

Unit-2

The Union Executive: Articles 52 to 78 and 123 Under Indian Constitution

Table of Contents Introduction

1. Parliamentary form of Government
2. The President (Article 52)
 1. Qualifications: Article 58
 2. Condition of President's Office: Article 59
 3. Official residence, emoluments, and allowances of President
 4. Election of President: Article 54
 1. Mode of Voting
 5. Disputes regarding the election: Article 71
 6. Oath by the President: Article 60
 7. Term of office of the President: Article 56
 8. Time of holding the election on expiry of the term and filling casual vacancies
3. Procedure for impeachment of the President: Article 61
4. Privileges of the President: Article 361
5. Powers of the President
 1.
 1. **Executive powers**
 2. Military powers
 3. Diplomatic powers
 4. Legislative powers
 5. Ordinance making power of the President: Article 123
 6. Financial Roles
 7. Judicial powers
 8. Pardoning power: Article 72
 1. Clemency Power not unbridled
 2. Nature of Pardoning Power
 3. Pardoning Power: subject to judicial review

Unit-2

4. Articles 72 and 161 of Constitution
 5. Emergency Powers
2. Position of the President
 1. Prior to the 42nd Amendment Act of 1976
 2. After the 42nd Amendment Act, 1976
 3. 44th Amendment Act, 1978
6. The Vice President (Article 63)
 1. Functions of the Vice-President
7. The Council of Ministers
 1. Size of Ministries
 2. Disqualification on defection on the ground of split in a political party
 3. A non-member can become a Minister
 4. A convicted person cannot be appointed Chief Minister
 5. Dissolution of Parliament
 6. Principle of Collective Responsibility
 7. Minister's Individual Responsibility
8. Appointment of Prime Minister
 1. Constitutional Duties of Prime Minister
 1. Rights and powers regarding Appointments:
 2. Rights/Powers with regard to Parliament of India:
 2. Dismissal of a Minister
 3. Dismissal of the Cabinet
 4. The Attorney-General of India
 1. Term and Appointment
 2. Qualification
 5. Functions and Duties of Attorney-General
9. Conclusion

Introduction

A few days ago, helping my younger brother at the subject of civics, I was bombarded with questions like why is the president not the real head?, Why are all leaders not allowed to ministers?, Why is there a need for a party election and not individuals standing face to face? And many more. Though I was able to answer

Unit-2

many, some really made me scratch my head. Though the concept of Parliament and Union Executive seems simple, it has its own intricacies. This made me look through all the provisions and laws relating to the executive.

So, let us discuss the provisions and try to understand the form of the executive wing of the government of our country.

Parliamentary form of Government

Before talking of the Parliament and Union Executive, let us understand the form and nature of the Indian government. The Structure of the Indian government can be understood by the following flow chart:

India is a form of Parliamentary Government. It is a form of government in which the executive is responsible and answerable to the legislative. It is also called the Cabinet Government due to the concentration of executive powers in the Cabinet. The Executive is a part of the Legislative.

This form of government was basically preferred by the leaders as:

1. Leaders were aware of such a form of government.
2. This government was considered a more responsible government as in this form of government, the executive is answerable to legislative and the legislative is answerable to the citizens.
3. This type of government prevents Authoritarianism.
4. This form helps to get representation from a Diverse Group of people.
5. This form of government remains laden with the availability of Alternate Government.
6. In this form of government, the head of the state holds a ceremonial position and is the nominal executive. For example, the President

Unit-2

7. The real head of the State is the Prime Minister, who is the real executive.
8. There is a majority party rule in such a form of government.
9. There is always a Parliamentary Opposition to maintain a check on the actions of the ruling government.
10. In this form of Government Civil Servants are Independent.

This is a famous concept of government followed in other countries like Japan, Canada, Britain. This form of government in India was majorly inspired by Britain.

Opposite of such a form of government is the Presidential form of Government. In this government, the President is answerable to citizens rather than the legislative.

If we dwell deep inside, we find further subdivision of the Executive Organs of the State. These subdivisions are:

The President (Article 52)

The first and foremost part of the Executive is the President. **Article 52** states that there shall be a President of India. The President is considered the Executive head of the country. All the Executive business of the country is carried out in the name of the President.

