

## Working of Institutions

In a democracy, the rulers have to work with and within institutions. In this process, they come across three institutions i.e. legislature, executive and judiciary, that play a key role in major decisions.

### Process of taking a Major Policy Decision

A major policy decision is taken through a government order. To know the process of taking a major policy decision, it is important to know about government order and its issuing.

#### A Government Order

- **Issuing of Government Order** A government order is a written direction on an issue signed by a government authority (office). It is called an **Office Memorandum**<sup>1</sup>. For example, one such order was issued by the Government of India in 1990 (13th August) regarding a major policy decision. It allows **27% reservation**<sup>2</sup> of **Socially and Educationally Backward Classes (SEBC)** in civil posts and services under the Government of India.
- **Controversy Over the Order** The issuing of order sometimes led to the countrywide protest. Some of the protests are violent. As a result, the issue becomes the most debated in the media with different views and opinions.
- **Appeal to Stop Implementation of Order** Some persons and associations file a number of cases in courts against the order. They appeal to declare the order invalid and stop its implementation.

1 **Government** A set of institutions that have the power to make, implement and interpret laws, so as to ensure an orderly life. In its broad sense, government administers and supervises over citizens and resources of a country.

2 **Office Memorandum** A communication issued by an appropriate authority stating the policy or decision of the government.

3 **Reservation** A policy that declare some positions in government employment and educational institutions 'reserved' for people and communities, who have been discriminated against, are disadvantaged and backward.

#### Chapter Syllabus

- How is the Major Policy Decision Taken?
- Parliament
- Political Executive
- The Judiciary

- **Court's Intervention and Modifications in Order** The Supreme Court or High Courts examine the constitutional validity of the order and modify it, if there is any violation of constitutional provisions.

### The Decision Makers

The major decision makers involved in a government order are

- **President** He is the head of the state and is the highest formal authority in the country.
- **Prime Minister** He is the head of the government and actually exercises all governmental powers. He takes most of the decisions in the Cabinet meetings.
- **Parliament** It consists of the President and two houses i.e. Lok Sabha and Rajya Sabha.

#### Mandal Commission Report

The Government of India had appointed the **Second Backward Classes Commission** in 1979. It was popularly known as **Mandal Commission**, headed by BP Mandal.

The commission gave its report in 1980 and made recommendation of 27% of reservation in government jobs for the socially and educationally backward classes. The report and recommendation were discussed in the parliament but were not implemented.

On 6th August, 1990, a formal decision for implementation of the Mandal Commission report was taken by the cabinet of the then Janata Dal Government under the leadership of VP Singh. The Prime Minister informed both the houses of the Parliament about the decision. The decision of the cabinet was sent to the Department of Personal and Training.

After the decision of the government, newspapers and magazines were full of different views and opinions on this issue. It led to widespread protests and counter protests, some of which were violent. People reacted strongly because this decision affected thousands of job opportunities.

### Need for Political Institutions

**Political Institutions**<sup>4</sup> are the arrangements made in the democracies to take and implement decision, to see what is wrong and what is right in case of disputes regarding the decision. There are several such institution at work in our democracy. These are

- (i) The Prime Minister and the cabinet are institutions that take all important policy decisions.

- (ii) The civil servants, working together are responsible for taking steps to implement the minister's decisions.
- (iii) The Supreme Court is an institution where disputes between Citizens and the government are finally settled.

Institutions involve rules and regulations, which limits the authority of the leaders. Without the functions of the tasks assigned to political institution, the democracy cannot work.

Institutions make it difficult to have a good decision taken very quickly. But they also make it equally difficult to rush through (take quickly) a bad decision. Thus, the democratic governments favour institutions.

### Parliament

In all democracies, an assembly of elected representatives exercises **Supreme Political Authority** on behalf of the people. In India such a national assembly of elected representatives is called **Parliament**. At the state level it is called **Legislature** or **Legislative Assembly**<sup>5</sup>.

