

MODULE-IV STATE GOVERNMENT

State Government

- A state government is the government that controls a subdivision of a country in a federal form of government, which shares political power with the federal or national government. A state government may have some level of political autonomy, or be subject to the direct control of the federal government. This relationship may be defined by a constitution.
- State governments in India are the governments ruling over 28 states and 8 union territories of India and the head of the Council of Ministers in a state is the Chief Minister. Power is divided between the Union government and state governments. While the Union government handles defence, external affairs etc., the state government deals with internal security and other state issues. Income for the Union government is from customs duty, excise tax, income tax etc., while state government income comes from sales tax (VAT), stamp duty etc.; now these have been subsumed under the various components of the Goods and Services Tax
- Each state has a legislative assembly. A state legislature that has one house - State Legislative Assembly (Vidhan Sabha) - is a unicameral legislature
A state legislature that has two houses - the State Legislative assembly and State Legislative Council (Vidhan Parishad) - is a bicameral legislature. The Vidhan Sabha is the lower house and corresponds to the Lok Sabha while the Vidhan Parishad is the upper house and corresponds to the Rajya Sabha of the Parliament of India.
- The Sarkaria Commission was set up to review the balance of power between states' and the Union governments.

State legislature (Legislative Assembly/ Vidhan Sabha, Legislative council/ Vidhan parishad)

The State Legislative Council, or Vidhan Parishad, or Saasana Mandali is the upper house in those states of India that have a bicameral state legislature; the lower house being the State Legislative Assembly. Its establishment is defined in Article 169 of the Constitution of India.

As of 2022, 6 out of 28 states have a State Legislative Council. These are Andhra Pradesh, Karnataka, Telangana, Maharashtra, Bihar, and Uttar Pradesh.

Legislative Assembly (Vidhan Sabha)

There is a Legislative Assembly (Vidhan Sabha) in every State. It represents the people of the State. The members of Vidhan Sabha are directly elected by people on the basis of universal adult franchise. They are directly elected by all adult citizens registered as voters in the State. All men and women who are 18 years of age and above are eligible to be included in the voters' List. They vote to elect members of the State Assembly. Members are elected from territorial constituencies. Every State is divided into as many (single member) constituencies as the number of members to be elected. As in case of Lok Sabha, a certain number of seats are reserved for Scheduled Castes, and in some States for Scheduled Tribes also. This depends on the population of these weaker sections in the State. The number of Vidhan Sabha members cannot be more than 500 and not less than 60.

Legislative Council (Vidhan Parishad)

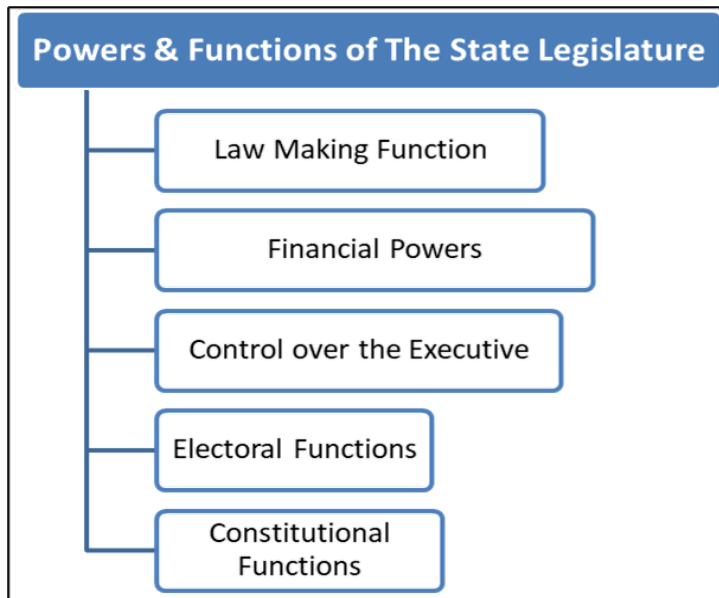
Vidhan Parishad is the upper House of the State Legislature. It is not in existence in every State. Very few States have bicameral Legislature that means having two Houses. At present five states viz. Uttar Pradesh, Bihar, Karnataka, Maharashtra and Jammu & Kashmir have Vidhan Parishad while,