So the question arises that if President is the executive head and all actions are in his name, and the President has to carry out many functions, then can there be the performance of an act not mentioned in any specific legislation by the Executive?

The same was answered in the case of **Ram Jawaya Kapoor v. the State of Punjab**, the Government invited textbooks from authors for approval. When textbooks were approved, the authors were made to enter an agreement. According to this agreement, the copyright of these books vested solely in the Government. The

Unit-2

authors only got 5% royalty on the sale of the textbooks. The Government took all the publishing, printing and selling rights of the books in their own hands.

The Court held that these provisions were ultra-vires to the constitutional power. The government being an executory body did not possess the power to enter into that activity or trade without specific legislations.

No restriction on the executive powers is defined in the Indian Constitution. The Court held that the executive cannot be restricted to mere implementations of legislations. There is a strict separation of powers but no strict separation of functions.

Qualifications: Article 58

After knowing that President is the Executive Head of the entire nation, you might too aspire to become a president. So let's analyze the eligibility and all the specific requirements, you would be needing to become the President of India?

Article 58 talks about the eligibility of a person to become President of India. It says that a person is eligible for election as President if he:

1. is a citizen of India;
2. has completed the age of thirty-five years;
3. is qualified for election as a member of the House of the People.

A person can be disqualified for election as President if he holds any office of profit under

1. the Union of India or;
2. the Government of any State or;
3. under any local or other authority subject to the control of any Government of India.

Unit-2

Condition of President's Office: Article 59

The eligibility to become the President might seem simple but the conditions his office are quite strict. **Article 59** of the Indian Constitution talks about the conditions of the President's office. It says:

1. The President cannot be a member of either House of Parliament or of any other House of the Legislature of any State.
2. If he is a member of either House of Parliament or a member of a House of the Legislature of any State, he will need to vacate his seat in that House on the date of entering into his office as President.
3. The President shall not hold any other office of profit.
4. The President shall be authorized to the use of his official residences without rent.
5. He shall be also authorized to emoluments, allowances, and privileges determined by Parliament.
6. The emoluments and allowances of the President cannot be diminished or reduced during his term of office.

Official residence, emoluments, and allowances of President

Apart from all these conditions and rules, you might crave for some advantage of being the President. Well, the President of India is also entitled to certain allowances and privileges, as he is the first citizen of the country. The President of India is entitled to rent-free accommodation, allowances, and privileges by law. He is also entitled to:

1. Free medical facilities;
2. Free accommodation;
3. Free treatment for life;
4. The official state car of the President.

Unit-2

The salary of the President has undergone several changes since independence. Some of these changes were:

1. In 1951, the President of India used to get a salary of Rs. 10,000 and 15000 rupees as an allowance.
2. In 1985, the President of India used to get a salary of Rs. 15,000 and 30000 rupees as an allowance.
3. In 1989, the President of India used to get a salary of Rs. 20,000 and 10000 rupees as an allowance.
4. In 1998, the salary was increased to Rs. 50,000. In 2008, the salary was increased to Rs. 1,50,000.
5. In 2016, the salary was increased to Rs. 5,00,000.

Rashtrapati Bhavan is the President's official residence, including reception halls, guest rooms, and offices. It is the largest residence of any head of state in the world (You will get to live in it. After all, you have become the President of the largest democracy of the world).

Election of President: Article 54

So, if you think that who would vote for you in the Presidential elections?

The answer lies in **Article 54** of the Constitution. It deals with provisions relating to the election of the President. It says that the President must be elected by the members of an electoral college. The electoral college consists of the elected members of both Houses of Parliament and the state Legislative Assemblies.

Mode of Voting

As per **Article 55(3)** of the Constitution of India, the election of the President should be held according to the system of proportional representation by means of a single transferable vote. The voting at the presidential election shall be by secret ballot.

Unit-2

Disputes regarding the election: Article 71

What if people raise issues regarding your elections as president? Who would clarify the dispute?

Well, **Article 71** deals matters relating to the election of the President. It states that any dispute arising with respect to the election of the President will be adjudicated by the Supreme court and its decision will be considered final.

1. If the election of a person as President is declared void, acts done by him in the exercise of the powers of the office of President will not be considered invalid by reason of the order of the Supreme Court.
2. Parliament can formulate any law regarding the election of a President in consonance with the provisions of the Constitution.
3. The election of a person as President or Vice President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.

