

Powers and Position of the Governor in India

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Introduction

Generally, in India, the President and Governor are regarded as a rubber stamp; they are considered to be the titular head of the state. Appointment of a Governor has been specified in article 153 of the Indian Constitution. Therefore, the governor has been made just a nominal official; the real official comprises the committee of ministers headed by the chief minister.

At the end of the day, the governor needs to exercise his powers and functions with the help and advice of Council of ministers headed by the chief minister, aside from in issues in which he is required to act in his watchfulness (i.e., without the exhortation of ministers). In assessing the established position of the governor, specific reference must be made to the arrangements of **Articles 154, 163 and 164**. The official intensity of the state will be vested in the governor and will be practised by him either legitimately or through officers subordinate to him as per this Constitution (Article 154). Therefore Governor of the state has been conferred with the various powers by the constitution of India. The article deals with the Powers and the Position of the Governor as per the constitutional provisions.

Appointment and Qualification of the Governor

The Governor is generally appointed by the **President** of the Nation under **Article 155 of Indian Constitution**. The governor shall be appointed by the President under his seal and warrant. The candidate shall fulfil the listed criteria given below to be appointed as Governor of the state enshrined in Article 157 of Indian Constitution which is as follows:

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1. He ought not to be the individual from either house of parliament or a place of the state governing body.
2. He ought not to hold any office of profit.
3. He can utilise his official home for other purposes, however, ought not to charge rent for that.

4. If an individual is named as the overseer Governor of other states, he is qualified to get the compensation of both state's Governor (chosen by the President of India).
5. His payments and remittances can't be diminished amid his term.

Since, the Article is silent about the direct and indirect election of the governor, the mode of his appointment is by way of nomination by the Central Government which is approved by the President of India, but after such appointment Governor is free to act on his own wisdom and perform his duties for the betterment of the society. However, due to the powers of governor, he is sometimes used as a tool for disruption by the central government in a situation when there is no coordination between the state and central government. Thus, sometimes in cases of UT where Lt. Governor has more powers, he/she becomes a tool to disrupt by the Central government.

Oaths and Resignation

The Governor takes his **oath** from the **Chief Justice** of the respective state, and he/she addresses his **resignation** to **President of India**.

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Powers of Governor

The Powers of the Governor can be classified under four heads viz. Legislative, Executive, Judicial and financial powers which are as follows.

Legislative Powers

Even though the Governor isn't the member from either House of the State Legislature, yet he is vested with some significant powers and obligations in the authoritative space.



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- He is to bring the House or each House of the State Legislature, if it is a bicameral governing body, to meet at such time and spot as he deems fit. There must not be a difference of more than 6 months between the first and the last session of the house. He ensures that the balance is maintained.
- He may prorogue the Houses or either House and break up the Legislative Assembly. For example, on March 12, 1967, the Punjab Governor, Dr D.C. Pavate, prorogued the State Vidhan Sabha (Legislative Assembly) which was deferred by the Speaker for two months on March 7, 1967, preceding the House could think about the Budget. This was an initial move towards an answer of established emergency that held the State. The disintegration of the Assembly has been finished by the Governors numerous periods.
- He can address either or both of the Houses, amassed together at the beginning of the first session after each General Election and furthermore, at the initiation of the main session every year.
- The Bills passed by the State council require his consent. He can retain his consent and return the Bill (other than a Money Bill) to the State governing body for re-examination. In any case, if the House ends, with or without alteration, he should accord his consent to it.
- He is engaged in saving specific Bills for the consent of the President. For example, the Bills accommodating obligatory procurement of the property or diminishing the forces of the High Court must be so saved for President's assent.
- He designates people, having extraordinary learning or pragmatic involvement concerning such issues, like Literature, Art, Science, Co-usable Movement and Social Service.
- He designates a few individuals from the Anglo-Indian Community if he finds the last insufficiently spoke to.
- On the guidance of the Election commission, he is approved to choose questions emerging about the exclusion of any individual from either House.
- He can issue statutes amid the opening of the governing body if some projection emerges. These mandates stop to work at the lapse of about a month and a half from the reassembly of the Legislature, or prior if a goal objecting such a law is passed by the Legislative Assembly and consented to by the Legislative Council. Governor's mandates are liable to specific confinements. On the off chance that they identify with any issue in regard of which a Bill would have required the President's prior approval or his consent after reservation, the Governor cannot issue them aside from on the President's guidance.
- He may likewise send messages and ask for updates to the House or Houses on a Bill pending in the council or something else.
- He can get the State Assembly suspended while prescribing to the President the taking over of the State Administration. Such a stage is taken with the plan to reinstall mainstream service at an early date. This was finished by the Governor of Uttar Pradesh on June 13, 1973, and Governor of Punjab on October 4, 1983.

