



**SNS COLLEGE OF ENGINEERING**



**Coimbatore-107**

**An Autonomous Institution**

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**COURSE NAME : INDIAN CONSTITUTION**

**I YEAR/ I SEMESTER**

**UNIT – IV STATE GOVERNMENT**

**Topic:**

Governor-Chief Minister-Council of Ministers- State Legislature  
Organization- High Court & Jurisdiction

### **Governor (Article 153 to Article 162) Part VI:**

- The Governor is the Executive Head of the State in India and the working remains the same as of the office of President of India bound by the advice of his council of ministers.
- He functions as a **vital link** between the Union Government and the State Government.

### **Constitutional Provisions related to Governor**

- One person can be appointed as Governor for two or more States.
- **Article 157** and **Article 158** of the Constitution of India specify eligibility requirements for the post of governor. They are as follows:

### **Eligibility of a governor:**

1. Be a citizen of India.
2. Be at least 35 years of age.
3. Not be a member of the either house of the parliament or house of the state legislature.
4. Not hold any office of profit.

The **term of governor's office is normally 5 years** but he can be terminated earlier by:

1. Governor, whose acts are upheld by courts as unconstitutional can be dismissed by the president on the advice of the council of minister headed by the prime minister.
2. When his policies and ideologies mismatches with the Union government or the party in power at the Centre.
3. Resignation by the governor on own constraints.

### **How is the Governor Appointed in India?**

- It is the President of India appoints the Governor for each state. The responsibility for lies within the Central Government.
- The candidate appointed as the governor of the particular state must not have any relations with the same state.
- The President of the country consults the Chief Minister of the state before appointing the governor.
- No direct or indirect elections are held in the country for appointing the governor.

### **Powers and Functions of An Indian Governor:**

The powers and functions of the Indian Governor are divided into four main categories:

#### **1.Executive Powers of The Indian Governor:**

- Every executive action can be taken by the state government only with the authentication of the governor.
- It is the governor who appoints the advocate general of the state, the State **Election Commissioner**, Chairman and Members of the state **Public Service Commission**, and Vice-Chancellors of the state's universities.

#### **2. Legislative Powers of The Indian Governor:**

- It is the governor who has the power dissolve the legislative assemblies of the state.
- The state legislature is addressed by the governor at the first session of each year.
- The President appoints 12 members in Rajya Sabha and the Governor has the power to **appoint 1/6th of** the total members from the fields- Science, Literature, art, Social Service, and Cooperative Movement.
- The President appoints 2 members in the Lok Sabha, and the Governor, from the Anglo-Indian Community, **appoints 1 member in the** state legislative assembly.
- The bill introduced in the state legislature can be either passed, withheld, returned, or reserved for the consideration of the President by the Governor.

#### **3. Financial Powers of The Indian Governor:**

- The governor must recommend budget, money bill and grants in the state legislature.

- The Contingency Fund of State is under the governor and he has the right to use to meet unforeseen expenditure.
- It is the governor who appoints the State Finance Commission every five years.

#### **4.Judicial Powers of The Indian Governor:**

- The pardoning powers that a governor has against the punishment are pardon, reprieve, respite, remit, and commute.
- It is the Governor with whom the Indian President consults before appointing the judges of the High Court.
- It is the Governor who consults with the State High Court for appointments, postings, and promotions of the district judges and candidate to judicial services.

#### **Topic-2**

#### **(Article 163 – Council of Ministers):**

The **State Council of Ministers (CoM)** is a central body that forms part of the executive branch of the State Government. They are appointed by the Governor of State on the advice of the Chief Minister.

It is the **real executive authority that serves** as the **principal advisory body to the Governor.** It also plays a pivotal role in decision-making, as well as in the **formulation and implementation of government policies.**

#### **Constitutional Provisions Related to State Council of Ministers (CoM)**

The important constitutional provisions related to the State Council of Ministers (CoM) in India are listed in the following table.

<b>Article</b>	<b>Subject-Matter</b>
<b>Article 163</b>	Council of Ministers to aid and advise Governor
<b>Article 164</b>	Other provisions as to Ministers
<b>Article 166</b>	Conduct of business of the Government of a State

Article	Subject-Matter
Article 177	Rights of Ministers as respects the Houses

### Composition of State Council of Ministers

- State **Council of Ministers (CoM)** in India refers to a **group of ministers headed by the Chief Minister** .
- However, the Constitution **does not** specify the **ranking of ministers or the size of the State Council of Ministers**.
  - They are decided by the **Chief Minister of the State** according to the time and situation.
- The State Council of Ministers comprises the following **three categories of ministers**:
  - Cabinet Ministers,
  - Ministers of State (MoS), and
  - Deputy Ministers.

### Cabinet Ministers

- Cabinet Ministers are the ones who head important departments of the State Government such as Home, Defence, Finance, etc.
- These ministers are the members of the Cabinet, attend meetings and deciding the policies of the government.