Oath by the President: Article 60

So, after you are elected, it is time to make an oath and get familiar with the term of office of the President.

Any person holding the office of the President or delivering the functions of the President must, before entering into the office of the President, be made to subscribe in the presence of the Chief Justice of the country or any other senior-most judge of the Supreme Court, to an oath or affirmation in the name of God to faithfully execute the office of president of India and to preserve, protect and defend the Constitution and the law to the best of his abilities and that he would devote himself to serve the people of India and ensure their well being.

Unit-2

Term of office of the President: Article 56

Article 56 defines the term of the office of the President to be of five years unless:

1. A new President enters the office, the incumbent President shall hold it;
2. President resigns before the expiry of the term by writing it to the Vice President;
3. The President is removed from his office, for violation of the Constitution, by the process of impeachment provided under article 61.

The article also states that any resignation made by the President to the Vice President must be communicated to the Speaker of the Lok sabha by the Vice President himself.

Time of holding the election on expiry of the term and filling casual vacancies

Article 62 provides for the filling up of the vacancy to the office of the President. It defines the terms of office of the person filling the casual vacancy as well as the time of holding elections to fill the vacancy.

It states that an election to fill the vacancies must be fulfilled before the expiration of the term of the office of the President.

An election to fill the vacancies, occurring due to the death, resignation or impeachment of the President, must be done as soon as possible. The elections, in any case, must be conducted within a time period of six months from the date of occurrence of the vacancy. The new person elected to the office of the President will be subject to all the provisions of Article 56 and will hold his office for a five-year term from the date of entering into the office.

Unit-2

Procedure for impeachment of the President: Article 61

So, you heard me talking about the impeachment process in the above paragraph. So, let's not be secretive about it and discuss how you can be removed from the post of President through impeachment?

The President of India can be impeached under **Article 61**, for the violation of the Constitution, on the basis of charges preferred by either House of Parliament.

A resolution with the proposal to prefer such charges must be signed by at least one-fourth of the total members of the house. The resolution also needs to be passed by at least two-thirds majority of the house.

When the resolution is passed by one of the Houses, the other House must investigate the charges. The President has been granted the right to be present or to be represented in such investigations.

When the House investigating the charges passes the resolution by a two-thirds majority and declares the charges as sustaining, it results in removing the President from his office from the date of passing of the resolution.

Privileges of the President: Article 361

As President, you also enjoy some degree of immunity. Under **Article 361**, the President is protected from being answerable to any court for:

1. For exercise and performance of his powers and duties of his office;
2. For doing any act or claimed of doing any act in the exercise of those powers and duties;

Unit-2

The conduct of the President can be reviewed only if either House of Parliament designates or appoints any court tribunal or any other body to investigate the charges under Article 61.

But it bars no person from bringing any valid proceeding against the Governor or Government of India.

The Article immunises the President against all types of criminal proceedings during the term of his office.

No issuance of any order relating to the arrest and imprisonment of the President can be made by any court during his term of office.

A civil proceeding can be constituted against the president during his term of office if:

1. The act is done or alleged to have been done, whether before or entering the office of the President, by him was in his personal capacity;
2. Two months prior notice is provided, to the president or was sent to his office, stating:
 1. The nature of the proceeding;
 2. The cause of action;
 3. The details of the other party including name, description, and place of residence;
 4. The relief claimed by the other party;

Powers of the President

The President of India is provided with a wide range of power that we will discuss one by one. Let's start with the most interesting and important power i.e. the executive powers.

Unit-2

Executive powers

Article 53 of the Indian Constitution states that all the executive powers of the Union will be vested in the President of India. President is allowed to exercise his executive powers through officers subordinate to him, directly or indirectly, in consonance to the provisions of the Constitution.

Under this article, the President has powers regarding:

1. Appointment of the high authorities of the Constitution like the Prime Minister and the Council of Ministers;
2. Right of being informed about all the national affairs;
3. Appointment of the judges of the constitutional courts(Supreme Court and High Courts);
4. Appointment of the state Governors, the Attorney General, the Comptroller, and Auditor General, the Chief Commissioner and members of the Election Commission of India;
5. Administration of Union territories and appointment of the Chief Commissioners and Lieutenant Governor of the Centrally Administered Areas;
6. Removal of the Council of Ministers, the state Governors, the Attorney General.

