

Parliament: Composition, Powers and Functions – India

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1. Introduction to the Parliament of India:

Article 79 of the Constitution of India provides that there shall be Parliament for the Union which shall consist of the President and two Houses to be respectively known as the Council of States and the House of the People.

Thus, the Constitution has stipulated a bicameral system of legislature in which Indian Parliament consists of two Houses. Whereas the Rajya Sabha is Upper House, the Lok Sabha is Lower House of Parliament. The former is a permanent House in the sense that it cannot be dissolved, unlike latter i.e., the Lok Sabha, which has a fixed term of five years unless dissolved earlier.

The Lok Sabha consists of representatives directly elected by the people on the basis of universal adult franchise, except of course in the case of Anglo-Indian community, whose two representatives can be nominated in that House, when the President is satisfied that that community has not been properly represented.

2. The Rajya Sabha:

Its Composition:

The Rajya Sabha, as already mentioned, is Upper House of Indian Parliament. Article 50 of the constitution provides that the Council of States shall consist of 12 members to be nominated by the President in accordance with the provisions of clause (3) and not more than two hundred and thirty-eight representatives of the states and of the Union Territories.

It is also provided that allocation of seats in the Council of States to be filled in by the representatives of states and Union Territories shall be as contained in the Fourth Schedule to the constitution.

Clause (3) of the constitution also, provides that the members to be nominated by the President shall be those who have special knowledge or practical experience in respect of such matters as literature, science, art and social services.

The constitution also provides that the representatives of each state in the Council of States shall be elected by the elected members of the Legislative Assembly of the state in accordance with the system of proportional representation by means of single transferable vote.

The composition of the Rajya Sabha, in term of number of seats to each state has been changing, because from time to time the states have been reorganised. Members from the Union Territories

are chosen in such a manner as the Parliament may decide by law. The basis of the composition, i.e., number of representatives to be elected from each State has been fixed keeping in view the population of each State.

Thus, each State has not been given equal representation, as is the case with the Senate of the USA where each state, big or small, is represented by two representatives or Swiss Upper House in which two representatives each come from full Canton and one member each from half Canton.

By and large, a state is given representation on the basis of one member for each million of the first five millions of its population and thereafter only one seat after every additional two millions.

The Constitution provides that twelve members to be nominated by the President shall be those who have earned a name and fame in the field of science, art, literature and social services.

The Rajya Sabha is a continuing body and 1/3 of its members retire after every 2 years. Thus, each member is elected for a term of 6 years. Though it is expected that the members should be elected on the basis of interests of the state, yet in actual practice all elections are held on party lines.

Qualifications of Members:

The Rajya Sabha being Upper House of Parliament it is expected of it that its members should be comparatively sober and atmosphere in the House calm. The constitution provides that a person who wants to become a member of the House should be citizen of India and not less than 30 years of age. He should be an elector for a parliamentary constituency of the state from which he is to be returned to the House.

He should not hold any office of profit either in the central or state government. He should be of sound mind and not be an alien. He also should not have been declared unqualified for membership by any court of law. He should neither have voluntarily acquired citizenship of any foreign country nor agreed to owe allegiance to any foreign power.

After his election to the Rajya Sabha a member shall ordinarily continue to be a member for a period of 6 years but his seat shall fall vacant after he has tendered his resignation or incurred some disqualification which disqualifies him from the membership of the Rajya Sabha.

He cannot simultaneously hold membership of the Lok Sabha. In case he becomes a member of the other House at any stage, he will have to give up the membership of either House of Parliament.

This also applies to the membership of state legislature as well. He will also cease to be member of the Rajya Sabha in case he remains absent from the sittings of the House continuously;- for 60 days without the permission of the Presiding Officer of the House. He shall also cease to be a member, if the House on account of his unbecoming conduct, decides to expel him from the House as a matter of punishment.

Meetings of the Rajya Sabha:

The meetings of the Rajya Sabha are presided over by Vice-President of India, who is ex-officio Chairman of the Rajya Sabha.

Like his counter part in the USA, the Vice-President of India is not the member of the Rajya Sabha and as such he does not enjoy any voting power or right, but he has casting vote in case of a tie and when the House is equally divided on any issue. As presiding officer of the House, he is required to maintain decorum and discipline in the House.

