



GS FOUNDATION BATCH FOR CSE 2024

Polity - 14 (State Executive)



The state executive consists of the

- governor,
- the chief minister,
- the council of ministers and
- the advocate general of the state

Usually, there is a governor for each state, but the 7th Constitutional Amendment Act of 1956 facilitated the appointment of the same person as a governor for two or more states.

When the same person is appointed as the governor of two or more states, the emoluments and allowances payable to him are shared by the states in such proportion as determined by the president.

Appointment of Governor

- neither directly elected by the people nor indirectly elected.
- appointed by the president by warrant under his hand and seal.
- In a way, he is a nominee of the Central government.
- **But, as held by the Supreme Court in 1979, the office of governor of a state is not an employment under the Central government.**

Qualification:

- 35 Years of age
- Citizen of India

Immunity to Governor:

- He enjoys personal **immunity from legal liability for his official acts.**
- During his term of office, he is **immune from any criminal proceedings.**
- **Civil Proceeding can be started, but only after giving 60 days' notice.**

A governor holds office for a term of five years from the date on which he enters upon his office.

However, this term of five years is subject to the pleasure of the President.

Further, he can resign at any time by addressing a resignation letter to the President.

The governor has no security of tenure and no fixed term of office. He may be removed by the President at any time.

The President may transfer a Governor appointed to one state to another state for the rest of the term. Further, a Governor whose term has expired may be reappointed in the same state or any other state

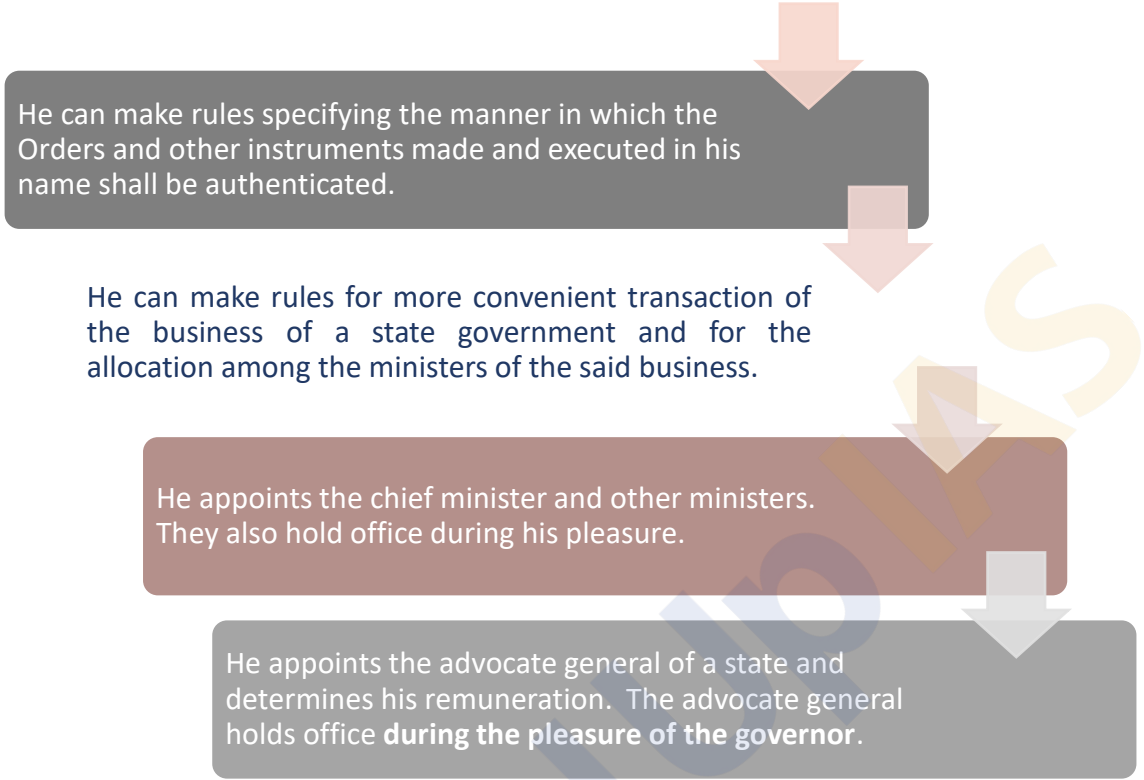
Other Conditions of Office of Governor:

- The Governor **shall not be a member of either House of Parliament or of a House of the Legislature.** If a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat from date of appointment.
- Shall **not hold any other office of profit.**
- The emoluments and allowances of the Governor shall not be diminished during his term of office.

