

Vice President Resigns: What Happens Next?

A Quick Legal Look

The sudden resignation of India's Vice President, **Jagdeep Dhankhar**, citing health reasons- with nearly two years remaining in his five year term- has triggered widespread speculations and fueled various conspiracy theories. However, this article shifts focus from speculation to the legal and constitutional aspects that come into play when a Vice-President resigns mid-term.

If you are curious about the legal roadmap following a sudden resignation from one of the country's highest constitutional offices, read on.

Part V, chapter I of the Indian Constitution encompassing Articles 63-71 – lays down provisions relating to the Vice-President of India, including their powers, term of office, election, oath or affirmation, the discharge of the President's functions in certain situations and matters connected to the election of both the President and the Vice-President.

The Indian Constitution, under **Article 63**, mandates the position of Vice-President. **Article 64** assigns the Vice-President the role of ex-officio Chairman of the Rajya Sabha and prohibits holding any other office of profit during the term. Despite the title, the Vice-President primarily functions as the presiding officer of the Rajya Sabha and is entitled to the salary and allowances of its Chairman, rather than a separate Vice-Presidential pay.

This brings us to an important question: **How is the Vice-President of India actually get elected?**

Unlike the Prime minister, who is indirectly chosen through nationwide general elections, or the Chief minister, who is selected by elected members of a State Legislature Assembly, the common citizens of India don't vote to elect the Vice-President.

The process is laid out in **Article 66** of the Indian Constitution, which States that the Vice-President is elected by an electoral college Consisting of the members of both the Houses of Parliament – the Lok Sabha (lower house) and the Rajya Sabha (Upper house). The election is conducted using the system of proportional Representation by means of a single transferable vote, and voting is done by secret ballot.

A nominee for the Vice-President must not be a member of either house of Parliament or any State legislature. If such a person is elected as Vice-President, they are deemed to have vacated their seat in the house on the date they assume office.

Any doubts or disputes related to the Vice-President's elections are referred to the Supreme Court of India, and the Court's decision is final and binding.

Article 67 of the Indian Constitution lays down the term of office of the Vice President. It states that the Vice President shall hold office for a term of five years from the date he assumes office. However, the Constitution does not prevent the Vice President from resigning before the completion of the term.

If a Vice President chooses to resign mid-term, they may do so by submitting a written resignation to the President of India.

Importantly, when a new Vice President is elected to fill the vacancy caused by such a resignation, the newly elected Vice President begins a fresh five-year term — the term does not merely cover the remainder of the predecessor's tenure. This ensures that every elected Vice President serves a full five-year term, regardless of when the vacancy arises.

In light of the recent resignation of Jagdeep Dhankhar, India's Hon'ble Vice President, several questions have emerged — especially from those unfamiliar with the constitutional process. One of the most pressing questions is: **Who performs the duties of the Vice President when the office falls vacant unexpectedly?**

Interestingly, the Constitution of India is largely silent on this matter. It does not clearly specify who takes over the Vice President's role when the position becomes vacant due to resignation, death, or removal.

Since the Vice President also serves as the Chairperson of the Rajya Sabha, the question arises: **Who presides over the Rajya Sabha in the absence of the Vice President?**

In such cases, the Deputy Chairperson of the Rajya Sabha steps in to perform the functions of the Chairperson. If the Deputy

Chairperson is unavailable, a panel of Vice-Chairpersons — consisting of senior members of the Rajya Sabha — takes over, based on seniority and rotation. These members preside over the proceedings until a new Vice President is elected, or until the current Vice President resumes office in case of temporary absence due to reasons like illness or travel.

This arrangement ensures that the functioning of the Rajya Sabha continues smoothly, even in the absence of its ex officio Chairperson.

Even though the Vice President of India presides over the Rajya Sabha as its ex officio Chairperson, it is important to note that he is neither an elected nor a nominated member of the House.

The Vice President does have a special voting power. In case of a tie during voting in the Rajya Sabha, the Vice President is empowered to cast a deciding or “casting vote”. This unique authority ensures the smooth passage of business in the event of deadlock — a power that reinforces the Vice President’s role as a neutral yet decisive figure in parliamentary proceedings.

When a Vice President leaves office abruptly—whether due to resignation, death, or removal—the Constitution of India does not specify an exact timeline for when the election to fill the vacancy must be held.

Article 68(2) of the Constitution simply states that the election to fill such a vacancy “**shall be held as soon as possible**” after the occurrence of the vacancy. These words provide flexibility but

offer no fixed deadline, leaving it to the discretion of the Election Commission of India to decide the appropriate timeline.

There is more clarity in a different scenario. If the Vice President is completing a full five-year term, then the election to choose the next Vice President must be completed before the outgoing Vice President's term expires. This ensures continuity in the office without any interim vacancy.

In contrast, when a resignation or unexpected vacancy occurs, the Constitution only mandates that the process should begin "as soon as possible" — reflecting both urgency and discretion in such matters.

As India completes over 75 years as a Republic, it's significant to note that Vice Presidential resignations mid-term are exceptionally rare. With the recent resignation of Jagdeep Dhankhar, this marks only the third time in Indian history that a Vice President has left office before completing the full five-year term.

The **first such instance** was that of **V. V. Giri**, who served as Vice President for just 1 year and 355 days. At the time of his resignation, he was serving as the Acting President of India, and he stepped down to contest the Presidential election.

Following his resignation, the office of the Vice President remained vacant for 120 days. Within this period, Gopal Swarup Pathak was elected as the new Vice President. Although the Constitution does not mention a fixed timeframe for filling the

vacancy, historical practice shows that the post has not been left vacant for long.

The **second instance** occurred when **R. Venkataraman** resigned from the Vice Presidency after 2 years and 327 days in office, on 24th July 1987, a day before he took oath as the President of India. This time, the Vice President's post was vacant for only 41 days, before a new Vice President was elected.

These rare events reflect the importance of maintaining continuity in high constitutional offices. They also demonstrate that, while the Constitution only uses the phrase “as soon as possible”, in practice, efforts are made to ensure that the Vice President’s office is filled promptly.

The election of the Vice President, especially in the wake of a sudden vacancy, is a powerful reflection of India’s vibrant democratic spirit. It showcases the strength of constitutional mechanisms that ensure continuity, stability, and accountability in governance. Even though the citizens do not directly vote for the Vice President, the process involves elected representatives from across political parties, bringing together diverse voices under one constitutional framework.

In a country as vast and complex as India, such smooth transitions through structured, rule-bound elections are a true testament to the maturity and resilience of its democracy — where institutions matter more than individuals, and the

system continues to function with integrity, no matter how unexpected the situation.