He allows the members to speak and disposes of all the points of order which are raised in the House. When he is on his legs nobody else is supposed to stand in the House. Any item in the House can be discussed only with his permission.

He recognises the members on the floor of the House. It may, however, be remembered that though the Vice-President of India is the Chairman of the Rajya Sabha yet he is not elected by that House alone. His election procedure has already been discussed separately.

But at times the Chairman is not in a position to preside over the meetings of House due to one or several reasons. In his absence, the meetings are presided over by Vice-Chairman, who of course is elected by the Rajya Sabha from amongst its own members.

When both the Chairman and Vice-Chairman are not available to preside, available member from the panel of chairmen presides. Deputy Chairman obviously holds office as long as he is member of the Rajya Sabha. As soon as he ceases to be a member of the House, he also vacates that office.

The Chairman of the Rajya Sabha can be removed from his office by a Resolution of the Rajya Sabha, which is also approved by the Lok Sabha. When such a resolution is under discussion he is provided an opportunity to participate in the discussions but cannot vote.

In addition, when such a charge of removal is levied against the Vice-President, he leaves the chair when the resolution is under consideration of the House.

Each member of the House is elected for a period of 6 years, 1/3 of them retire after every two years. Each member is required to take an oath an allegiance to the constitution. 1/10th of total membership of the House constitutes quorum for holding meetings of the House.

Functions and Powers of the Rajya Sabha:

Rajya Sabha, being Upper House of Indian Parliament, does not possess co-equal powers with the Lok Sabha in money matters which is Lower House of Union Parliament. In financial matters it has much less powers than the Lok Sabha. In non-money matters both the Houses have co-equal powers. A non-money bill can be moved in either House of Parliament.

In fact, when the government feels that the work with the Lok Sabha is heavy, it introduces non-money bills in the Rajya Sabha, so that all discussions and heat which usually is generated on a new bill, finds its expression in that House and comparatively less time of the Lok Sabha is consumed over such bills.

Every non-money bill must be passed by both the Houses of Parliament before it can be sent to the President for his approval. In that regard both the Houses are at par.

There can, however, be disagreement between the two Houses on any non-money bill. In order to solve that the President can call for a joint sitting of both the Houses. In this connection it may be pointed out that in India there is no system of conciliation committee as that obtains in the USA, under which such disputed matters are referred to such a committee, on which both the Houses have equal representation and whose decision is treated as final. In that country Senators having more glamour and longer tenure, usually carry the day.

The position is also not like the one prevailing in England where the House of Lords has the power to delay the matters but is ultimately forced to agree to what has been proposed by the Commons. In India, the position is somewhat different because the Rajya Sabha is neither so weak as the House of Lords in England, nor so powerful as the Senate in the USA.

But even then the position of the Rajya Sabha in a joint session is not as strong as that of the Lok Sabha. It is because numerical strength of the Lok Sabha is more than that of the Rajya Sabha and in case of any voting the former is likely to win, because each House is likely to vote in its own favour to save its prestige.

The Lok Sabha has advantage in another respect also, because in such a joint session Speaker of the Lok Sabha presides. Not only this, but it is the Council of Ministers which decides whether on a controversial matter view point of the Rajya Sabha is to be adjusted and whether such a matter is to be pursued or dropped.

Since the Council of Ministers is jointly and collectively responsible to the Lok Sabha, therefore, it is likely to go with the view point of that House. Thus, in actual practice the Rajya Sabha can delay a non-money Bill for period of six months but cannot kill that, if the Lok Sabha is keen to see that through.

Money Bills:

In so far as money matters are concerned, the Rajya Sabha is of course much weaker than the Lok Sabha and much less than the Senate of the USA. All money bills can originate only in the Lok Sabha. No money bill can originate in the Rajya Sabha. If a money bill passed by the Lok Sabha is sent to the Rajya Sabha that House can delay it for a period not exceeding 14 days.

In case a money bill is not returned within that period that will be treated to have been passed. In case, however, the Bill is returned within this period, with any suggestions or modifications, it is for the Lok Sabha to accept such changes or not, but in both the cases the money bill need not be returned to that House.

The Bill as passed by the Lower House for the second time will be treated to have been passed and sent to the President for his approval.

