

UNIT 2-CHAPTER 7

What are the powers and functions of the Governor?

The Constitution confers on the Governor a large number of powers which may be classified under the following heads- namely (1) Executive, (2) Legislative, (3) Financial. (4) Judicial, and (5) Miscellaneous.

(1) Executive Powers:

The Executive Power of the State is vested with the Governor who is empowered to exercise it either directly or through officers subordinate to him. All executive actions of the State Government are done in his name. He is authorized to make rules regarding the way in which orders and instructions made and executed in his name are to be authenticated.

His executive power includes the power of appointment. He appoints the Chief Minister of the State and other Ministers are appointed by him on the advice of the Chief Minister. He allocates the various portfolios among the members of the Council of Ministers. He also appoints the Advocate-General, the Chairman and members of the Public Service Commission. He is consulted in the appointment of the Judges of the High Court of the State.

The Governors of Bihar, Madhya Pradesh, and Orissa have a special responsibility to see that the Councils of Ministers in their respective States have a Minister in charge of Tribal Affairs. The Governor exercises the general supervision over

the State administration. He can submit for the consideration of the Council of Ministers any matter which in his opinion requires due consideration.

It is the duty of the Chief Minister to communicate to the Governor all decisions of the Council of Ministers relating to the administration of the State and proposal for legislation. Under Article 167 (c) of the Constitution, the Governor is empowered to ask the Chief Minister to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but it has not been considered by the Council.

Under normal circumstances the **Governor is bound to act according to the advice of the Ministers.** His executive power also extends to matters in which the State Legislature has power to make law.

(2) Legislative Powers:

The Governor is closely connected with the Legislative Assembly of the State. He summons, prorogues and dissolves the State Legislature. He convenes the State Legislature, addresses it in person, and sends messages to it. **All bills passed by the Assembly in order to be placed in the Statute Book must receive the assent of the Governor.** He may assent to a bill or withhold it and return it for the re-consideration of the State Legislature. If the bill, which is returned by the Governor, is again passed with or without amendments, the Governor must give his assent thereto. He has, however, no power to return a Money Bill.

There is another provision under Article 200 of the Constitution, which empowers the Governor to reserve a Bill for the consideration of the President, when a bill is reserved by the Governor for the consideration of the President, the President shall declare either that he assents to the bill or that he withholds assent there from. However, there is no remedy to the Presidential veto over the bills reserved for his assent.

The Governor has the power of promulgating ordinance during the recess of the Legislature. The ordinances so promulgated cease to operate at the expiration of six weeks from the re-assembly of the State Legislature or earlier, if a resolution disapproving such an ordinance is passed by the State Legislature. The Constitution provides that the Governor shall not, without instructions from the President, promulgate any such ordinance,

(a) If a Bill containing the same provisions would have required the previous sanction of the President for the introduction thereof into the legislature or

(b) If the Governor would have reserved Bill containing the same provisions for the consideration of the President, or

(c) If an Act of the State Legislature containing the same provisions would have been invalid unless having been reserved for the consideration of the President, it had received the assent of the President.

Thus, the ordinance making power of the Governor is limited in the above-mentioned specified subjects where he must

obtain prior approval of the President. Further, this power of promulgating ordinance is to be exercised with the aid and advice of the Council of Ministers.

(3) Financial Powers:

The annual budget of the State is laid before the State Legislative Assembly with the approval of the Governor. He shall cause it to be laid before the State Legislature. **No proposals for higher taxation or greater expenditure can be discussed in the State Legislature without prior permission of the Governor.** Besides, the Governor may place supplementary budgets before the Legislature. A State Contingency Fund has been created and is placed under the Governor of a State to authorize immediate expenditure pending future legislative sanctions.

(4) Judicial Powers and Immunity:

The Governor has power to pardon, commute and suspend sentences of any person affected on any offences against any law relating to matters to which the executive power of the State extends. These powers are not expected to be exercised arbitrarily except for good and sufficient reasons. Senior Judicial appointments in States are also made in the name of the Governor. The Governor is above law. He cannot be sued in any Court for civil and criminal matters. These immunities are generally accorded to all Heads of the States. He is also consulted in case of appointment of Judges of the High Court of the State.

(5) Miscellaneous Functions:

Apart from these powers, the Governor performs a few miscellaneous functions. **He is the Ex-Officio Chancellor of the Universities of the State.** Here he performs a number of functions, which are primarily of ceremonial character like the conferment of degrees, appointment of the Vice-Chancellor, etc. He may, patronize the Red Cross Society and similar philanthropic organizations. He receives the annual report of the State Public Service Commission and passes it to the Legislature for discussion.

Similarly, he receives the report of the Accountant-General of the State and submits it for the consideration of the Legislature. **Under Article 356 (I) of the Constitution he is authorized to submit a report to the President for the proclamation of Emergency in the State, if he is satisfied that, the situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution. During such Emergency, he may exercise tremendous powers as the agent of the President.** The Governor of Assam possesses a discretionary power for administration of Tribal Affairs in the State.