In other words, Parliament is a set of people elected regularly by the people of the country, directly (through direct elections) or Indirectly (through indirect elections).

All the decisions taken by the government, before implementation are discussed in the Parliament. Decisions can be implemented only after the approval by the Parliament.

### Need of Parliament

We need Parliament due to the following reasons

- (i) Parliament is the final authority for making new laws and changing existing laws in India.
- (ii) In India, the control of Parliament over the government is direct and full. Those who run the government can take decisions only as long as they enjoy support of the Parliament.
- (iii) Parliament controls all the money of the government. In most countries, the public money can be spent only when the Parliament sanctions it.
- (iv) Parliament is the highest forum of discussion and debate on public issues and national policy in any country. Parliament can seek information about any matter.

4 **Political Institution** A set of procedures for regulating the conduct of government and political life in the country.

5 **Legislature or Legislative Assembly** An assembly of people's representatives with the power to enact laws for a country. In addition to enacting laws, legislatures have authority to raise taxes and adopt the budget and other money bills.



## Two Houses of Parliament

The Parliament plays a central role in modern democracies. Large countries have divided the role and powers of Parliament into two parts. They are called **Chambers or Houses**.

Indian Parliament consists of two houses or chambers which are

- Lok Sabha (House of the People) or Lower Chamber**

It is usually directly elected by the people and exercises the real power on behalf of the people. The Lok Sabha or the Lower House is composed of the elected representatives of the people. The Prime Minister must have the support of a majority of Lok Sabha members.

- Rajya Sabha (Council of States) or Upper Chamber**

It is indirectly elected and performs special functions such as interest of various states, regions or federal units. The Rajya Sabha or Upper House represents the interests of the States and Union Territories.

The **President of India** is a part of the **Parliament**, although he/she is not a member of either house. Due to this reason, all laws made in the houses come into force only after they receive the assent of the President.

### Special Powers of Lok Sabha Over Rajya Sabha

Our Constitution gives some special powers to Rajya Sabha but on most of the matters, the Lok Sabha exercises supreme power. These are

- Any ordinary law needs to be passed by both the houses. However if there is a difference between the two houses, the final decision is taken in a joint session. Due to larger number of members, the view of Lok Sabha will prevail in such a session.
- Lok Sabha exercises more powers in money matters. Once the Lok Sabha passes the budget of the government or any other money-related law or **Money Bill**<sup>6</sup>, the Rajya Sabha cannot reject it.
- The Rajya Sabha can only delay money bill by 14 days or suggest to change it. However, the Lok Sabha may or may not accept these suggestions.
- The Lok Sabha controls the **Council of Ministers**. Only a person who enjoys the **support of the majority of the members** in the Lok Sabha is appointed as the **Prime Minister**. If the majority of the Lok Sabha members say that they have no confidence in the Council of Ministers, all ministers including the Prime Minister have to quit. However, the Rajya Sabha does not have this power.

<sup>6</sup> Money Bill Bill dealing with money matters like taxes, income, expenditure and grants.  
<sup>7</sup> Executive: A body of persons having authority to initiate major policies, make decisions and implement them on the basis of constitution and laws of the country.

## Check Point 01

- \_\_\_\_\_ is the head of the state and is the highest formal authority in the country.
- When did Janata Dal form government in India?
- \_\_\_\_\_ is the final authority for making new laws and changing existing laws in our country.
- Which house of Parliament consists of indirectly elected members?
- How many days the Rajya Sabha can delay Money Bill?

## Political Executive

The functionaries who take day-to-day decisions but do not exercise supreme power on behalf of the people are known as **executive**<sup>7</sup>. They are called executive because they are in charge of the execution of the policies of the government.