remaining 23 States have one House, i.e. Vidhan Sabha. Legislative Councils are a legacy of the British period. The Parliament can create Vidhan Parishad in a State where it does not exist, if the Legislative Assembly of the State passes a resolution to this effect by a majority of the total membership of the Assembly and by a majority of not less than two thirds of the members of the Assembly present and voting, and sends the resolution to the Parliament. Similarly, if a State has a Council and the Assembly wants it to be abolished, it may adopt a resolution by a similar majority and send it to Parliament. In this situation Parliament resolves to abolish the concerned Legislative Council. Accordingly, Councils of Punjab, Tamil Nadu and West Bengal were abolished.

According to the Constitution, the total number of members in the Vidhan Parishad of a State should not exceed one-third of the total number of members of Vidhan Sabha but this number should not be less than 40. The Jammu & Kashmir is an exception where Vidhan Parishad has 36 members.

Legislative Assembly (Vidhan Sabha)	Legislative Council (Vidhan Parishad)
Legislative Assembly refers to the lower house of the State Legislature	Legislative Council is the upper house of the State Legislature.
Direct election is the mode of electing members of Legislative Assembly	The indirect election is the mode of electing members of Legislative Council
Members of the Legislative Assembly are directly elected by the people	Members of Legislative Council are elected by state legislative assembly, local bodies etc.
Legislative Assembly members are elected by for a term of 5 years	Legislative Council members are elected for a term of 6 years.
Speaker is the presiding officer of Legislative Assembly	Chairman is the presiding officer of Legislative Council

Powers and Functions of The State Legislature



1. Law Making Function

The primary function of the State Legislature, like the Union Parliament, is law-making.

The State Legislature is empowered to make laws on State List and Concurrent List. The Parliament and the Legislative Assemblies have the right to make the laws on the subjects mentioned in the Concurrent List. But in case of contradiction between the Union and State law on the subject the law made by the Parliament shall prevail.

Bills are of two types-Ordinary bills and Money bills. Ordinary bills can be introduced in either of the Houses (if the State Legislature is bicameral), but Money bill is first introduced in the Vidhan Sabha. After the bill is passed by both Houses, it is sent to the Governor for his assent. The Governor can send back the bill for reconsideration. When this bill is passed again by the Legislature, the Governor has to give his assent.. The Ordinances have the force of law. The Ordinances issued are laid before the State Legislature when it reassembles. It ceases to be in operation after the expiry of six weeks, unless rejected by the Legislature earlier.

2. Financial Powers

The State Legislature keeps control over the finances of the State. A money bill is introduced first only in the Vidhan Sabha. The money bill includes authorisation of the expenditure to be incurred by the government, imposition or abolition of taxes, borrowing, etc. The bill is introduced by a Minister on the recommendations of the Governor. The money bill cannot be introduced by a private member. Control over the Executive Like the Union Legislature, the State Legislature keeps control over the executive. The Council of Ministers is responsible to Vidhan Sabha collectively and remains in the office so long as it enjoys the confidence of the Vidhan Sabha. The Council is removed if the Vidhan Sabha adopts a vote of no-confidence, or when it rejects a government bill.

3. Constitutional Functions

You have learnt about the procedure of amendment of the Constitution. An Amendment requires a special majority of each House of the Parliament and ratification by not less than half of the States relating to Federal subjects. The resolution for the ratification is passed by State Legislatures with simple majority.

4. Electoral Functions

The elected members of the Legislative Assembly constitute a part of the Electoral College provided for the election of the President of India. The Legislative Assembly also elects the representatives of the State to the Rajya Sabha and 1/3rd of the members of the Legislative Council of the State concerned. It also elects its Speaker and Deputy Speaker. Legislative Council also elects a Chairman and Vice-Chairman from among its members to preside over the meeting of the Council.