Military powers

Article 53 also states that the President shall be the Supreme Commander of all the Armed Forces of the Union of India. It also states that no specific provisions can reduce the scope of this general principle.

As the Supreme Commander of the Armed Forces of the Union, President has powers regarding:

1. Appointment of all the officers, including the appointment of the chiefs of the forces;

Unit-2

2. Wars are waged in the name of the President;
3. Peace is concluded in the name of the President.

Diplomatic powers

The President forms the face of Indian diplomacy and helps the nation to maintain cordial relationships with countries across the globe.

1. All the Ambassadors and high commissioners in foreign nations are his representatives;
2. He receives the credentials of the Diplomatic representatives of other nations;
3. Prior to ratification by Parliament, the treaties and agreements with other nations, are negotiated by the President.

Legislative powers

The President also enjoys certain legislative powers like:

1. During the budget session, the President is the first to address the Parliament;
2. The President is empowered to summon a joint session in order to break the deadlock in the legislation process between the two Houses of the Parliament;
3. President sanction is mandatory in cases of provisions relating to:
 1. creating a new state;
 2. changes in the boundary of existing states;
 3. a change in the name of a state.
1. Legislative provisions relating to fundamental rights of the citizens of India require the President's consent;
2. President's consent is mandatory in cases of money bill originating in Lok sabha;

Unit-2

3. President's consent is necessary for all the bills passed by the Parliament to become a law;
4. President is empowered to promulgate ordinances when the Parliament is not in session;
5. President also nominates the members of both the Houses.

Ordinance making power of the President: Article 123

Article 123 talks about the presidential powers to promulgate ordinances. An ordinance can be promulgated if:

1. neither of the House of the Parliament is in session;
2. and the President feels a need for immediate action.

The ordinance which is promulgated by the President will have the same effect as that of an act or law of the Parliament.

The essential conditions to be met by an ordinance are:

1. It shall be presented before both the Houses of Parliament for passing when it comes to the session;
2. The ordinance shall cease to operate six weeks after the date of reassembling of the parliament;
3. The ordinance may also expire if the resolutions disapproving it are passed by both the Houses of Parliament;
4. It can be withdrawn at any time by the President;
5. The ordinance must be in consonance to the Constitution of India else it shall be declared void.

Financial Roles

1. President receives reports of the Finance Commission and acts on its report.
2. The Contingency Funds of India are at the disposal of the President.

Unit-2

3. He also causes the presentation of audits in the Parliament.

Judicial powers

The President enjoys the following privileges as his judicial powers:

1. He can rectify the judicial errors;
2. He exercises the power of grant of pardons and reprieves of punishments;
3. President can seek the advice of Supreme Courts on:
 1. Legal matters,
 2. Constitutional matter,
 3. Matters of national importance.

Pardoning power: Article 72

Article 72 provides for the provisions relating to the pardoning powers of the President. President can grant pardons, respites, reprieves, and remissions of punishments or remit suspend or commute the sentence given to a person by the court in the following cases:

1. When the sentence is granted through a court-martial;
2. When the sentence or punishment is given for offense of violation of any law relating to matters that fall in the ambit of Union's executive powers;
3. When a death sentence is passed by a court.

Clemency Power not unbridled

Unbridled Ness of the pardoning powers of the president has always been a highly debated issue. Supreme Court in various cases has laid down provisions for exercising control over the pardoning powers of the Executive.

In **Maru Ram Etc. Etc v Union of India**, Supreme Court held that pardoning power under **Article 72** is to be exercised by the President, on the advice of Central

Unit-2

Government and not on his own will and that the advice is binding on the head of the Republic.

In **Dhananjay Chatterjee alias Dhana v State of West Bengal**, the Supreme Court reiterated the same.

Nature of Pardoning Power

Indian Presidents are known for the generous grant of pardons. Pardon is an act of grace and not a form of a right to be demanded by any person. Unlike the Constitutional provision, Pardon is granted by the executive as a whole and not by the President alone. This is done as it is necessary for the President to act on the aid and advice of the Council of Ministers.

A pardon completely sets free an offender of all his guilt. A full pardon makes the person innocent in the eyes of law as if he has never committed a crime. It gives him the identity as that of a new man with a new set of capacities.

