

## UNIT-2

### CHAPTER-1

#### **Rajya Sabha: Functions and Position of the Rajya Sabha!**

The Rajya Sabha, i.e., the Council of States, is the Upper House of the Union Parliament. It gives representation to the States of the Indian. However, the states do not enjoy an equal representation in the Rajya Sabha. These have been given representations on the basis of the size of their populations.

**I. Composition of the Rajya Sabha:** The Rajya Sabha can have a maximum strength of 250 members; out of these 238 are to be the representatives of the States and remaining 12 members are to be nominated by the President from amongst persons who have achieved distinctions in the fields of art, literature, science or social services.

At present, the Rajya Sabha has 245 members 233 elected and 12 nominated. Members of each State Legislative Assembly, together elect their allotted number of MPs for Rajya Sabha. The President nominates 12 MPs of Rajya Sabha. Odisha has 10 seats in the Rajya House.

#### **II. Method of Election:**

The members of the Rajya Sabha are elected indirectly by the people. The people of each state elect the members of their state legislative assembly who then elect the members of Rajya Sabha by a method of proportional representation—single transferable vote system. Each State Legislative Assembly elects as many representatives as have been allocated to it by the Constitution. Odisha Legislative Assembly has 147 MLAs who together elect 12 members of Rajya Sabha.

#### **III. Qualifications for the membership of Rajya Sabha:**

(a) He must be a citizen of India.

- (b) He must be above the age of 30 years.
- (c) He must possess all other qualifications as laid down by the Parliament.
- (d) He must not hold any office of profit under any government.
- (e) He should not be an insane or a bankrupt.
- (f) He should not have been disqualified under any law of the Parliament.

Now any person residing in any part of India can contest election to the Rajya Sabha from any state. For this purpose residence of the concerned state is not essential.

#### **IV. Tenure:**

The Rajya Sabha is a quasi-permanent House. It is not subject to dissolution as a whole. One third of its members retire after every two years and elections are held only for the vacant seats. The tenure of each member of the Rajya Sabha is six years.

#### **V. Sessions:**

The President convenes the sessions of the Rajya Sabha usually along with the sessions of the Lok Sabha or whenever he feels it necessary. However, there cannot be a gap of more than six months within the two sessions of the Rajya Sabha. The President can call a special session of Rajya Sabha for getting approved an emergency declaration at a time when Lok Sabha stands dissolved.

#### **VI. Quorum for the Meetings of Rajya Sabha:**

The quorum for the meetings of Rajya Sabha is 1/10th of its members. It means that at least 1/10th of the members of the Rajya Sabha must be present for carrying out the work of the House.

#### **VII. Privileges of Members:**

The members of the Rajya Sabha enjoy several privileges. They enjoy unrestricted freedom to express their views in the House. No action can be taken against them for anything said by them in the House. They cannot be arrested for any civil offence during, and 40 days before and after the session of the Rajya Sabha. For protecting the privileges of the members of the House, the Committee on Privileges has been in existence since the inception of the Rajya Sabha.

### **VIII. Chairman and Deputy Chairman of the Rajya Sabha:**

The Vice-President of India is the ex-officio Chairman of the Rajya Sabha. He is not a member of the House. However, he presides over its meetings and conducts its proceedings. During the absence of the Vice-President, the Deputy Chairman of the Rajya Sabha presides over the meetings. The Deputy Chairman is elected by the Rajya Sabha MPs from amongst themselves.

### **Powers and Functions of the Rajya Sabha:**

#### **1. Legislative Powers:**

In the sphere of ordinary law-making the Rajya Sabha enjoys equal powers with the Lok Sabha. An ordinary bill can be introduced in the Rajya Sabha and it cannot become a law unless passed by it. In case of a deadlock between the two Houses of Parliament over an ordinary bill and if it remains unresolved for six months, the President can convene a joint sitting of the two Houses for resolving the deadlock.