State Executive

The State Executive is the part of the state government which enforces the law and is responsible for the administration of the state.

The state executive is envisaged with the role of enforcing the laws made by the legislature and looking after the governance in the state.

State executive consists of the Governor and Council of Ministers with the Chief Minister as its head. The Governor of a State is appointed by the President for a term of five years and holds office during his pleasure. Only Indian citizens above 35 years of age are eligible for appointment to this office. The Executive power of the State is vested in the Governor.

Council of Ministers with Chief Minister as head aids and advises Governor in exercise of his functions except in so far as he is by or under the Constitution required to exercise his functions or any of them in his discretion

Functions of State Executive:

Enforcement of Laws: This is the primary function to enforce the law and maintain law and order in the state.

Policy making: The executive is provided with the task of policymaking and developmental planning.

Functions related to Lawmaking: Since ministers are also members of the legislature they are involved in the law-making process.

Delegated Legislation: This is an additional role to make laws provided by the legislature to the executive.

Financial Functions: Though the legislature is the custodian of all the finances, the task of preparing the budgets and collection and spending of tax money is handled by the executive.

Quasi-Judicial Functions: The appointment of judges of the subordinate courts and the members of the tribunals is part of its quasi-judicial function.

GOVERNOR—

- Governor is a nominal executive head of the state. He forms an important part of the state executive where he acts as the chief executive head.
- The Central Government nominates the governor for each state.

- The governor of a state is appointed by the president of India. The factors based on which the president evaluates the candidates is not mentioned in the Constitution.

Powers and functions

The primary function of the governor is to preserve, protect and defend the constitution and the law as incorporated in their oath of office under Article 159 of the Indian constitution in the administration of the state affairs. All the governor's actions, recommendations and supervisory powers (Article 167c, Article 200, Article 213, Article 355, etc.) over the executive and legislative entities of a state shall be used to implement the provisions of the Constitution.

In this respect, the governor has many **different types of powers**:

- Executive powers related to administration, appointments and removals,
- Legislative powers related to lawmaking and the state legislature, that is State Legislative Assembly (Vidhan Sabha) or State Legislative Council (Vidhan Parishad),
- Discretionary powers to be carried out according to the discretion of the governor. The governors of India have similar powers and functions of the state level as those of the president of India at central level.

The chief Minister of the state (with powers and functions)

The Chief Minister is the state government's most powerful official.

He is the head of the State Council of Ministers and the real executive head of state government.

He wields enormous power and is a key figure in the state.

The CM's position is paramount in the State's governmental system.

In practice, his position will only be imposing if his party has a clear majority in the State Legislature.

The Chief Minister is the primary spokesperson for a state's government.

The Chief Minister holds a pivotal position in the working of the State Government. He has enormous powers and vast responsibilities.

The powers and functions of Chief Minister are as follows:

1. To Aid and Advice the Governor:

The Chief Minister is the link between the Cabinet and the Governor. It is he who communicates to the Governor all decisions of the Council of Ministers. He has to furnish such information relating to the administration of the State as the Governor may call for.

2. The Chief Minister is at the Head of the Council of Ministers:

As Head of the State Cabinet, the Chief Minister enjoys the following powers:

(i) Formation of the Ministry:

The other Ministers are appointed by the Governor on the advice of the Chief Minister. The Chief Minister has a free hand in preparing the list of his colleagues. The Governor may suggest the names of the persons to be included in the Ministry, but he cannot insist upon any person to be included in the Ministry. Assigning departments or portfolios to the Ministers is done by the Governor on the advice of the CM. The CM can allocate and reshuffle portfolios among ministers.