Oath: make and subscribe in the **presence of the Chief Justice of the High Court and in his absence senior most available judge of that High Court.**

Executive Powers:

All executive actions of the government of a state are formally taken in his name.



He can make rules specifying the manner in which the Orders and other instruments made and executed in his name shall be authenticated.

He can make rules for more convenient transaction of the business of a state government and for the allocation among the ministers of the said business.

He appoints the chief minister and other ministers. They also hold office during his pleasure.

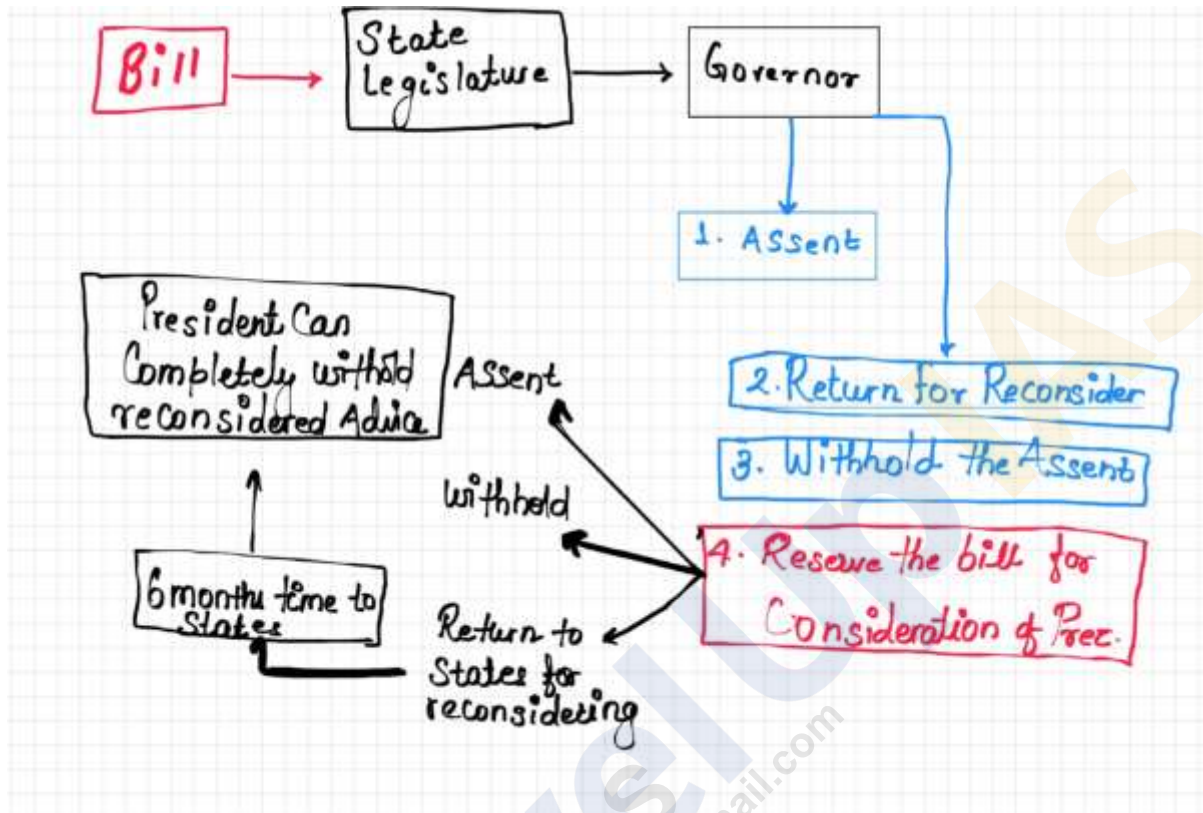
He appoints the advocate general of a state and determines his remuneration. The advocate general holds office **during the pleasure of the governor**.

