

Session7

Roles and position of Governor, CM, and Council of ministers of states: Legislative, and Executive Control

Governor of a State:

- The Governor is the head and Chief Executive in the state.
- His responsibilities for the state are those of the President in the Centre.
- **One person can also function as a Governor of two or more states.**
- The person being appointed as the Governor is mostly not a resident of the state for which he is appointed.
- Union Government consults the concerned State Governments particularly the Chief Minister for the appointment of the Governor.

➤ **20.Criteria for the appointment of the Governor:**

- a. Governor must be a citizen of India.
- b. He should be above 35 years of age.
- c. Should not be either MP or MLA of any state.
- d. Should not be holding any office of profit in the Government.

14 The Governor is appointed for a period of five years. e. Should not have been declared bankrupt by any court of law.

- The President can remove or transfer the Governor at any time.
- Powers and Functions of the Governor:
 - a. Appoints the Chief Minister and other ministers on the CM's advice.
 - b. The Governor can remove the Chief Minister.
 - c. Advocate General, Chairman and Members of Public Service Commission, Vice-Chancellors in the state are appointed by the Governor.
 - d. The CM of the State must consult the Governor about the state administration and the functioning of his ministry.
 - e. The President consults the Governor for the appointments of State High Court judges. The Governor is also the Chancellor of the state universities.
 - f. All bills become laws in the state only after the signatures of the Governor.
 - g. **13 The Governor can dissolve the state legislative assembly.**
 - h. The Governor orders the annual budget be placed before the state legislature.
 - i. He can influence the appointments, postings and promotions of the district judges and other judicial officials. He has the power to grant pardon, reprieve or remission of punishment or to suspend, remit or commute the sentences of any person, convicted of any offence against any law.

Task 1: Make a table differentiating governor's and president's '*Pardoning powers and veto powers*'

Ans: The Difference between the Pardoning powers of Governor and President:

Power of pardon under Article 73 and 161 by the Constitution is different from judicial power as the governor or the President can grant pardon or reduce the sentence of the court even if a minimum is prescribed. **The power differs in the following two ways:**

Pardoning power of President	Pardoning power of Governor
<ol style="list-style-type: none"> 1. The power of the President to grant pardon extends in cases where the punishment or sentence is by a Court Martial. 2. The President can grant pardon in all cases where the sentence given is sentence of death <p>The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence -</p> <ol style="list-style-type: none"> a) in all cases where the punishment or sentence is by a Court Martial; b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends; 	<ol style="list-style-type: none"> 1. But, article 161 does not provide any such power to the Governor. 2. But pardoning power of Governor does not extend to death sentence cases. <p>Power of Governor to grant pardons, etc, and to suspend, remit or commute sentences in certain cases The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.</p>

- c)** in all cases where the sentence is a sentence of death.

Thus, Article 72 empowers the President to grant pardons etc. and to suspend, remit or commute sentences in certain cases.

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The Difference between the veto powers of Governor and President:

	Veto powers of President	Veto powers of Governor
With Regards to Ordinary Bill-	<p>1. Every ordinary bill, after being passed by Lok Sabha and Rajya Sabha is presented to the President for his assent and he can take three steps -</p> <p>a) He may give his assent to the bill and the bill becomes an act.</p> <p>b) He may withhold his assent to the bill, the bill then ends and does not become an act (Absolute Veto).</p> <p>c) He may return the bill for reconsideration of the Houses. If the bill is passed by both the Houses again with or without amendments and</p>	<p>1. Every ordinary bill, after it is passed by the legislative assembly in case of a unicameral legislature or by both the Legislative Assembly and Legislative Council in case of a bicameral legislature, is presented to the governor for his assent. In this case Governor has four alternatives -</p> <p>a) He may give his assent to the bill and the bill then becomes an act.</p> <p>b) He may withhold his assent to the bill, the bill then ends and does not become an act (Absolute Veto).</p>

