

CHAPTER 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/her 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/her to seek a vote of confidence in the House within a month.

The governor may have to exercise his/her 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/her as Chief Minister.

The Constitution does not require that a person must prove his/her majority in the legislative assembly before he/she is appointed as the Chief Minister. The governor may first appoint him/her as the Chief Minister and then ask him/her to prove his/her majority in the legislative assembly within a reasonable period.

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

Further, 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.

The Sarkaria Commission on Centre-State Relations (1983-88) made the following recommendations with regard to the selection and appointment of a chief minister:

1. In choosing a chief minister, the Governor should be guided by the following principles:
 - (i) The party or combination of parties which commands the widest support in the Legislative Assembly should be called upon to form the government.



- (ii) The Governor's task is to be see that a government is formed and not to try to form a government which will pursue policies which he/she approves.
 2. If there is a single party having an absolute majority in the Legislative Assembly, the leader of that party should automatically be asked to become the chief minister. However, if there is no such party, the Governor should select a chief minister from among the following parties or groups of parties by sounding them, in turn, in the order of preference indicated below:
 - (i) An alliance of parties that was formed prior to the elections.
 - (ii) The largest single party staking a claim to form the government with the support of others, including independents.
 - (iii) A post-electoral coalition of parties, with all the partners in the coalition joining the government.
 - (iv) A post-electoral alliance of parties, with some of the parties in the alliance forming a government and the remaining parties, including independents, supporting the government from outside.
- The Governor while going through the process described above should select a leader who in his/her (Governor's) judgement is most likely to command a majority in the Legislative Assembly.
3. A chief minister, unless he/she is the leader of a party, which has absolute majority in the Legislative Assembly, should seek a vote of confidence in the Legislative Assembly within 30 days of taking over.
 4. When a number of members of the Legislative Assembly approach the Governor and contest the claim of the incumbent chief minister to continued majority support in the Legislative Assembly, the Governor should not risk a determination of this issue of majority support, on his/her own, outside

the Legislative Assembly. The prudent course for him/her would be to cause the rival claims to be tested on the floor of the House.

OATH, TERM AND SALARY

Before the Chief Minister enters his/her office, the governor administers to him/her the oaths of office and secrecy.¹ In his/her 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/her 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/her oath of secrecy, the Chief Minister swears that he/she will not directly or indirectly communicate or reveal to any person(s) any matter that is brought under his/her consideration or becomes known to him/her as a state minister except as may be required for the due discharge of his/her duties as such minister.

The term of the Chief Minister is not fixed and he/she holds office during the pleasure of the governor. However, this does not mean that the governor can dismiss him/her at any time. He/she cannot be dismissed by the governor as long as he/she enjoys the majority support in the legislative assembly.² But, if he/she loses the confidence of the assembly, he/she must resign or the governor can dismiss him/her.

¹The form of oath of office and secrecy for the Chief Minister is similar to that for any state minister.

²This was ruled by the Supreme Court in *S.R. Bommai vs. 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.



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/she 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/she allocates and reshuffles the portfolios among ministers.
- (c) He/she can ask a minister to resign or advise the governor to dismiss him/her in case of difference of opinion.
- (d) He/she presides over the meetings of the council of ministers and influences its decisions.
- (e) He/she guides, directs, controls and coordinates the activities of all the ministers.
- (f) He/she 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/her 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/she is the principal channel of communication between the governor and

the council of ministers.³ 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/she 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/she advises the governor with regard to the summoning and proroguing of the sessions of the state legislature.
- (b) He/she can recommend the dissolution of the legislative assembly to the governor at any time.
- (c) He/she 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/she is the chairman of the State Planning Board.

³Article 167 specifically deals with this function of the Chief Minister.



- (b) He/she acts as a vice-chairman of the concerned zonal council by rotation, holding office for a period of one year at a time.⁴
- (c) He/she is a member of the Inter-State Council and the Governing Council of NITI Aayog, both headed by the prime minister.
- (d) He/she is the chief spokesman of the state government.
- (e) He/she is the crisis manager-in-chief at the political level during emergencies.
- (f) As a leader of the state, he/she meets various sections of the people and receives memoranda from them regarding their problems, and so on.
- (g) He/she is the leader of the party in power.
- (h) He/she is the political head of the services.

Thus, he/she 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

⁴Union home minister is the chairman of all the zonal councils.

head to aid and advise the governor on the exercise of his/her functions, except in so far as he/she is required to exercise his/her functions or any of them in his/her 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