Control over Executive Government:

Then comes control over the executive government. In a parliamentary form of government the Council of Ministers is collectively responsible to the Lower House e.g., the House of Commons in England. In India also it is responsible to the Lok Sabha and not in the Rajya Sabha.

The Ministers appear before the Rajya Sabha, pilot non-money bills in that House, reply to all questions put on them, leave no one unturned to satisfy the members of the House, but if even in spite of all all as the members do not feel satisfied and move a vote of no-confidence against the Ministry, that will have no effect on the life of the government, even if such a motion is unanimously carried out.

All that the House can do is that it can express its dissatisfaction on government policies and programmes, can embarrass it but nothing beyond that.

Co-Equal Powers:

But both the Houses have co-equal powers in so far as amendment of the constitution is concerned. India's constitution has so far been amended as many as 80 times and several non-official amendments proposed by the members in both the Houses could not be carried out for want of government support. According to the constitution, it is provided that a constitutional amendment can be proposed in either House of Parliament.

Thus, in this regard there is no distinction between the two. It is also provided that such an amendment must be approved by both the Houses of Parliament by a majority of each House, as specified in the constitution, in each House. It may be remembered that there is no provision in the constitution by which a joint sitting of the House can be called to solve a deadlock on any constitutional amendment.

Both the Houses have co-equal powers in certain other matters as well, including election of the Vice-President of India, impeachment of the President and removal of the judges of the Supreme Court and High Courts and also that of the Comptroller and Auditor General of India.

In another respect in which both the Houses have co-equal powers is the approval of the declaration of emergency in the country. Unless both the Houses approve, there can be no emergency declaration in the country.

If there is need for setting up martial law or suspension of fundamental rights, then also the approval of Rajya Sabha is unavoidable. Under the constitution Union Public Service Commission has a special status. It is expected to perform certain specific functions.

In case government decides to taken away some of the functions of the Commission or for that matter of the Comptroller and Auditor General of India, for that the consent of the Rajya Sabha is as much needed as that of the Lok Sabha.

Exclusive Powers of the Rajya Sabha:

There are, however, certain fields in which the Rajya Sabha has exclusive rights. In India this House is supposed to represent the states. Under the constitution there are certain specific subjects which have been mentioned in the state list and it is the exclusive responsibility of the states to enact laws on the subjects mentioned in that list.

But the Rajya Sabha by a 2/3 majority, can pass a resolution that a particular subject mentioned in the state list may be transferred either to the central list or concurrent list, thereby depriving the states of its authority of legislation on the subject.

Article 249(2) of the constitution provides that such a resolution when passed by the Rajya Sabha shall remain in force for such period not exceeding one year, or as may be specified in the resolution. It is also provided that such a resolution shall continue to remain in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

When such a resolution is passed by the- Rajya Sabha, then alone the Parliament becomes competent to pass any enactment on a matter so amended by the Rajya Sabha.

Article 312 of the constitution provides that the Rajya Sabha is entitled to create a new All India Service, by passing a resolution by 2/3 majority of the House, if it feels that creation of such a service is essential and needed in the national interest. It is also for the Rajya Sabha to regulate recruitment and conditions of service of persons appointed to any such service.

Forty-Second Constitution Amendment Act dealt with All India Judicial Service. The amendment covered subordinate courts as well. It was provided that in this service posts not inferior to that of district judge shall be included.

It was also provided that law providing for the creation of the All India Judicial Service aforesaid may contain such provisions for the amendment of subordinate courts as may be necessary for giving

effect to the provisions of that law and no such law deemed to be an amendment of this constitution for purposes of Article 368. In this way the powers of the states were effected.

Then it is left to the Rajya Sabha to initiate a proposal for the removal of Vice-President of India from his office. In addition, when emergency is in operation in the country and the Lok Sabha has been dissolved, it is left to the care of the Rajya Sabha to keep an eye on the activities of the government and to see that emergency powers are not misused.

Critical Study of a Working of the Rajya Sabha:

Now a question arises as to what is the real position of the Rajya Sabha. Is it really a House which is significantly contributing to the Indian political system or merely it is a House which has been created because India is a Union of States and a Union must have a bicameral system of legislature.

It was accepted even in the Constituent Assembly that in Indian Parliament centre of political activity shall be the Lok Sabha. But it was perhaps never the intention of constitution makers that the Rajya Sabha should be an appendage of the Lok Sabha, because had that been so, that House would not have been given some exclusive powers.