	<p>presented to the President for his assent, the president must give his assent to the bill. Thus, the president enjoys only a 'suspensive veto'.</p>	<p>c) He may return the bill for reconsideration of the House or Houses. If the bill is passed by the House or Houses again with or without amendments and presented to the governor for his assent, the governor must give his assent to the bill. Thus, the governor enjoys only a 'suspensive veto'.</p> <p>d) He may reserve the bill for the consideration of the President.</p>
<p>With Regards to Money Bill-</p>	<p>2. Every money bill after it is passed by the Parliament, is presented to the President for his assent.</p> <p>In this case he has 2 options -</p> <p>a) He may give his assent to the bill and the bill then becomes an act.</p> <p>b) He may withhold his assent to the bill, the bill then ends and does not become an act.</p> <p>The President cannot return a money bill for the reconsideration of the Parliament.</p>	<p>2. Every money bill, after it is passed by the state legislature (SLA or SLA&SLC), is presented to the governor for his assent.</p> <p>In this case Governor has three options -</p> <p>a) He may give his assent to the bill and the bill then becomes an act.</p> <p>b) He may withhold his assent to the bill, the bill then ends and does not become an act.</p> <p>c) He may reserve the bill for the consideration of the president.</p> <p>He cannot send the Bill back to the SLA for reconsideration and he normally accords his assent to the Money Bill as it is introduced with his prior consent</p>

Question 1: What is Council of Ministers of State? How do they function?

Ans: The Constitution of India provides for a parliamentary system of government at the state level. The Governor acts as the constitutional and nominal executive head of the state. The real executive powers are in the hands of the State Council of Ministers headed by the Chief Minister. The Constitution provides for each state a Council of Ministers with the Chief Minister as its head for aiding and advising the Governor in the exercise of his functions. However, in reality the Chief Minister and his Council of Ministers act as the real executive in the State.

Their Functions:

Responsibility of State Council of Ministers to the State Legislative Assembly:

The State Council of Ministers is collectively responsible before the State Legislative Assembly. In case the latter passes a vote of no-confidence against the Council of Ministers or against the Chief Minister or rejects any bill sponsored by the Ministry or rejects the budget of the Government, or rejects any policy of the Government, or cuts the funds of the state government, the entire Council of Ministers resigns. The Council of Ministers remains in office so long as it enjoys the support and confidence of the majority in the State Legislative Assembly.

Powers and Functions of the State Council of Ministers:

The State Council of Ministers is the real executive of the state. It exercises vast executive powers.

(a) Formulation of State Policies:

The Council of Ministers in reality the state cabinet has the responsibility of formulating the policies of the state. All the policies are discussed and decided upon the State Cabinet (Not by the entire Council of Ministers.)

(b) Running of Administration:

The State Council of Ministers runs the state administration. The ministers are responsible for this work. They do so in accordance with the policies of the government as approved and passed by the state legislature. Their duty is to see and ensure that the administration of the state is run in accordance with these policies.

(c) Co-ordination Function:

The State Cabinet is also responsible for securing co-ordination in the working of various governmental departments. It has the responsibility to resolve conflicts and deadlocks between various departments.

(d) Appointment-making Powers:

The Cabinet makes all important appointments in the state. The appointments of the Advocate General, Vice Chancellors or Pro-Vice Chancellors etc., are all made by the Governor on the advice of the Chief Minister and his Council of Ministers.

(e) Role in Law-making:

Law-making is the function of the state legislature but the ministers play a key role in this sphere. It is the ministry which really decides the legislative agenda. Most of the bills, nearly 95%, are introduced and piloted by the ministers in the state legislature. The bills moved by the ministers are mostly passed by the legislature because the ministry enjoys the support of the majority. A private member bill has little chance of getting passed, unless it is supported by the minister

When the state legislature is not in session, the Council of Ministers can satisfy the need for law-making by getting ordinances issued from the Governor. These ordinances have the force of law and can be got converted into laws from the State Legislature when it comes into session. The Governor, summons, prorogues and dissolves the state legislature upon the advice of the Chief Minister and his Council of Ministers. Thus, the Council of Ministers plays an important role in law-making process.

(f) Financial Functions:

The Council of Ministers manages the finances of the state. The Cabinet really determines the fiscal policies of the state. It formulates and implements all developmental policies and plans. It manages the finances of the state in accordance with the policies and budget as prepared by the State Council of Ministers and approved by the state legislature.
