

Part V: Union Government

1) Union Executive (Article 52-78)

Union Executive consists of President, VP, PM, COM & Attorney General Of India

- Article 52: There shall be a President of India
- Article 53: Executive power of the Union will be in the name of President

Qualifications of President (58)

- Citizen of India
- 35 Years of Age
- Qualified for the elections of Lok Sabha
- Should not hold any office of Profit
- 15000 to be deposit in RBI
- If less than 1/6 of the voting this money will be forfeited
- Minimum support of 50 electors as proposers (Propose the name) and 50 as seconders (say yes to that)
- He should not be the member of parliament/state legislature
- If he is a member then he should vacate his seat on the date he enters the Office
- Can stay in Rashtrapati bhawan without payment
- Entitled by such emoluments, Salary and allowances as determined by Parliament
- Salary and allowances can't be reduced during his term
- Immune from criminal proceedings
- Civil Proceedings after 2 months Notice

Who Can Vote in President Election (A-54)

- Elected members of Parliament

- Elected members of Legislative assembly including UTs not L.C

Manner of Election (A-55)

1) Value of vote of One elected MLA= (Population of state(1971 Census)/Number of elected MLAs \times 1000)

- Example Maharashtra: Vote=(5,04,12,235/288 \times 1000)=175
- Total Value of MLAs=175 \times 288=50,400
- This way calculate vote of each MLA from all states

Now calculate such total vote value for all states and add all of them, In recent election of Ram Nath Kovind it was 5,49,474

2) Vote Value of 1 Elected MP

= Total Vote Value of All States MLA/(Total Elected MPs(543+233=776))=708

- Total Vote Value of all MPs=708 \times 776=5,49,408

So total Votes=10,98,882

Election name: Single Transferable Vote by Proportional Representation

To win the election one has to Cross the Quota first= (Total Votes Polled/2+1)=51%

Example: A B C D

- Every Voter has to give a preference in Voting for all four candidates
- Lets say A=30%, B=18%, C=12%, D=40%
- Here no one has crossed the Quota which is more than 50%

- So in this the person with least votes will be rejected out(C will be out),After that all the votes of C will be opened having first preference as C ,Not in 12% of C lets say A=6%,B=2%,D=4%
- Now A=36%,B=20%,D=44%
- Now the one with least vote will be out of the race i.e B and his votes will be opened and distributed as per the preference A=13%,D=7%
- Means now A=49% and D=51%
- Now D will become President

Notes:

- In case of Ram Nath Kovind he got 68% Votes in first round only
- Disputes related to this election is handled by Supreme Court
- Election was taken care by Election Commission of India

Oath Of President(Article-60)

By Chief Justice of India(CJI) and if he is not available then Senior Most Judge of S.C

Tenure of President(Article-56)

- 5 Years from the day he enters the office
- President can give resignation to Vice President of India
- He can resume the office after 5 years also till new successor Assume the charges
- He can be elected any number of times
- No maximum age

Impeachment of President(Article-61)

Ground:Violation of Constitution(*Violation Not defined*)

- This resolution can be initiated in any house of the Parliament

- The Charges should be signed by atleast 1/4 of the members of the house before starting the process,Also 14 Days notice will be given to President
- The resolution must be passed by 2/3 of total members and then to be sent to other house.
- The other house will investigate the charges and President has the right to appear there
- If that house will also pass the resolution by 2/3 of total members then President will be impeached
- In case of election of President only elected members were voting but in case of removal all are voting elected and nominated

When Vacancy is created

- Tenure completion
- Resignation
- Impeachment
- Sudden death
- Office of Profit

In case of Tenure completion,He will continue until new President will hold the office but in rest of the cases V.P will act as President of India and within 6 months ECI has to organise Elections.