- He appoints the state election commissioner and determines his conditions of service and tenure of office. However, the state election commissioner can be removed **only in like manner and on the like grounds as a judge of a high court**.
- He appoints the chairman and members of the state public service commission. However, **they can be removed only by the president and not by a governor**.
- The Governor **shall make rules for the more convenient transaction of the business of the Government of the State**, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion

Legislative Powers:

- He can summon or prorogue the state legislature and dissolve the state legislative assembly.
- He can address the state legislature at the commencement of the first session after each general election and the first session of each year.
- He can send messages to the house or houses of the state legislature, with respect to a bill pending in the legislature or otherwise.
- He can appoint any member of the State legislative assembly to preside over its proceedings when the offices of both the Speaker and the Deputy Speaker fall vacant.

- He nominates one-sixth of the members of the state legislative council from amongst persons having special knowledge or practical experience in literature, science, art, cooperative movement and social service.
- He decides on the question of disqualification of members of the state legislature in consultation with the Election Commission.



What have been the friction points between Government and Governor?

In recent years, these have been largely about the selection of the party to form a government, deadline for proving majority, sitting on Bills, and passing negative remarks on the state administration.

Recently, In November 2019, after a hung verdict in Maharashtra, Governor Bhagat Singh Koshiyari quietly **invited BJP leader Devendra Fadnavis and administered him oath as CM**. This government lasted just 80 hours. Six months later, Koshiyari refused to nominate CM Uddhav Thackeray to the Legislative Council, leading Thackeray to meet PM Narendra Modi to resolve the issue.

In December 2020, Kerala Governor Arif Mohammed Khan turned down a request to summon a special sitting of the Assembly to debate the three central farm laws. Again the similar act was done in Rajasthan in 2022.

In recent years, there has been a grave erosion of constitutional provisions, constitutional morality, and constitutional ethos being witnessed among various constitutional bodies. If the manner of functioning by institutions such as the Election Commission of India and the Comptroller and Auditor General of India has left much to be desired, the conduct of the Governors of some States has made a complete mockery of the Constitution and its limitations.

A Constitution Bench of the Supreme Court laid down in *Shamsher Singh vs State of Punjab and Anr.* (1974) that the President and Governor shall “exercise their formal **constitutional powers only upon and in accordance with the advice of their Ministers save in a few well-known exceptional situations.** *Wherever the constitution requires satisfaction of the President or the Governor for the exercise of any power or function by the President or the Governor, as the case may be, as for example in Articles 123, 213, 311(2) proviso (c), 317, 352(1), 356 and 360. The satisfaction required by the Constitution is the satisfaction of the President or of the Governor in the Constitutional sense under the Cabinet system of the Government*”. Yet, there is the extraordinary situation of some Governors not acting upon requests to grant clemency or assent to Bills; and, in one instance in Tamil Nadu, a reluctance to reserve for the President’s consideration a Bill that expressly requires Presidential assent because of obvious conflict with a central law. Much of the conflict arises due to the Constitution itself. It fixes no time-frame for the Governors to act, and contains, in Article 163, an unusual power to choose what is in their discretion and what is not, with the courts being barred from inquiring into whether any advice and, if so, what advice was given.

The makers of the Constitution of India did not anticipate that the office of the Governor, which was originally meant to “preserve, protect and defend the Constitution and the law”, would metamorphose into the most controversial constitutional office rendering the constitutional praxis rugged.

Though the **original Draft of the Constitution provided for either the direct election or the appointment of the Governor by the President from a panel of four candidates elected by the Legislative Assembly.** (Article 131 of the draft which was to become Article 155), the Constituent Assembly chose a third alternative for the appointment of the Governor by the President, **so as to avoid confrontation with the elected executive.**

Dr. Ambedkar categorically stated on the floor that “**The Governor under the Constitution has no functions which he can discharge by himself**; no functions at all. While he has no functions, he has certain duties to perform...” Instead of a powerful Governor, what the Constitution conceived was a duty-bound Governor.

Reasons for choosing nomination of election rather election:

The Constituent Assembly fully debated the merits and demerits of an elected Vs, nominated Governor and finally opted for the system of presidential nomination, rather than direct election, of the Governor because of several reasons: For example:

- A nominated Governor would encourage centripetal tendencies and, thus, promote all-India unity. “an elected Governor would to some extent encourage that separatist provincial tendency more than otherwise. There will be far fewer links with the Centre.
- In a parliamentary system the head should be impartial, but a Governor elected by the direct vote of the people would have to be a partyman.
- Conflicts might arise between the Governor and the Chief Minister if both were to be elected by the people.