Executive Powers

The executive powers vested to the Governor of the state under the Indian Constitution are as follows:

- His powers to stretch out to the issues counted in the State list. On account of issues gave in the Concurrent List, Governor practices to control over them at the same time, subject to the official advice of the President
- He makes rules for the exchange of the matters and portfolios of the legislature of the State for its allotment among Ministers.
- He has the privilege to look for data from the Chief Minister, and the Chief Minister of the State must notify and answer him regarding all choices of his service.

- He can likewise require the Chief Minister to present any individual Minister's choice for the thought of the Council of Ministers,
- He is enabled to make arrangements of the Council of Ministers and on the recommendation of different Ministers.
- He is consulted by the President in the appointment of the Judges of the state High Court.
- The Governor appoints Judges of the District Courts.
- In case he/she feels that the Anglo-Indian community has not been adequately represented in the Vidhan Sabha, he or she can nominate one member of the community to the Legislative Assembly of the state.
- In all the states where a bicameral legislature is present, the Governor has a right to nominate the members, who are "persons having special knowledge or practical experience in matters such as literature, science, art, co-operative movement and social service", to the Legislative Council.

In like manner, he can expel the Chief Minister or his Council of Ministers just when the Legislative Assembly passes a demonstration of majority disapproval or reproaches the CoM or annihilations an important measure. As it were, Governor is not authorised to act and exercise his duty at his pleasure since it is the Legislative Assembly which upholds the aggregate obligation of the CoM to itself [Article 164(2)]. The Supreme Court in **S.R. Bommai v. Union of India** saw that at whatever point an uncertainty emerges whether a service has lost the certainty of the House, the primary method for testing is on the floor of the House.

Clearly, the evaluation of the quality of the Ministry had not been left to the Governor. This reality was affirmed when Uttar Pradesh Governor rejected **Kalyan Singh's Government** on Feb. 21, 1998 as 25 M.L.As of Lok Tantrik Congress and Janata Dal (Raja Ram) Group pulled back help, and it was left in the minority. Kalyan Singh would not leave. Subsequently, he was rejected. Governor did not allow him to look for certainty vote on the floor of the House. Allahabad High Court in a milestone between time requests reinstalled Kalyan Singh and left it to the Governor to request a preliminary of solidarity on the floor of the House.

Financial Powers

Financial powers of the Governor enlisted in the constitution are as follows:

- No money Bill can be presented in the Assembly aside from on Governors' proposal.
- The Contingency Fund is available to him. He can make signs of progress out of it to meet unexpected use, pending its approval by the State Legislature.
- No interest for a grant can be made except on the suggestion of the Governor.
- Under Article 205, the Governor can request advantageous, expansion or abundance gifts from the State Legislature.
- Governor is required to see that the yearly financial report or spending plan of the State is presented before the House or Houses of the Legislature have gone through it.
- Amendments making arrangements for budgetary issues can't be moved without the assent of or on the recommendations of the Governor if any changes have to be done.

Judicial Powers

Judicial Powers of the Governor are as follows:

- According to Article 161, The Governor can allow pardons, respites, rests or abatement of disciplines. He can likewise suspend, dispatch or drive the sentence of an individual indicted for an offence illegal.

- The Governor is consulted by the President in the appointment of the Chief Justice to the High Court of that specific state.

Emergency Powers

Governor isn't vested with emergency powers to meet any consequence emerging from outside animosity or equipped resistance [Article 352(1)] not at all like that of President of India. Anyway, he is enabled to answer to the President at whatever point he is fulfilled that a circumstance has emerged in which legislature of the state can't be carried on as per the arrangements of the Constitution (Article 356). In the last case, the President expects to be the apex authority of the State Government. However in the ordinary course of practise it may be noticed that, Governor accepts the reins of State Government since the state is under the President's Rule and in case there is no clear majority of a political party, the Governor has the discretion to appoint chief Minister of the state.

Miscellaneous provisions

Governor acts as the first person to supervise the Auditor General's report on expenditure and income of the state. He is also an agent of the President to oversee the emergency situation and President rule in a particular state.

Conclusion

The Governor of a state isn't just a figurehead. He can practice a few powers in his prudence, and free of the suggestions made by the state Chief Minister. Governor is anything but a pointless height. The Governor goes about as the connection between the Union and the state. He goes about as the operator of the President in the country both when he goes nearly as the nominal and constitutional head of the state in typical occasions just as when he goes about as the whole head of the state amid the time of President's rule operates in the state. The Governor relies on his prudence in informing the President for the declaration concerning an emergency in the state. He can make a decision concerning whether there has been a breakdown of constitutional machinery in the state or not. Thus, the Governor plays an important in the governance of a state in the country.