If V.P is not available the CJI and if he is also not available the Senior Most Judge if SC

Powers and Functions

- Executive
- Legislative
- Financial
- Judicial

- Diplomatic
- Military
- Emergency

Executive Powers

- He appoints PM,UPSC Chairman,CAG,Attorney General of India,Other Ministers,Governor,CEC, Chairman and Members of Finance Commission,Judges of S.C & H.C
- All executive actions are taken in the name of President(Head of State)
- Can ask any information Related to Administration
- Appointment of commissions for S.C,S.T & OBCs
- Appoints Inter State Council to manage centre-state relations
- Administer UTs through Lt Governor
- Can declare any area as schedule area,he has the power of administration of schedule and Tribal areas

Legislative Powers

- Summon or Prorogue the Parliament(House को बुलाना और Sessions को खत्म करना)
- Prior President Permission while putting Money Bill in Lok Sabha
- Formation of State(Article-3) prior permission
- President can call for Joint Sitzings(Article-108)
- First session after General Election and First session of every year is addressed by President
- President can disqualify the members of Parliament on recommendation of ECI
- When Speaker/Deputy Speaker or Chairman or Deputy chairman seat is *Vacant* then President will nominate a person to head
- 12 members of Rajya sabha Nominated by President in

Art, Literature, Science and Social Service

- Also Nominate 2 Anglo Indians in Lok Sabha
- Can Dissolve the Lok Sabha
- VETO POWER of President (If he don't want to pass the bill)
 - Absolute Veto: Withholding the assent (Rejecting the Bill)

Example: When Lok Sabha is going to over and cabinet resign and at that time they passed a bill and after that new govt is formed than that govt will ask President to use absolute Veto to hold the bill. It can also be used for Private member bill

- Suspensive Veto: Can send back to houses for reconsideration and after it comes back then President is bound to sign that bill
 - Pocket Veto: Bill made Pending, Used by Giani Zail Singh against Indian post office bill 1986
- When State bill is sent to Governor then he has 4 options
 - Can sign and accept
 - Can Withhold
 - Can Return the Bill
 - Reserve the bill for President
 - ♦ President will accept
 - ♦ Will Return for Reconsideration
 - ♦ Withhold the bill

Note:

1) President in this case dint have Pocket Veto power

2) If he sent the bill to state for reconsideration and state sent that bill again but now President is not bound to sign that bill like in the case of Parliament

- Ordinance Making Power (Article-123): When house is not in session and law has to be made then President can make

temporary law known as Ordinance

- Promulgate during the recess of Parliament
- Temporary law
- House not in session
- Judicial review applicable(Cooper Case 1970)
- Can form ordinance with the advice of COM(Not discretionary)
- Can issue ordinance on subjects where parliament can make laws
- After Reassembly within 6 weeks this ordinance has to be passed by Parliament else ordinance will get cancelled
- Maximum life of Ordinance:6 months(Between sessions mad gap) and 6 weeks
- President can withdraw the ordinance and its effects are retrospective
- Ordinance can not amend the Constitution

Financial Powers of President

- Money bill initiated by Prior permission of President(Article-110)
- Establish Finance commission in every 5 years(Article-280)
- Look out contingency fund of India(267)
- Cause to lay "Annual Financial Statement " in parliament(112)

Judicial Powers of President

- Can appoint CJI,CJHC,Judges of SC & HC
- Can take advice from Supreme Court(143),Advice will not be binding

Pardoning Powers of President(A-72)

- Pardon:

- Convict will be free
- **Commutation:**
 - Substitution of one form of punishment to lighter form
 - Death to Life imprisonment
 - 10 Years Rigorous to 10 years simple(Character will change)
- **Remission:**
 - Time period will reduce
 - Character will be same
 - 14 years rigorous punishment to 7 Years rigorous punishment)
- **Respite:**
 - In case of special things providing less punishment like if Women Convict is pregnant so reducing the punishment
- **Reprieve:**
 - Stay on execution for sometime (Generally on Death Penalties)

Diplomatic Powers of President

- All international treaties and agreements are negotiated and concluded on the behalf of President
- After that they can be passed in Parliament

Military Powers of President

- Supreme commander of Defence Forces
- Appoint chief of Army,Airforce & Navy
- Can declare of stop War with countries

Emergency Powers of President

(Article 352 to 360)