- The Governor being only a symbol, a figurehead, there would be no point in spending money in having him elected.

Important Articles:

1. <https://www.thehindu.com/opinion/lead/the-governor-is-under-the-constitution-not-above-it/article66154252.ece>
2. <https://www.thehindu.com/thread/law/the-office-of-the-governor/article65204517.ece>
3. <https://indianexpress.com/article/explained/governors-powers-friction-with-states-and-why-this-happens-often-dhankhar-mamata-twitter-7765001/>

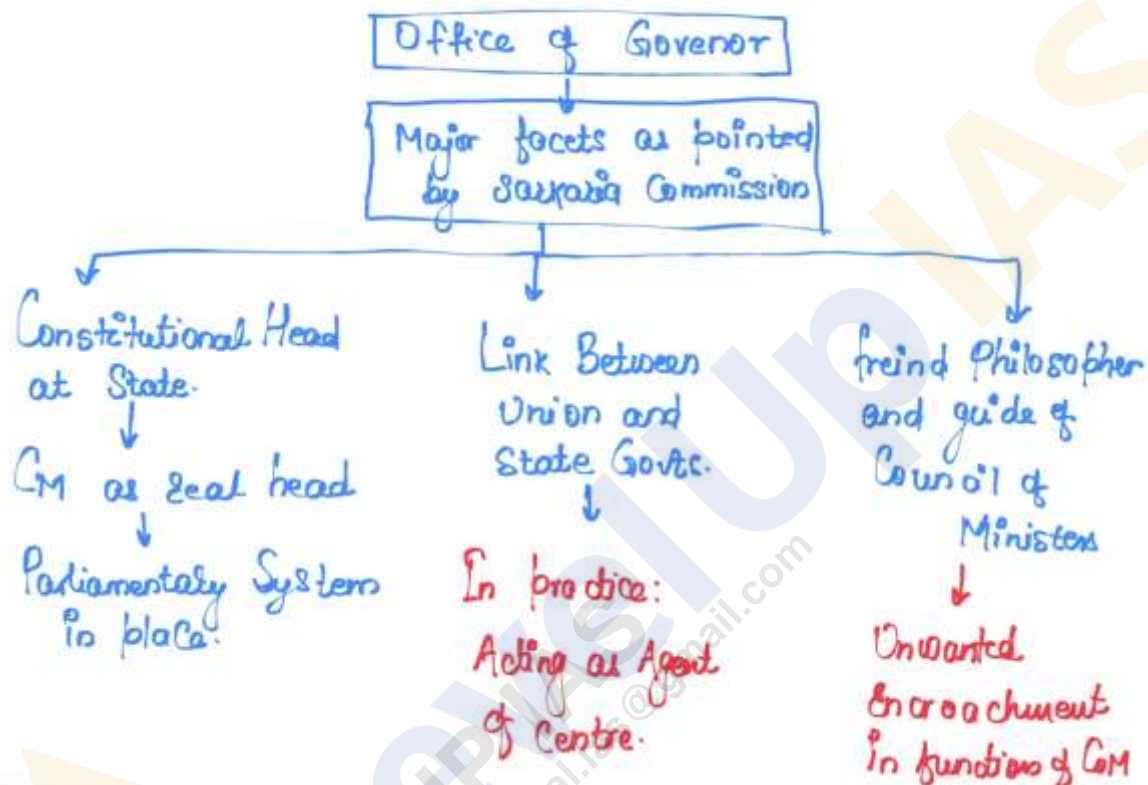


A classic example of Raj Bhavan getting embroiled in partisan politics was sketched by a series of events in Tamil Nadu beginning from the declaration of national emergency on June 25, 1975. This was followed by the DMK regime offering political support and shelter to the national dissidents which led to realignments in State politics. A report was then sent by the then Governor K. K. Shah seeking the dismissal of the DMK government for pervasive corruption and therefore, President's Rule was imposed on February 3, 1976. **The President's Rule was imposed in States over a 100 times prior to 1994.**

But after the Supreme Court's judgment in the *S. R. Bommai* case, such rampant practices came to an end as the Supreme Court declared that the imposition of President's Rule shall be confined only to the breakdown of constitutional machinery.

