

11.12.20

## Election & Removal of President of India :-

Pres - President

Art 54, 55, 56 & 57 with Art 61

Regulates the election & the process of impeachment with regard to the office of Pres. of India. The electoral college that elect Pres of India includes the elected members of Lok Sabha, Rajya Sabha & state ~~assemblies~~ assembly members.

It should be noted that nominated members of Parliament are prohibited to cast their vote in the process of Election. However, they are entitled to give their vote in the process of Impeachment but the state assembly members are prohibited to cast their vote for the purpose of Impeachment.

The constitutional framework & mandate of Indian Polity also accept the values of Republican govt. Under Republican form of Democratic System it is essential

that the Head of State should be elected by those electorates/voters which are elected directly or indirectly by the people. It should be noted that the members of Lok Sabha, Vidhan Sabha & Rajya Sabha are ~~di~~ elected directly & indirectly by the people. Apart from this, it is not possible to calculate the vote values of nominated members since this value is calculated based on proportion of population & nominated members does not represent population. At the same time, the President of India is also elected as the Head of State. Subsequently, Assembly members are also entitled to cast their vote.

In the process Impeachment nominated members are allowed because they are authorised enough to acquire any portfolio under Govt. of India. It means they can become



COM  
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Council  
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Ministers

inherent part of COM & as a part of COM they are also empowered to give advice to Pres. of India. Apart from this Assembly members & State Govt does not provide any such type of advice to Pres. of India under Art 74(1). It should be noted that the ground of Impeachment i.e. "Violation of Constitution" is not being defined by the Constitution. But an inference can be drawn that violation of Constitution literally means non acceptance of advice under Art 74(1). Subsequently, those incumbents which are entitled to provide advice are authorised to cast their vote in the process of Impeachment.

### Election of President of India :- (Ref. Laxmikant)

- Proportional Representation by means of Single ~~Transferable~~ Transferable vote.

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Pres. of India is elected by a system of Proportional Representation & single transferable vote. The main objective of Proportional Representation is to secure a Uniformity or Parity between MPs & MLAs & to provide more Representation to those states where the proportion of population is more. For this purpose initially the vote value of MLA & MP is calculated by taking the reference of 1971 population census.

It should be noted that the vote value of different MLAs coming from different states could differ from each other. But the vote value of all the MPs would remain the same. Although the total <sup>vote</sup> value of MLAs & MPs would be the same.

Under Single Transferable system it is required for the voters to cast preferential vote in the 1st Round



of counting, only the 1st preference votes are considered & if no candidate able to secure more than 50% 1st preference vote then the 2nd preference votes of least preferred candidate would be transferred to other candidates. The main objective of this system is to attain this purpose/goal that the Pres. of India should be 1st preferred choice of Electorates & in case if he/she does not able to secure absolute majority on 1st preference vote then he should be the 2nd preferred choice of Electorates/voters.

### Discretionary Power Of President :-

- The Constitutional mandate of Indian Polity provides under Art 85, provides that maximum time period between two parliamentary session should not exceed to more than 6 months. In case if the time period of 6 months get over & Govt. in power does not advise

President of India with a fear to lose the majority in the coming parliamentary session then President on his own discretion can summon the session of Parliament. Here, President is really acting as a preserver, protector & defender of the Constitution.

ii) Under Art 78(1) if P.M. does not furnish information with regard to the proposal of legislation & matter of administration then under Art 78(2) President can call for such information.

iii) In the case of any constitutional deadlock when no political party able to secure the majority & President has evaluated every option then as a last resort by using his discretion he can appoint any member any political party as P.M. with some time to secure majority in the house. (Lok Sabha).