

Governor

The Governors and Lieutenant Governors/Administrators of the states and union territories of India have similar powers and functions at the state level as that of the President of India at Union level. Governors exist in the states while lieutenant governors exist in union territories and in the National Capital Territory of Delhi. The governor acts as the nominal head whereas the real power lies with the Chief ministers of the states and his/her councils of ministers.

State Governor in Indian Constitution

Article 157 in The Constitution of India 1949 says that no person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty five years. Governor is also the chief executive head of the state, who exercises his function in accordance with the advice of council of ministers of the state concerned. In addition to this, the governor holds dual role as he functions as an agent of central government also.

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Under Article 153 there shall be Governor of each state and also nothing in this article shall prevent the appointment of the same person to be appointed as Governor of two or more states. The executive power of the state shall be vested in the Governor and shall be exercised by him directly or through officers subordinate to him.

Appointment of Governor

Qualification for appointment as governor (Article 157) –

The constitution has laid down following qualifications to be appointed as Governor:

- No person shall be eligible to be appointed as Governor unless he is citizen of India
- He should have completed the age of 35 years.
- He should be such a person who is outside the state so as to not indulge in local politics
- When the same person is appointed as governor for 2 or more states, the emoluments and allowances payable to the Governor shall be allocated among the states in such a manner as the President by order determine.
- The emoluments and allowances of the Governor shall not be diminished during his term of office.

Powers of Governor

The Governor of the state shall possess executive, legislative, financial and judicial powers. But he does not possess diplomatic, military or emergency powers which President of India has.

The powers and functions of Governor can be classified under following heads:

1. Executive powers
2. Legislative powers
3. Financial powers
4. Judicial powers

Executive Powers

As stated above the executive powers refer to those powers which are exercised by the council of ministers in the name of Governor. Hence Governor is only nominal head and council of ministers is the real executive. The following posts are appointed by Governor and hold office during his term: Chief Minister of the state, other ministers of the state on the advice of Chief Minister, Advocate General. He can recommend the imposition of constitutional emergency in a state to the President. During the period of President's rule in a state, the governor enjoys extensive executive powers as an agent of the President.

Legislative Powers:

This power of Governor can be classified further in to two sub groups

- (1) In respect to bills.
- (2) In respect to legislature.

With Respect to Bills

- When a bill other than money bill is presented before Governor for his assent, he either gives assent to the bill, with hold his assent to the bill, return the bill for reconsideration of houses, but if the bill is passed again by state legislature with or without amendments, he has to give his assent or reserve the bill for consideration of President.

However, the Governor also cannot send money bill back for reconsideration. This is because the money bill would usually be introduced with prior assent of Governor only. In case the money bill reserved for Presidents assent, the President has to state whether he is giving assent or withholding his assent.

With Respect to Legislature:

He has the power to summon, prorogue the state legislature and can also dissolve the legislative assembly when it loses the confidence (art 176).

- Ordinance making power

Financial Powers

- He lays before the legislature annual financial statement (state budget)
- Money bill can only be introduced in state legislature on his prior recommendation
- No demand for grant can be made except on his recommendation
- Money from contingency fund can be withdrawn after his recommendation for meeting the unforeseen expenditures

- He constitutes finance commission for every 5 years to review the financial situation of municipality and panchayats.

Judicial Powers –

President consults the Governor of the concerned state while making appointment to the judges of State High Court.

Pardoning powers-

He has the below pardoning powers against any offences to which state power extends.

- Pardon- completely absolve the offender
- Reprieve- stay on execution of sentence
- Respite-awarding lesser punishment in some special circumstances
- Remission- reduction of sentence without changing the character
- Commutation-substitution of one form with other

Discretionary Powers-

Though it is an established practice in India that immediately after the elections, the party which gets clear majority is invited by the Governor to form the government and the leader of that party is appointed as the Chief Minister. But in case no political party gets the clear majority then the Governor by using his Discretionary Powers can invite any party or alliance to form the Government whom he thinks can prove the majority in the house.

Removal of Governor

- President in effect of central government has the power to remove governor of any state at any time even without giving any reasons for his removal
- However this power cannot be exercised in arbitrary manner. It is to be exercised in rare and exceptional circumstances for valid and compelling reasons
- The mere reason that Governor is at variance with the policies and ideologies of the central government or central government has lost confidence in him cannot be the reason for his removal.
- Change in central government cannot be the reason for his removal
- The decision to remove a Governor can be challenged in any court of law. The court in any case required can ask the central government to produce the materials on the basis of which the decision was made to verify the presence of compelling reasons.