What Commissions have to say about role of governor?

The institution of Governor was conceived of as an effective link between the two levels of Government. **It was expected to encourage nation-building forces**, made for unity and integrity and ensure the conduct of the affairs of government in the State in accordance with the Constitution. It is alleged that this instrument has been made use of to destabilise the State Governments run by parties different from that in power in the Union, to facilitate imposition of the President's rule and reserve for President's consideration many State Bills to thwart the States' legislative process.



In the first two decades after Independence, there was supremacy of the Congress Party both at the Centre and the State level. Consequently, the role of the Governor was more symbolic and devoid of much controversy. There was very limited role of the Governor in terms of utilising his discretionary powers. However, this position changed after the 1967 elections, where even though the Congress retained power in the Centre, it lost in eight states. Between **1967 and 1972 there was a downfall of more than two dozen ministries giving rise to opportunistic alliances and political defections**. As a result, the Governor's role became important as he had to balance the political considerations between the Centre and State and be as impartial as possible. When the Chief Ministers belonged to the Opposition, the Governor was considered the Centre's agent and when there was a coalition government, the Chief Minister's position was rendered rather ineffectual vis-à-vis the Governor. As a result, the Governor started playing a stubborn role, which gave birth to debatable issues concerning the constitutional powers of the Governor.

Issues and Concerns:

- The Governor's role thereafter became increasingly controversial with **allegations of partiality and lack of objectivity in exercise of the discretionary powers.**
- The part played by some Governors, **particularly in recommending President's rule and in reserving State Bills for the consideration of the President, has been frequently questioned.**
- Frequent removals and transfers of Governors before the end of their tenure have also lowered the prestige of this office.
- Criticism has also been leveled that the Union Government uses the office of the Governors for its own political ends.

Discussion in Constitutional Assembly About the Role of Governor:

The Constituent Assembly discussed at length the various provisions relating to the Governor. Two important issues were considered.

1. The first issue was whether there should be an elected Governor: It was recognised that the co-existence of an elected Governor and a Chief Minister responsible to the Legislature might **lead to friction and consequent weakness in administration.** The concept of an elected Governor was therefore given up in favour of a nominated Governor. Explaining in the Constituent Assembly why a Governor should be nominated by the President and not elected, Jawaharlal Nehru observed that "an elected Governor would to some extent encourage that separatist provincial tendency more than otherwise. There will be far fewer common links with the Centre."
2. **Second issues was wrt to the vesting of discretionary powers in hands of the governor:** Following the decision to have a nominated Governor, references in the various articles of the Draft Constitution relating to the exercise of specified functions by the Governor '**in his discretion**' were deleted. The only explicit provisions retained were those relating to Tribal Areas in Assam where the administration was made a Central responsibility. Nonetheless, no change was made in Draft Article 143, which referred to the discretionary powers of the Governor. This provision in Draft Article 143 (**now Article 163**) generated considerable discussion. Replying to it, Dr. Ambedkar maintained that vesting the Governor with certain discretionary powers was not contrary to responsible Government.

Article 163 of the Constitution: There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion

Important to note:

Article 167: Article 167 of the Constitution imposes **duties on the Chief Minister to communicate to the Governor all decisions of the Council of Ministers and proposals for legislation** and such other information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and “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”.

The nature and scope of these duties of the Chief Minister and the corresponding rights and powers of the Governor are to be understood in the context of their respective roles and responsibilities under a Cabinet system of government as adopted in our Constitution.

Under this system, **the Governor as Constitutional head of the State has “a right to be consulted, to warn and encourage”** and his role is overwhelmingly that of “a friend, philosopher and guide” to his Council of Ministers. Harmoniously with this role, the Governor also functions as a sentinel of the Constitution and a live link with the Union. The rationale of Article 167 is that by affording access to necessary information relating to the administration of the affairs of the State and the legislative proposals, it enables the Governor to discharge effectively this multi-faceted role.