In the words of Pylee, "The Rajya Sabha is an important part governmental machinery and not an ornamental super-structure or an unessential adjunct." With the passage of time in India, different political parties have been nominating politically mature persons for the Upper House who have earned name for their sincerity.

Same can be said about nominations made by the President. They are the persons who have significantly contributed in their respective fields and also have sound views on every bill which comes up for discussion.

Now comes controversial problem of representation of the states. Some critics argue that like any other federation, in India too the representatives are not chosen on the basis of those who represent the interests of the state, but on the basis of strength of political party in power in the state.

At the time of every biennial election the composition of the Rajya Sabha changes because the political party which is in power in the state at that time returns representatives belonging to it.

Thus they feel that the Rajya Sabha does not serve the basic purpose for which it was created. They argue that the members in the Rajya Sabha express their views on the basis of their party affiliations. Even if that is so and the argument is accepted then such a situation is unavoidable in our present day political system in which every institution must work on the basis of party affiliations.

The Rajya Sabha so far has refused to act as mere shadow of the Lok Sabha. As early as in 1953 it directed its member, who was then Law Minister of the government, not to associate himself with any activity of the Lok Sabha, as long as the House is given proper representation, along with the Lok Sabha on Public Accounts Committee.

The House persisted on this demand till Prime Minister Nehru intervened and agreed that the Rajya Sabha shall have seven representatives on the Committee. A year later in 1954 when N.C. Chatterjee, a Member of the Lok Sabha, called the Rajya Sabha as a pack of urchins and there was much resentment in the House. It was after great difficulty that the matter could be settled.

In 1963, the Rajya Sabha felt that an attempt was being made in the Lok Sabha to deprive it to discuss the budget before its discussion in that House. This was resented by the House. In 1961, it

forcefully stuck to its views on Dowry Prohibition Bill, when in order to solve the problem a joint session of both the Houses was held and in that one of the two major recommendations of the Rajya Sabha were accepted.

In 1968, the Lok Sabha decided to refer Banking Companies (Amendment) Bill to a Select Committee of its own.

The Rajya Sabha resented this and demanded that a Bill of this nature should be referred to Joint Select Committee of both the Houses. In 1970, came Constitutional Twenty-Fourth Amendment Bill, which had been passed by the Lok Sabha.

It proposed abolition of Privy purses and privileges of Indian princes. It was a major issue, and the Rajya Sabha exerted itself and voted against it, and the amendment could not be carried out.

In 1977, Janata Party came to power in the Lok Sabha and formed its government. At that time Congress party was in majority in the Rajya Sabha. In April 1977, the Lok Sabha passed two measures which were sent to the Rajya Sabha for its approval.

The latter House suggested certain amendments, which were not acceptable to the government and the Home Minister decided that both these bills be allowed to lapse, rather than bowing to the pressure of the Rajya Sabha.

Again the Rajya Sabha asserted itself when it demanded that a copy of the charges of corruption, etc., against the family members of Prime Minister Desai and Home Minister Charan Singh should be placed on the Table of the House. For days together, it did not allow the government to proceed smoothly with its normal work.

In 1979, elections were again held in the country and on the basis of results declared in early 1980 Congress (I) formed government at the centre. At that time Janata Party was in majority in the Rajya Sabha. When a motion of thanks to the President for his address was sent to the Rajya Sabha, after its approval by the Lok Sabha, the former passed that in an amended form.

It was for the first time that in the history of Parliament in India that the Rajya Sabha amended a Presidential Address. In 1989, the Rajya Sabha forcefully raised its concern over Bofor Gun deal issue and made the working of the House difficult.

Again in the history of Indian Parliament several occasions have arisen when the Rajya Sabha made amendments in the Bills passed by the Lok Sabha and thus acted as a true revisory body, which is one of the important functions of an Upper House.

The House has also helped the Lok Sabha to relieve it from some of the burden of its work. Several non-money bills are introduced in this House, which otherwise would have been introduced in the lower House and thus its burden of work would have considerably increased.

Even Constitutional Amendment Bills e.g., 40th Constitutional Amendment were introduced in the Rajya Sabha. In the absence of this House, it would always have been very difficult for the Lok Sabha to cope with heavy work load.

