

31 Chief Minister

In the scheme of parliamentary system of government provided by the Constitution, the governor is the nominal executive authority (*de jure* executive) and the Chief Minister is the real executive authority (*de facto* executive). In other words, the governor is the head of the state while the Chief Minister is the head of the government. Thus the position of the Chief Minister at the state level is analogous to the position of prime minister at the Centre.

APPOINTMENT OF CHIEF MINISTER

The Constitution does not contain any specific procedure for the selection and appointment of the Chief Minister. Article 164 only says that the Chief Minister shall be appointed by the governor. However, this does not imply that the governor is free to appoint any one as the Chief Minister. In accordance with the conventions of the parliamentary system of government, the governor has to appoint the leader of the majority party in the state legislative assembly as the Chief Minister. But, when no party has a clear majority in the assembly, then the governor may exercise his personal discretion in the selection and appointment of the Chief Minister. In such a situation, the governor usually appoints the leader of the largest party or coalition in the assembly as the Chief Minister and ask him to seek a vote of confidence in the House within a month.¹

The governor may have to exercise his individual judgement in the selection and appointed of the Chief Minister when the Chief Minister in office dies suddenly and there is no obvious successor. However, on the death of a Chief Minister, the ruling party usually elects a new leader and the governor has no choice but to appoint him as Chief Minister.

The Constitution does not require that a person must prove his majority in the legislative assembly before he is appointed as the Chief Minister. The governor may first appoint him as the Chief Minister and then ask him to prove his majority in the legislative assembly within a reasonable period. This is what has been done in a number of cases².

A person who is not a member of the state legislature can be appointed as Chief Minister for six months, within which time, he should be elected to the state legislature, failing which he ceases to be the Chief Minister.³

According to the Constitution, the Chief Minister may be a member of any of the two Houses of a state legislature. Usually Chief Ministers have been selected from the Lower House (legislative assembly), but, on a number of occasions, a member of the Upper House (legislative council) has also been appointed as Chief Minister.⁴

OATH, TERM AND SALARY

Before the Chief Minister enters his office, the governor administers to him the oaths of office and secrecy.⁵ In his oath of office, the Chief Minister swears:

1. to bear true faith and allegiance to the Constitution of India,
2. to uphold the sovereignty and integrity of India,
3. to faithfully and conscientiously discharge the duties of his office, and
4. to do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will.

In his oath of secrecy, the Chief Minister swears that he will not directly or indirectly communicate or reveal to any person(s) any matter that is brought under his consideration or becomes known to him as a state minister except as may be required for the due discharge of his duties as such minister.

The term of the Chief Minister is not fixed and he holds office during the pleasure of the governor. However, this does not mean that the governor can dismiss him at any time. He cannot be dismissed by the governor as long as he enjoys the majority support in the legislative assembly.⁶ But, if he loses the confidence of the assembly, he must resign or the governor can dismiss him.

The salary and allowances of the Chief Minister are determined by the state legislature. In addition to the salary and allowances, which are payable to a member of the state legislature, he gets a sumptuary allowance, free accommodation, travelling allowance, medical facilities, etc.

POWERS AND FUNCTIONS OF CHIEF MINISTER

The powers and functions of the Chief Minister can be studied under the following heads:

In Relation to Council of Ministers

The Chief Minister enjoys the following powers as head of the state council of ministers:

- (a) The governor appoints only those persons as ministers who are recommended by the Chief Minister.
- (b) He allocates and reshuffles the portfolios among ministers.
- (c) He can ask a minister to resign or advise the governor to dismiss him in case of difference of opinion.
- (d) He presides over the meetings of the council of ministers and influences its decisions.
- (e) He guides, directs, controls and coordinates the activities of all the ministers.
- (f) He can bring about the collapse of the council of ministers by resigning from office. Since the Chief Minister is the head of the council of ministers, his resignation or death automatically dissolves the council of ministers. The resignation or death of any other minister, on the other hand, merely creates a vacancy, which the Chief Minister may or may not like to fill.

In Relation to the Governor

The Chief Minister enjoys the following powers in relation to the governor:

- (a) He is the principal channel of communication between the governor and the council of ministers.⁷ It is the duty of the Chief Minister:
 - (i) to communicate to the Governor of the state all decisions of the council of ministers relating to the administration of the affairs of the state and proposals for legislation;
 - (ii) to furnish such information relating to the administration of the affairs of the state and proposals for legislation as the governor may call for; and
 - (iii) if the governor so requires, to submit for the consideration of the

council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.