Constitutional Discretion of the Governor: (When can he act in discretion)

- Governors of all the States— **Reservation for the Consideration of the President** of any Bill which, in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court.
- The Governors of Arunachal Pradesh and Nagaland have been entrusted with a special responsibility with respect of law and order in their respective States. In the discharge of this responsibility, they are required to exercise their “individual judgement” after consulting their Council of Ministers.
- **Governors as Administrator of U.T.**— Any Governor, on being appointed by the President as the administrator of an adjoining Union Territory, has to exercise his functions as administrator, independently of the State Council of Ministers.

Situational Discretion of Governor:

- (a) Governor has necessarily to act in his discretion **where the advice of his Council of Ministers is not available**, e.g. in the appointment of a Chief Minister soon after an election, or where the Council of Ministers has resigned or where it has been dismissed [Article 164(1)].
- (b) A Governor may have to act against the advice of the Council of Ministers, e.g. dismissal of a **Ministry following its refusal to resign** on being defeated in the Legislative Assembly on a vote of no-confidence [Article 164(1) & (2)].
- (c) A Governor may require that any **matter decided by a Minister may be considered by the Council of Ministers** (Article 167).
- (d) A Governor **may have to make a report to the President under Article 356** that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution.

Actions of the Governor and its role on Centre state relationship:

The burden of the complaints against the behaviour of Governors, in general, is that **they are unable to shed their political inclinations**, predilections and prejudices while dealing with different political parties within the State. As a result, sometimes the **decisions they take in their discretion appear as partisan and intended to promote the interests of the ruling party in the Union Government**, particularly if the Governor was earlier in active politics or intends to enter politics at the end of his term. Such a behaviour, it is said, tends to impair the system of Parliamentary democracy, detracts from the autonomy of the States, and generates strain in Union-State relation.

Recommendations of Sarkaria Commission:

WRT appointment of the Governor:

- He should be eminent in some walk of life.
- He should be a person **from outside the State**.
- He should be **a detached figure and not too intimately connected with the local politics of the State**; and
- He should be a person who has not taken too great a part in politics generally and particularly in the recent past

The National Commission to Review the Working of the Constitution (NCRWC), in its consultation paper, suggested **that Article 155 and 156 be amended and the appointment of the Governor should be entrusted to a committee comprising the Prime Minister of India, Union Minister for Home Affairs, Speaker of the Lok Sabha and the Chief Minister of the concerned State**. It also suggested that the Vice-President also could be involved in the process.

These recommendations were also reiterated by the Supreme Court in the **Rameshwar Prasad case.(2006)**

In Rameshwar Prasad v. Union of India, it was observed that **there is a need to formulate a national policy with some common minimum parameters for appointment of Governor, which are applicable and acceptable to all political parties**.

While maintaining the existing constitutional qualifications for the Governor, Punchhi Commission recommends:

- The Commission would recommend the following amendments to Article 157 of the Constitution to ensure the independence and dignity of the office:
- The Governor should, in the opinion of the President, be an eminent person;
- The Governor must be a person from outside the concerned State;
- The Governor should be a detached person and not too intimately connected with the local politics of the State. Accordingly, the Governor must not have participated in active politics at the Centre or State or local level for at least a couple of years before his appointment

Governor's Office is indispensable: (Should Post of Governor be abolished?)

- The Governor whether acting with or without the advice of the Council of Ministers, plays a pivotal role in our constitutional system and in its working. **He is the Linchpin of the constitutional apparatus of the State.**
- **Governor's Office assures continuity of Government:** The tenure of the Governor, unlike that of the Chief Ministers does not depend on majority support in the Legislative Assembly. Chief Ministers change from time to time depending on their enjoyment of loss of such support. But the Governor continues irrespective of change of Ministries or even dissolution of the Legislative Assembly. The Governor continues even on the expiry of his 5 year term till his successor takes over. Thus, the institution of Governor assures continuity of the process of Government. He fills the political vacuum as and when there is a breakdown of the constitutional machinery in the State.

Should Governor be appointed from a panel to be prepared by the State Legislature?

- It would mean a process of direct or indirect election by the State Legislature. A Governor so 'selected' may **well seek to override the powers of his Chief Minister**, leading to friction between them and distortion of the system of responsible government.
- There is the other possibility that an elected Governor may labour **under a sense of obligation to the Chief Minister**. Such a Governor will not be able to perform the delicate task of harmonising his responsibility to the Union with his duties as constitutional head of the State. His role as a sentinel of the Constitutional and a vital link between the Union and the State would thus get seriously undermined.