## Political and Permanent Executive

In a democratic country, two categories make up the executive. They are

### Political Executive

- They are elected by the people for a specific period. They take major decisions. Political leaders fall in this category.
- They have more power than the permanent executive. This is because the political executive is elected by the people and in a democracy will of people is supreme.
- They are answerable to the people for all consequences of their decisions.
- They can take advice of the permanent executive and then decide the overall framework and objectives of the policy to be implemented.

### Permanent Executive

- They are appointed on a long-term basis. Persons working as permanent executive in civil services are known as **civil servants**. *Government Officer*
- They remain in office even when the ruling party changes.
- They work under political executive and assist them for carrying out daily administration.
- They are more educated and have expertise on the subject of ministry. For example, advisor of the finance ministry know more about economics than the finance minister. But still decision of the finance minister will be the final.

## Prime Minister

The Prime Minister is the head of the government and actually exercises all the government powers. It is the most important political institution in the country.

The President appoints the leader of the majority party or the coalition of parties that commands a majority in the Lok Sabha as a Prime Minister.

In case, no single party gets a majority, the President appoints the person who could secure a majority support.

The Prime Minister does not have a fixed tenure. He continues in power as long as he remains the leader of the majority party or coalition party.

## Powers of the Prime Minister

The Prime Minister has wide ranging powers. These are

- The Prime Minister is free to choose ministers, as long as they are Members of Parliament.
- He chairs and takes most of the decisions in the Cabinet meetings.
- He coordinates the work of different departments and his decisions are final in case of disagreements arise between departments.
- He exercises general supervision of different ministries and all ministers work under his leadership.
- He distributes and redistributes work to the ministers.
- He also has the power to dismiss ministers. When the Prime Minister quits, the entire ministry quits.

## Council of Ministers

It is the official name for the body that includes all the ministers. It usually has 60 to 80 ministers of different ranks. The Council of Ministers comprise

- Cabinet Ministers** who are usually top level leaders of the ruling party or parties who are in charge of the major ministries. Cabinet is the inner ring of the Council of Ministers. It comprises about 25 ministers.
- Ministers of State with independent charge** who are usually in charge of smaller ministries. They participate in the Cabinet meetings only when specially invited.
- Ministers of State** who are attached to and required to assist Cabinet Ministers.

## Appointment of Council of Ministers

After the appointment of the Prime Minister, the President appoints the Council of Ministers on the advice of Prime Minister.

Council of Ministers are usually from the party or coalition that has majority in Lok Sabha.

Sometimes, a person who is not a member of Parliament can also become a minister. However, such a person has to get elected to one of the Houses of Parliament within 6 months of his appointment.

## Cabinet Form of Government

In most of the countries, the parliamentary democracy is often known as Cabinet form of government. This is because, it is not possible for all ministers to meet regularly and discuss everything, so the decisions are taken in Cabinet meetings. In this form, no minister can openly criticise any decision of the government even if it is about another ministry or department.

Every Ministry has secretaries, who are civil servants. The secretaries provide the necessary background information to the ministers to take decisions.

The Cabinet as a team is assisted by the **Cabinet Secretariat**. This includes many senior civil servants who try to coordinate the working of different ministries.

## The President

The President is the head of the state. In our political system, the head of the state exercises only nominal powers. The President supervises the overall functioning of all the political institutions in the country so that they operate in harmony to achieve the objectives of the state.

## Appointment of the President

The President of India is elected indirectly by an electoral college<sup>8</sup>, in accordance with the system of proportional representation by means of the single transferable vote. The electoral college consists of

- the elected Members of both Houses of Parliament (MPs).
- the elected Members of the Legislative Assemblies of the states (MLAs).
- the elected Members of the Legislative Assemblies (MLAs) of Union Territories of Delhi and Puducherry.

<sup>8</sup> Electoral College: A specially constituted elected body to elect the President and Vice-President of India.



A candidate standing for President's post has to get a majority of votes to win the election. This ensures that the President can be seen to represent the entire nation.

The President can never claim the kind of direct popular mandate like the Prime Minister because the Prime Minister is directly elected through popular election. This ensures that President remains only a nominal executive.