This joint sitting is presided over by the Speaker of the Lok Sabha. If the bill is passed in the joint sitting, it is sent to the President for his signatures. But if the deadlock is not resolved, the bill is deemed to have been killed.

#### **2. Financial Powers:**

In the financial sphere, the Rajya Sabha is a weak House. A money bill cannot be introduced in the Rajya Sabha. It can be initiated only in the Lok Sabha. A money bill passed by the Lok Sabha comes before the Rajya Sabha for its consideration. However, if within a period of 14

days, the Rajya Sabha fails to pass the bill, the bill is taken to have been passed by the Parliament irrespective of the fact whether the Rajya Sabha has passed it or not. If the Rajya Sabha proposes some amendments and the bill is returned to the Lok Sabha, it depends upon the Lok Sabha to accept or reject the proposed amendments.

### **3. Executive Powers:**

“The Union Council of Ministers is collectively responsible before the Lok Sabha and not the Rajya Sabha.” Lok Sabha alone can cause the fall of the Council of Ministers by passing a vote of no-confidence.

Although the Rajya Sabha cannot remove the Ministry from its office yet the members of the Rajya Sabha can exercise some control over the ministers by criticising their policies, by asking questions and supplementary questions, and by moving adjournment motions. Some of the ministers are also taken from the Rajya Sabha. Now the Prime Minister can also be from Rajya Sabha if the majority party in the Lok Sabha may elect/adopt him as its leader.

### **4. Amendment Powers:**

Rajya Sabha and Lok Sabha can together amend the constitution by passing an amendment bill with 2/3 majority in each House.

### **5. Electoral Powers:**

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The Rajya Sabha has some electoral powers also. The elected members of the Rajya Sabha along with the elected members of the Lok Sabha and all the State Legislative Assemblies together elect the President of India. The members of the Rajya Sabha Lok Sabha together elect the Vice- President of India. Members of the Rajya Sabha also elect a Deputy Chairman from amongst themselves.

### **6. Judicial Powers:**

(a) The Rajya Sabha acting along with the Lok Sabha can impeach the President on charges of violation of the Constitution.

(b) The Rajya Sabha can also pass a special address for causing the removal of a judge of the Supreme Court or of any High Court.

(c) The charges against the Vice-President can be leveled only in the Rajya Sabha.

(d) The Rajya Sabha can pass a resolution for the removal of some high officers like the Attorney General of India, Comptroller and Auditor General and Chief Election Commissioner.

## **7. Miscellaneous Powers:**

**The Rajya Sabha and Lok Sabha jointly perform the following functions:**

(a) Approval of the ordinances issued by the President,

(b) Ratification of an emergency proclamation,

(c) Making any change in the jurisdiction of the Supreme Court and the High Courts, and

(d) Making any change in the qualifications for the membership of the Lok Sabha and the Rajya Sabha.

## **8. Two Special Powers of Rajya Sabha. The Rajya Sabha enjoys two exclusive powers:**

### **(i) The Power to declare a subject of State List as a subject of National Importance:**

The Rajya Sabha can pass a resolution by 2/3rd majority of its members for declaring a State List subject as a subject of national importance. Such a resolution empowers the Union Parliament to legislate on such a state subject for a period of one year. Such resolutions can be repeatedly passed by the Rajya Sabha.

### **(ii) Power in respect of Creation or Abolition of an All India Service:**

The Rajya Sabha has the power to create one or more new All India Services. It can do so by passing a resolution supported by 2/3rd majority on the plea of national interest. In a similar way, the Rajya Sabha can disband an existing All India Service.

**Position of the Rajya Sabha:**

A study of the powers of the Rajya Sabha leads us to the conclusion that it is neither a very weak house like the British House of Lords nor a very powerful house as the American Senate. Its position is somewhat mid-way between the two. It has been less powerful than Lok Sabha but it has been not a very weak or insignificant House. Since 1950, the Rajya Sabha has been using its powers and functions in accordance with the provisions of the Constitution and performing its due role as the second House of Union Parliament.