- (b) He advises the governor with regard to the appointment of important officials like advocate general, chairman and members of the state public service commission, state election commissioner, and so on.

In Relation to State Legislature

The Chief Minister enjoys the following powers as the leader of the house:

- (a) He advises the governor with regard to the summoning and proroguing of the sessions of the state legislature.
- (b) He can recommend the dissolution of the legislative assembly to the governor at any time.
- (c) He announces the government policies on the floor of the house.

Other Powers and Functions

In addition, the Chief Minister also performs the following functions:

- (a) He is the **chairman of the State Planning Board.**
- (b) He acts as a vice-chairman of the concerned zonal council by rotation, holding office for a period of one year at a time.⁸
- (c) He is a member of the Inter-State Council and the Governing Council of NITI Aayog, both headed by the prime minister.
- (d) He is the chief spokesman of the state government.
- (e) He is the crisis manager-in-chief at the political level during emergencies.
- (f) As a leader of the state, he meets various sections of the people and receives memoranda from them regarding their problems, and so on.
- (g) He is the political head of the services.

Thus, he plays a very significant and highly crucial role in the state administration. However, the discretionary powers enjoyed by the governor reduces to some extent the power, authority, influence, prestige and role of the Chief Minister in the state administration.

RELATIONSHIP WITH THE GOVERNOR

The following provisions of the Constitution deal with the relationship between the governor and the Chief Minister:

1. *Article 163*: There shall be a council of ministers with the Chief Minister as the head to aid and advise the governor on the exercise of his functions, except in so far as he is required to exercise his functions or any of them in his discretion.
2. *Article 164*:
 - (a) The Chief Minister shall be appointed by the governor and other ministers shall be appointed by the governor on the advise of the Chief Minister;
 - (b) The ministers shall hold office during the pleasure of the governor; and
 - (c) The council of ministers shall be collectively responsible to the legislative assembly of the state.
3. *Article 167*: It shall be the duty of the Chief Minister:
 - (a) to communicate to the governor of the state all decisions of the council of ministers relating to the administration of the affairs of the state and proposals for legislation;
 - (b) to furnish such information relating to the administration of the affairs of the state and proposals for legislation as the governor may call for; and
 - (c) if the governor so requires, to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.

Table 31.1 *Articles Related to Chief Minister at a Glance*

Article No.	Subject Matter
163.	Council of Ministers to aid and advise Governor
164.	Other provisions as to Ministers
166.	Conduct of business of the Government of a State
167.	Duties of Chief Minister as respects the furnishing of information to Governor, etc.

177. Rights of Ministers as respects the Houses

NOTES AND REFERENCES

1. For example, the governors of Tamil Nadu (1951), Rajasthan (1967), and Haryana (1982) invited the leader of the largest party to form the ministry. The governors of Punjab (1967), West Bengal (1970), and Maharashtra (1978), on the other hand, invited the leader of the coalition to form the ministry.
2. For example, the governor of J & K (Jagmohan) appointed G.M. Shah as the Chief Minister and asked him to prove his majority on the floor of the House within a month. He proved his majority. Similarly, the Governor of Andhra Pradesh (Ram Lal) appointed Bhasker Rao as the Chief Minister and gave him one month to prove his majority on the floor of the House. However, he could not prove his majority.
3. For example, Bansilal and S.B. Chavan were appointed as Chief Ministers of Haryana and Maharashtra respectively, even though they were not members of the state legislature. Subsequently, they were elected to the state legislature.
4. For example, C. Rajagopalachari in Madras (now Tamil Nadu) in 1952, Morarji Desai in Bombay (now Maharashtra) in 1952, C.B. Gupta in UP in 1960 and B.P. Mandal in Bihar in 1968 were appointed as Chief Ministers, while they were members of the state legislative council.
5. The form of oath of office and secrecy for the Chief Minister is similar to that for any state minister. See [Chapter 32](#).
6. This was ruled by the Supreme Court in *S.R. Bommai v. Union of India*, (1994). However, there have been many violations of this rule, whereby the governors have dismissed the Chief Ministers without giving them an opportunity to prove their majority in the legislative assembly.

7. Article 167 specifically deals with this function of the Chief Minister.
8. Union home minister is the chairman of all the zonal councils.