Should Governor be appointed from a panel to be prepared by the State Government (in effect the State Chief Minister) or invariably with the concurrence of the State Chief Minister?

- If the Prime Minister and the Chief Minister belong to different political parties, the process or selection will frequently end in deadlock, instead of concurrence.
- Secondly, if in the process, a Chief Minister succeeds in securing the Prime Minister's concurrence for appointment of an 'insider' backed by his party in the Legislative Assembly, the selection will be vulnerable on the same grounds on which framers of the Constitution ejected the proposal to have a Governor directly or indirectly elected by the State. Besides this, there is a real danger that regional chauvinism might dictate the preference for a person of parochial views as Governor.

Should Governor be appointed after consultation with the Chief Minister of a State?

Originally The framers of the Constitution were of the view that the person to be nominated as Governor should be acceptable to the State Government and the Chief Minister should be consulted.

Again, **The ARC study team on Centre-State Relationships (1967)** recommended that the **practice of consulting the Chief Minister should remain but this should not dilute the primary responsibility of the Union to appoint competent and**

suitable persons as Governors. The ARC also recommended that the convention of consulting the Chief Minister should continue. **The Government of India accepted this recommendation of the ARC in the early seventies.**

Arguments given by Sarkaria Commissions in favour of appointing Governor with consultation of CM”

- For proper working of the Parliamentary system, **there has to be a personal rapport between the governor and the Chief Minister.**
- Chief Minister may be harbouring certain mental reservations against a particular choice being made for the office of Governor of the State. **Consultation would enable the Chief Minister to advise the selectors about this at the very beginning.**
- As senior politicians are among those who are eligible for selection, it is desirable that a politician from the ruling party at the Union is not appointed as Governor of a State which is being run by some other party or a combination of other parties. Any error in this respect can be pointed out by the Chief Minister during consultation at the pre-appointment stage.
- the main purpose of consulting the Chief Minister is to ascertain his objections, if any, to the proposed appointment.

While Sarkaria held public consultation on this issue: All the State Governments (with one solitary exception), political parties and eminent persons who have responded to our questionnaire, are of the view that appointment of the Governors should always be made after consultation with the Chief Minister of the State. Quite a number of them insist that such consultation should be made a constitutional requirement, and not left to convention.

Hence Sarkaria Commission also recommended to make consultation of CM as a constitutional requirement to appoint the Governor.

Tenure of Governor:

A Governor's term of office on appointment to a State is five years. However, he holds that office during the pleasure of the President.

A Survey of the tenures of Governors from 1947 upto October, 1986 shows that, out of the 154 tenures that ended during this period, 104, i.e. Two-thirds of them, were each of duration of less than 5 years.

It should further be noted that from April 1967 to October, 1986: pre-mature exits from office occurred at a much faster rate and relatively fewer Governors completed their normal term of office, as compared to those during the former period.

Many Governors have held office in more than one State successively without a break. During the period up to October, 1986, 31 persons held 63 tenures of Governors.

Sarkaria Recommendation: when a Governor, before the expiry of the normal term of five years, resigns or is appointed Governor in another State, or his tenure is terminated, **the Union Government may lay a statement before both Houses**

of Parliament explaining the circumstances leading to the ending of his tenure. Where a Governor has been given an opportunity to show cause against the premature termination of his tenure, the statement may also include the explanation given by him in reply. **This procedure would strengthen the control of Parliament and the Union Executive's accountability to it.**

While it is not advisable to give the same security of tenure to a Governor as has been assured to a Judge of the Supreme Court, some or other safeguard has to be devised **against arbitrary withdrawal of President's pleasure**, putting a premature end to the Governor's tenure. The intention of the Constitution makers in prescribing a five-year term for this office appears to be that the President's pleasure on which the Governor's tenure is dependent, should not be withdrawn without cause shown.