### Ministers of State (MoS)

- Ministers of State (MoS) are the ones who can either be
  - Attached to the Cabinet Ministers; or
  - Given an independent charge of Ministries/Departments.
- However, they are **not a member of the Cabinet and do not attend its meetings** unless specifically invited.

### Deputy Ministers

- Deputy Ministers are not given independent charge of the departments.

- They are, rather, **attached to the Cabinet Ministers** and assist them in their duties.
- They are **not members of the Cabinet** and do not attend the meetings of the Cabinet.

**Note:** The Council of Ministers also include a **Deputy Chief Minister** appointed for **local political reasons**.

### **Appointment of Ministers**

The constitutional provisions regarding the appointment of ministers of the State Council of Ministers (CoM) in India are as follows:

- A person who is **not a member of either House of the State Legislature** can also be appointed as a minister.

The State Council of Ministers (CoM) have **two types of responsibilities – Collective Responsibility and Individual Responsibility**. Moreover, in the Indian context, the ministers have **no Legal Responsibility**.

### **Collective Responsibility**

Article 164 contains the principle of Collective Responsibility.

- When the State Legislative Assembly passes a No-Confidence Motion against the State Council of Ministers (CoM), all the ministers have to resign
- The State Council of Ministers can advise the Governor to dissolve the State Legislative Assembly and calls for fresh elections.

### **Individual Responsibility**

- **Article 164** also contains the **principle of Individual Responsibility**.
- **Governor can remove a minister even at a time when the Council of Ministers enjoys the confidence of the State Legislative Assembly.**
- In case of a difference of opinion or dissatisfaction with the performance of a Minister, the **Chief Minister** can ask him to **resign or advise the Governor** to dismiss him.

### **No Legal Responsibility**

In India, there is **no provision for a system of legal responsibility** of a Minister at both the Central and the State level.

Council of Ministers	Cabinet
It is a wider body, consisting of 60 to 70 Ministers.	It is a smaller body, consisting of 15 to 20 Ministers.
It includes all three categories of ministers – Cabinet Ministers, Ministers of State, and Deputy Ministers.	It includes the Cabinet Ministers only. Thus, it is a sub-set of the Council of Ministers.
It does not meet, as a body, to transact government business. Thus, it has no collective functions.	It meets, as a body, frequently and usually once in a week to deliberate and make decisions regarding the transaction of government business. Thus, it has collective functions.
It is vested with all powers but in theory.	It exercises, in practice, the powers of the Council of Ministers and thus, acts for the latter.
Its functions are determined by the Cabinet.	It directs the Council of Ministers by making policy decisions that are binding on all Ministers.
It implements the decisions taken by the Cabinet.	It supervises the implementation of its decisions by the Council of Ministers.
It is collectively responsible to the Lower House of the Parliament.	It enforces the collective responsibility of the Council of Ministers to the Lower House of Parliament.

## State Legislature Organization

The state legislature can be,

1. unicameral, with one house called the State Legislative Assembly or Vidhan Sabha

Or

2. bicameral, with two houses, the State Legislative Assembly and the State Legislative Council or Vidhan Parishad.

### Functions

The state legislature's functions include:

- **Law making:** The state legislature makes laws on matters in the state list and concurrent list.

- **Financial powers:** The state legislature authorizes the state government's expenditures, taxes, and revenues.
- **Electoral functions:** Elected members of the Vidhan Sabha are part of the Electoral College for electing the President.
- **Control over the executive:** The state legislature controls the executive, and the Council of Ministers is responsible to the Vidhan Sabha.

### Term

The term of the State Legislative Assembly is five years, but the Governor can dissolve it earlier.

Legislative Assembly (Vidhan Sabha) Article 170:

- It is also known as lower house or popular house exists in every state.
- It is the most powerful body in a state legislature.
- The Legislative Assembly of each State shall consist of **not more than five hundred, and not less than sixty members.**
- The members of the Vidhan Sabha are **directly elected by people on the basis of universal adult franchise.**
- Members of the Vidhan Sabha shall elect a presiding officer amongst themselves who shall be the Speaker.

Legislative Council (Vidhan Parishad)

- **Article 169 of the COI** deals with Legislative Councils in States.
- total membership should be a **majority of not less than two-thirds of the members of the Assembly** present
- It is known as the Upper house of the state legislature.
- It does not necessarily exist in every state.
- Currently states like **Uttar Pradesh, Bihar, Karnataka, Maharashtra and Jammu & Kashmir** have Vidhan Parishad.



## Powers & Functions of State Legislature

- **Law Making Authority:**

- The State Legislature has the power to make laws based on the matters present in the state list and concurrent list.
- The State Legislature shall also make money bill and ordinary bill.

- **Financial Powers:**

- Ordinary bills can be introduced in both the houses of the state legislature (if Vidhan Parishan is present)
- Money bill to be introduced in the Vidhan Sabha first.
- The Speaker of the Vidhan Sabha certifies that a particular bill is a money bill.