About the position of the Rajya Sabha Prof. K.V. Rao says. "An awkward situation may well arise if a government has slender majority in the Lok Sabha but to which a substantial majority of the Rajya Sabha is opposed, is defeated in a joint sitting of two Houses."

As even one is aware that the Janata Party was quite keen that changes introduced by Forty-Second Constitution Amendment Act, should be revoked. But it knew that in the Rajya Sabha Congress party

was in power and as long as Rajya Sabha was not agreeable, constitution could not be amended. Accordingly it could amend the constitution only to the extent to which the Rajya Sabha agreed with government views.

Similarly Constitution 64th and 65th Amendment Bills could not be introduced in August 1989 session of the Rajya Sabha because at that time ruling Congress (I) did not have requisite two-thirds majority in the House. In October 1989 session when these Bills were introduced in the Rajya Sabha that House disapproved these and thus exerted its authority.

Thus, in India the Rajya Sabha has, to a great extent, justified its existence. Its role and responsibility is being now increasingly felt under changed circumstances. As long as Congress party was in power in both the Houses, there was not much of a problem, because it was sure that under party discipline the Rajya Sabha would agree to what is passed by the Lok Sabha.

But between 1977 and 1979 Janata party, and in 1989 again ruling Congress (I) felt the taste of Rajya Sabha power and existence when it was faced with a hostile Upper House. Similarly in 1980, Congress(I) which was in power in the Lok Sabha felt the punch of Rajya Sabha, where Janata Party was in power and this situation is now frequently arising.

Since P.V. Narsimha Rao government did not have requisite majority in the Rajya Sabha, it could not get some Constitution Amendment Bills passed, which otherwise it would like to have passed. It is said that the Rajya Sabha exerts itself only when the same political party which controls it is not in power in the Lok Sabha but not otherwise.

The Other Side of the Picture:

But there are many critics of the Rajya Sabha in India. They argue that Upper House of the Parliament has not come up to the expectations of the constitution makers. According to them founding fathers of the constitution wanted that the Rajya Sabha would have elderly persons as its members.

But in actual practice what has happened is that the average age of the Lok Sabha members and those of the members of Rajya Sabha has remained almost the same.

It was also expected that the Rajya Sabha will present the composition of the state legislatures, but that too has not happened. On the other hand, the members of the Rajya Sabha have been working on political basis rather than keeping interests of the states into consideration.

In effect the trend of discussions on important Bills, both in the Lok Sabha and the Rajya Sabha has always been on party lines. Then it is argued that in the Rajya Sabha, on several occasions, political parties have provided membership to their disgruntled party leaders for their satisfaction, who otherwise could not be placed in any position of authority.

These critics also argue that founding fathers of the constitution also left certain inherent defects in the composition of the Rajya Sabha, for the reasons best known to them. By providing seats to each state in the Rajya Sabha, more or less on the basis of population, they aimed at giving more representation to bigger states like U.P., Maharashtra and Bihar than to small states and Union Territories.

Incidentally these for long remained Congress strong holds. They also allege that 12 members who are to be nominated by the President, will always side with the centre, firstly, because they represent no state, and secondly, because Central government will nominate a person who is not

opposed to their policies and thus can tilt the balance in favour of centre, as against the interests of the states, at any time.

It was in 1973 that a senior Congress Member of the Lok Sabha, Bhibhuti Misra, moved a resolution in the Lok Sabha that Upper House should be abolished. He pointed out that even Gandhiji and Pt. Nehru supported unicameral legislature. He argued that membership of the Rajya Sabha was back door entry to Parliament.

According to him without this House it would have been easy for the Lok Sabha to implement its progressive programmes; like bank nationalisation and abolition of privy purses or to introduce far-reaching land reform measures. But the proposal was not supported by majority of the members who felt that a bicameral system of legislature was unavoidable for a federal polity.

In India the Rajya Sabha on the whole has held good reputation for high standard of debates on important issues and has also successfully delayed legislation on matter which might otherwise been the outcome of the passions of the moment.

It is not only the best constituted second chamber in the world but as Prof Jatendra Rajan once remarked, "It is also the most well balanced in its powers to fit in modern democracy and to serve the constitutional purpose which a second chamber in democracy is required to perform in the best possible manner."

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