the President on report of SC in case of certain disqualifications
- Appoint members of state election commission & state finance commission
- Acts as chancellor of state universities
- CM to communicate all decisions of COM, related to administration of state & to all the proposal for legislation, to governor
- Informs President, along with his recommendations, regarding break down of constitutional machinery & imposition of Presidential rule in state

Legislative Powers of governor

- Power to nominate 1 member to lower house (Legislative assembly) from Anglo Indian community & 1/6th of total number of members to upper house (Legislative council)
- Summons state legislature, prorogue either house & can dissolve legislative assembly
- No bill can become a law until the Governor signs it
- Can dissolve the State Assembly before the expiry of its term on the advice of the Chief Minister or as directed by the President.
- Causes the annual Budget to be presented in Vidhan Sabha (Legislative assembly)
- No money bill / ordinary bill / financial bill can be introduced in the Assembly without his prior approval.
- May give his assent or withhold his assent to a bill / Can withhold a bill and send it to the President for consideration / may return to legislature (one time only) except money bill

Ordinance making powers of governor

- Can issue ordinances when one or both the houses of state legislature are not in session & when he is satisfied that certain actions are needed to be taken immediately
- However, he is prohibited from promulgating ordinances that contains provisions, which under the constitution requires previous sanction of the President. In such cases, he can make ordinances taking prior permission of President
- An ordinance issued by governor ceases to be in operation 6 weeks after the re-assembly of the legislature unless approved earlier

Financial Powers of governor

- No money bill / ordinary bill / financial bill can be introduced in the Assembly without his prior approval.
- No demand for grant can be made in legislative assembly except on his recommendations
- To introduce annual budget in state legislature showing estimated revenue & expenditure of state for that year
- Can make advances out of contingency fund of state in case of unforeseen expenditure

Judicial Powers of governor

- Has the power to grant pardon, reprieve, respite or remission of punishment or to commute sentences in certain cases, subjected to the laws of state legislature
- Does not has the power to grant pardon in cases of death sentence – But can commute or respite it

Emergency Powers

- Power to make report to the President whenever he is satisfied that a situation has arisen in which government of the state can not be carried on in accordance with the provisions of the constitution, thereby, inviting President to assume to himself function of gov. of the state
- When the Presidential rule is applied to state, governor becomes the agent of Union government in the state & take reins of administration directly in his own hands & runs the state with the aid of civil services on instructions received by President

Other Powers

- On advice of election commission, he may decide a matter relating to disqualification of a member of legislature, if his election is challenged through a petition by some voters of the state
- Annual reports of various bodies like state PSC, CAG, State finance commission etc. are submitted to governor that he causes to be laid before legislature for consideration

Bill Reserved by Governor for Presidential Assent

When a Bill is reserved by a Governor, under the Article 201, for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent there from –

- Provided that, where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House or Houses with or without amendment, it shall be presented again to the President for his consideration.
- When the bill is again presented to the President for the assent, the president is not bound to give his assent to the Bill. This means that the state legislature cannot override the veto power of the President.

The Constitution has also not prescribed any time limit within which the President has to take decision with regard to a bill reserved by the governor for his consideration. Hence, the President can exercise pocket veto in respect of state legislation also.