### Powers of the President

The President enjoys the following powers:

- All governmental activities take place in the name of the President. All laws and major policy decisions of the government are issued in President's name.
- All major appointments are made in the name of the President. These include the appointment of the Chief Justice of India, the Judges of the Supreme Court and the High Courts of the states, the Governors of the states, the Election Commissioners, Ambassadors to other countries, etc.
- All international treaties and agreements are made in the name of the President.
- The President is the supreme commander of the defence forces of India.
- The President has emergency powers i.e. powers to deal with an unexpected and critical situation, e.g. power to declare emergency or President's rule<sup>9</sup> and issuing an ordinance<sup>10</sup>.

### Limitation on the Powers of the President

Limitations on the power of President are as follows:

- The President exercises all the powers only on the advice of the Council of Ministers.
- The President can ask the Council of Ministers to reconsider its advice. However, if the same advice is given again, he/she is bound to act according to it.
- A bill passed by the Parliament becomes a law only after the President gives approval to it. If the President wants, he/she can delay this for sometime and send the bill back to the Parliament for reconsideration. However, if the Parliament passes the bill again, he/she has to sign it.

<sup>9</sup> President's Rule: If the President gets a report from the Governor or any other source that the government of the state cannot be carried on in accordance with the Constitution, he can impose President's rule. Government becomes unitary in nature.

<sup>10</sup> Ordinance: A direction issued by the President, when Parliament is not in session. It has the force of law for 6 months.

<sup>11</sup> Subordinate Courts: The courts which function under the supervision and orders of the High Court.

<sup>12</sup> Unified Judiciary: India has a single judicial system for the entire country consisting of a number of courts with the Supreme Court at the apex of the entire judicial system.

### The Presidential System

In many countries of the world, the President is both the head of the state and the head of the government. The President of United States of America (USA) is the well known example of this kind of President.

The US President is directly elected by the people. He personally chooses and appoints all ministers. The law making power lies with the legislature called the Congress, but the President can veto this law.

The President does not need the support of the majority of members of the Congress and neither he is answerable to them.

We have a fixed tenure of four years and completes it even if his party does not have a majority in the Congress.

This model is followed in most of the countries of Latin America, and many other ex-Soviet Union countries. This system of government is called the **Presidential form of government**.

### The Judiciary

It refers to an institution empowered to administer justice and provide a mechanism for the resolution of legal disputes.

The Indian judiciary consists of a Supreme Court for the entire nation, High Courts and Subordinate Courts<sup>11</sup> in the states and District Courts and the courts at local level.

India has an integrated or unified judiciary<sup>12</sup>. It means that the Supreme Court controls the judicial administration in the country. Its decisions are binding on all other courts of the country.

The Supreme Court can take up any dispute between

- Citizens of the country
- Citizens and government
- Two or more State Governments
- Governments at the Union and State level

### Independence of Judiciary

It means that the judiciary is not under the control of the legislature or the executive.

The judges do not act on the direction of the government or according to the wishes of the political party in power.

### Appointment and Removal of Judges

The appointment and removal of judges of Supreme Court and High Court is as follows:

- The judges of the Supreme Court and the High Courts are appointed by the President on the advice of the Prime Minister and in consultation with the Chief Justice of the Supreme Court.
- The senior judges of the Supreme Court select the new judges of the Supreme Court and the High Courts. The seniormost judge of the Supreme Court is usually appointed as the Chief Justice.
- A judge can be removed only by an impeachment<sup>13</sup> motion passed separately by two-third members of the two houses of the Parliament. It has never happened in the history of Indian democracy.

### Role of the Supreme Court and the High Courts

The role of Supreme Court and High Courts is as follows:

- The Supreme Court and the High Courts have the power to interpret the Constitution of the country.
- They can declare any law of the legislature or the actions of the executive invalid, whether at the Union level or State level, if they find such a law or action is against the Constitution.