Further, MM Punchi commission too **recommends that Governors should be given a 5 years tenure.**

Punchi Commission has recommended that: **A provision may be made for the impeachment of the Governor by the State Legislature on the same lines as the impeachment of the President by the Parliament. (Impeachment by State Legislature)**

Bar on Future Political Appointments:

- If Governors become Ministers or hold other official positions, the dignity of the office is marred.
- a person who has served as Governor should be ineligible for further appointment in any capacity under the Union Government or a State Government. **He should also not take up any private appointment.**

Sarkaria Commission Recommends that, as a **matter of convention the Governor, on demitting his office, should not be eligible for any other appointment or office of profit** under the Union or a State Government except for a second term as Governor, or election as Vice-President or President of India. Such a convention should also require that after quitting or laying down his office, the Governor shall not return to active partisan politics.

Recommendation as to Grant of Assent to the bills: Presently there is no time limit which has been fixed for the governor to grant the assent the bills. It has been held in **Purshothaman v. State of Kerala** that there is no time limit for granting the assent. It also held that a Bill pending in the Legislature (either House) does not lapse on proroguing of Assembly and that a Bill **pending before the Governor or the President for his assent does not lapse on dissolution of the Assembly.**

While National Commission on working of constitution has given certain recommendation which yet again has been reiterated by the Punchi Commission:

- Prescribe a time-limit - **say a period of four months** - within which the Governor should take a decision whether to grant assent or to reserve it for the consideration of the President;
- Delete the words "or that he withholds assent therefrom". In other words, **the power to withhold assent, conferred upon the Governor, by Article 200 should be done away with**;
- If the Bill is **reserved for the consideration of the President, there should be a time-limit, say of three months**, within which the President should take a decision whether to accord his assent or to direct the Governor to return it to the State Legislature or to seek the opinion of the Supreme Court regarding the constitutionality of the Act under Article 143 (as it happened in the case of Kerala Education Bill in 1958);
- When the State Legislature reconsiders and passes the Bill (with or without amendments) after it is returned by the Governor pursuant to the direction of the President, **the President should be bound to grant his assent**;
- To provide that a "**Money Bill**" **cannot be reserved by the Governor** for the consideration of the President;

Chief Minister:

Article 163

There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final.

The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

- the governor is the nominal executive authority (de jure executive) and the Chief Minister is the real executive authority (de facto executive).
- 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.**
- A person who is **not a member of the state legislature can be appointed as Chief Minister for six months, and within 6 months he/she has to acquire membership of either house (as applicable) otherwise he/she will have to resign.**

Council of Minister:

- The Chief Minister shall be appointed by the Governor and
- the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and
- the Ministers shall hold office during the pleasure of the Governor
- The **total number of Ministers, including the Chief Minister**, in the Council of Ministers in a State shall not exceed fifteen per cent.
- The Council of Ministers shall be **collectively responsible** to the Legislative Assembly of the State.
- Governor shall administer **oath of Office and Secrecy** to each minister before entering in office.
- The salaries and allowances of Ministers shall be such as the Legislature of the State may from time to time by law determine.

Duties of Chief Minister as respects the furnishing of information to Governor, etc.—It shall be the duty of the Chief Minister of each State—

- (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.

Role of Governor while Appointing and dismissing Chief Minister: the Punchhi commission has given certain guidelines:

- The party or combination of parties which commands the widest support in the Legislative Assembly should be called upon to form the Government.
- If there is a pre-poll alliance or coalition, it should be treated as one political party and if such coalition obtains a majority, the leader of such coalition shall be called by the Governor to form the Government.
- In case no party or pre-poll coalition has a clear majority, the Governor should select the Chief Minister in the order of preference indicated below:
 - (a) the group of parties which had pre-poll alliance commanding the largest number
 - (b) the largest single party staking a claim to form the government with the support of others.
 - (c) A post-electoral coalition with all partners joining the government
 - (d) A post-electoral alliance with some parties joining the government and the remaining including independents supporting the government from outside.

On the question of dismissal of a Chief Minister, the Governor should invariably insist on the Chief Minister proving his majority on the floor of the House for which he should prescribe a time limit.

On the question of granting sanction for prosecution of a State Minister in situations where the Council of Ministers advised to the contrary, the Commission would endorse the interpretation given by the Supreme Court to the effect that "if the Cabinet decision appears to the Governor to be motivated by bias in the face of overwhelming material, the Governor would be within his rights to disregard the advice and grant sanction for prosecution". The Commission recommends that Section 197 Criminal Procedure Code may be suitably amended to reflect the position of law in this regard.