Other than this the CM has the following important powers;

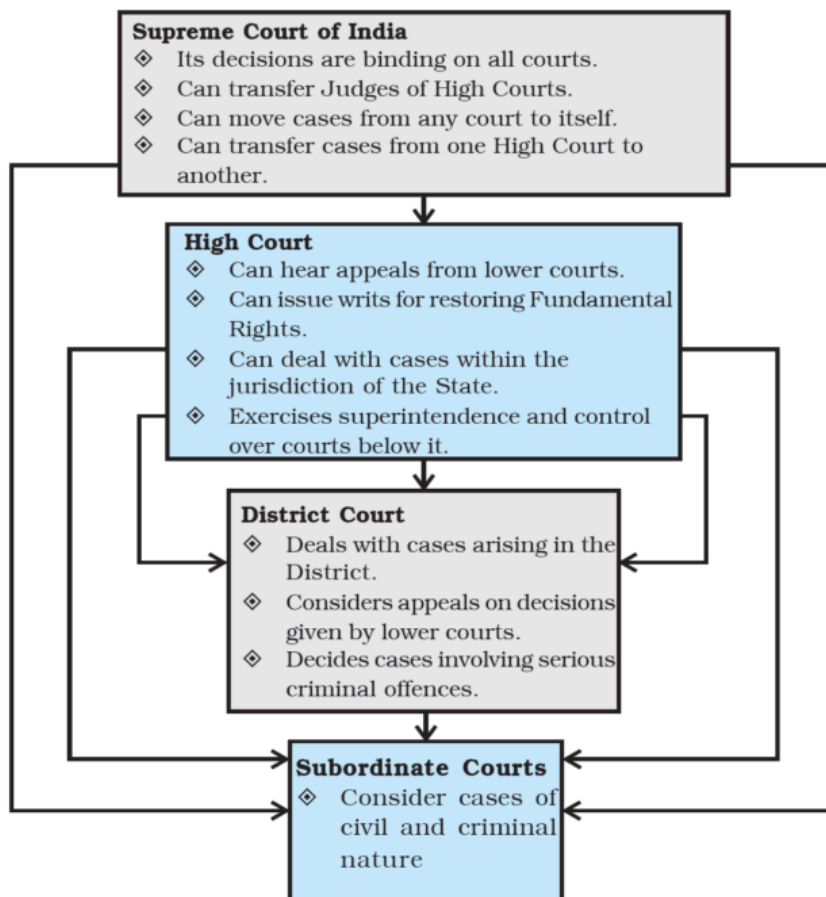
1. The activities of all ministers are coordinated, guided and controlled by the chief minister.
2. The meetings of the council of ministers are presided by him
3. He influences the decision of the council of ministers.
4. He can ask the governor to dismiss any minister or he can ask a minister to resign.
5. If the chief minister resigns, the government also collapses.
6. He is the channel of communication between the council of ministers and the governor.
7. The government policies are announced by him on the floor of the house.
8. He advises the governor to summon the sessions of the state legislature.
9. Chairman of the state planning board

10. Member of the Inter State Council and the National Development Council both headed by the prime minister.

11. Vice chairman of the concerned zonal council by rotation.

12. Crisis manager in chief at political level during emergencies.

The Chief Minister plays a very important and critical role in state administration.



State Judiciary (High courts)

- The Judiciary is a very vital and indispensable organ of the Indian State. It plays an important role as the interpreter and guardian of the Indian Constitution. Besides, the judiciary also acts as the custodian of the rights of the people and plays an eminent role in the administration of justice. To ensure that a democracy functions effectively, it is imperative that the Judiciary needs to be independent and impartial.

- The Indian Judicial system constitutes a hierarchy of courts. At the topmost level of the hierarchy is the Supreme Court which is the apex Court of India. The Supreme Court is followed by the High Courts of different States and then under each High Court there are Subordinate Courts.
- The High Courts occupy the second level in the hierarchy of the judicial system. High Courts in India are the highest judicial authority in a particular State. All the other lower Courts in the State are subordinate to the High Court and function under it. Currently there are 25 High Courts in India.
- The State Judiciary which is helmed by the High Court occupies a very important position in the Indian judicial system. The High Court performs various functions and plays a vital role in the administration of justice. Along with the Supreme Court, the High Courts also are guardians of the Constitution. However the High Court has much wider powers to issue writs as compared to the Supreme Court, as a High Court can issue writs not just for enforcement of fundamental rights but also other legal rights.