- They can determine the constitutional validity of any legislation or action of the executive in the country, when it is challenged before them. This is known as the **judicial review**.

The Supreme Court of India has also ruled that the core or basic principles of the Constitution cannot be changed by the Parliament.

### Judiciary as a Highest Authority

The powers and the independence of the Indian judiciary allow it to act as the guardian of the Fundamental Rights.

Any one, can approach the courts if public interest is hurt by the actions of government. This is called **Public Interest Litigation (PIL)**.

The courts intervene to prevent the misuse of the government's power to make decisions. They check malpractices on the part of public officials. That is why, the judiciary enjoys a high level of confidence among the people.

### Check Point 02

- The \_\_\_\_\_ is the head of the government.
- \_\_\_\_\_ ministers are usually top level leaders of the ruling party or parties.
- What is PIL?
- How many members of the Parliament should pass impeachment motion to remove a judge?
- Who act as the guardian of the Fundamental Rights?

<sup>13</sup> Impeachment: A procedure through which the President, Vice-President or the Chief Justice of India can be removed.

## SUMMARY

- In a democracy, the rulers have to work with and within institutions and in this process, they come across three institutions: **Legislature, Executive and Judiciary** that play a key role in major decisions.
- A major policy decision is taken through a government order. An order, issued by Government is called an **Office Memorandum (OM)**.
- The major decision involves some major functionaries of our country. They include the President, The Prime Minister and Parliament.
- Parliament** is a set of people who are regularly elected by the people, directly or indirectly.
- The upper house or **Rajya Sabha** is indirectly elected and performs special functions.
- The lower house or **Lok Sabha** is directly elected by people and exercises the real power on behalf of the people. The Constitution of India gives some special powers to Rajya Sabha but the Lok Sabha exercises supreme power on most matters.
- Executives take day-to-day decision but do not exercise Supreme power on behalf of the people.

- There are two categories of executive i.e. **permanent executive** and **political executive**.
- The political executive is more powerful than the permanent executive.
- The **Prime Minister** is the head of the government and actually exercises all the government powers.
- The **Council of Ministers** is the official name for the body that includes cabinet ministers, ministers of state with independent charge and ministers of state.
- The **President** is the head of the state and exercises only nominal powers.
- The President is indirectly elected by an electoral college in accordance with the system of proportional representation.
- All the courts at different levels in a country put together is called **integrated judiciary**.
- The powers and the independence of the Judiciary allow it to act as the guardian of the Fundamental Rights.
- Through **Public Interest Litigation (PIL)** anyone can approach the courts if public interest is hurt by the actions of Government.

## NCERT FOLDER

### Intext Questions

#### On Page 58

- Is every Office Memorandum a major political decision? If not, what made the memorandum O.M. No. 36012/31/90-Est (SCT) dated 13th August, 1990 different?

**Ans.** Every Office Memorandum is not a major political decision, most of them are routine in nature. This Office Memorandum O.M. No. 36012/31/90-EST (SCT), dated 13th August, 1990, relating to reservation for the Socially and Educationally Backward Classes (SEBCs) in government services was different because it affected all the sections of society. The benefit of job reservation was till then available only to Scheduled Castes and Scheduled Tribes. Now a third category, SEBCs was introduced. Moreover, this reservation issue was a major source of controversy for several years and led to many agitations and court cases.

#### On Page 60

- Who did what in this case? backward classes? Supreme Court

Cabinet

President

Government officials

**Ans.** The columns are matched

Who	Did What
Supreme Court	Upheld
Cabinet	Took the reservation
President	Made the decision
Government officials	Implemented order

- Which institution your school? Who alone took all the management of

**Ans.** The institutions of functions are the administrative of sports, medical n would not be good decisions regarding Because a large r the time. It is ne proper decisions does take these d to take these p or without undi

#### On Page 62

- What is the po discussion in that the view c

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