The pardoning power comes with discretion on the part of the President. The practice to confer the right of pardon on some authority has long existed. It is also practised in other countries, for example, the U.S. Constitution prescribes for the power of pardon to the President whereas, In the United Kingdom, the same is conferred to the Crown.

Pardoning Power: subject to judicial review

The question that arises is whether the pardoning power of the president can be brought under the judicial review. Can the judicial review of such an order be done? What could be the grounds for judicial review of such orders?

In **Kuljit Singh Alias Ranga Vs Lt. Governor of Delhi & Ors** the court held that the pardoning powers of the president

Unit-2

under **Article 72** can be examined according to the facts and circumstances of each case. The Court has the power of judicial review even on a matter which the Constitution has vested solely in the Executive.

The most significant case of **Kehar Singh And Anr. Etc Vs. Union of India And Anr.** dealt with the concept of judicial review of the President's pardoning power on grounds of its merit. In this case, the Supreme Court held that

The terms and history of **Article 72** as well as the specific guidelines and case laws relating to Article 72 clearly indicate that the ambit of Article 72 very wide. The powers under this article cannot be clearly defined or channelized with specific guidelines. The term "pardon" itself signifies it to be discretionary. Hence, the grant or rejection of pardons cannot be reasoned and the order of President cannot be brought under judicial review with respect to its merits.

Whereas In **Epuru Sudhakar Case**, where a Congress activist faced ten years in prison in connection with the killing of two persons including a TDP activist. His punishment was remitted by the Governor of Andhra Pradesh. Contentions were raised regarding the immunity of the pardoning power. The Supreme Court bench stated that the exercise of pardoning powers would be subject to judicial review by the court against the maintenance of Rule of Law.

Exercising powers of clemency is a matter of discretion but still subject to certain standards and not a matter of privilege. The power of executive clemency is a matter of performance of official duty and not only for benefiting the convict. During exercising such powers the President must also consider the effect of his decision on the family of the victims, the society and the precedent it sets for the future.

Thus this judgment settled position of law that immunity from the judicial review can not be granted to the President for exercise or non-exercise of the pardoning power.

Unit-2

Articles 72 and 161 of Constitution

Article 161 grants the power to the Governor of the state to suspend, remit or commute sentences of the offenders in certain cases relating to a violation of provisions or laws to which the executive power of the state extends.

| Article 72 | Article 161 |
|---|---|
| 1. Grants power to the President of India. | 1. Grants powers to the Governor of state. |
| 1. The power is wider in scope. | 1. The scope of powers is narrower. |
| 1. The powers of pardon extend to cases of Court Martial as well. | 1. Power cannot interfere with cases of Court Martial. |
| 1. Allows President to grant pardon in cases of death sentence. | 1. Governor cannot grant pardon in cases of death sentence. |

Emergency Powers

Article 352 of the Constitution of India grants President, three kinds of emergency powers as well:

1. When a National Emergency is declared in case of external aggression or internal armed rebellion, the President holds the powers to declare a state of emergency. Thus the President's rule gets established in the country. However, the prime minister and the Council of Ministers must recommend such an emergency;

Unit-2

2. When there exists a constitutional or law and order breakdown situation in a state, the President may declare a state of emergency in such cases. The state would then come under Governor's rule;
3. Whenever the financial stability of the nation or any country is seriously affected, the President has the right to intervene and direct the state to check and maintain public expenditure.

Position of the President

The position of the President has changed, with respect to his discretion to use his power, has changed since the inception of the Constitution. The two major changes came through the 42nd and **44th Amendment Act of the Constitution**.

Prior to the 42nd Amendment Act of 1976

Prior to the **42nd amendment to the Constitution**, the President was free to make decisions based on his wisdom. He may also consider the Council of Ministers for their advice on the action. As the Constitution at that time talks about constituting a Council of Ministers with a Prime Minister, as its head, to aid and advise the President in carrying out his duties.

After the 42nd Amendment Act, 1976

Later, the Constitution was amended to add the phrase that the President shall act on the aid and advice of the council of ministers. But the provision was still ambiguous whether the advice given by the Council of Ministers is binding on the president or not.

44th Amendment Act, 1978

This amendment was brought it to swipe off the ambiguity created by the 42nd amendment. This provision said that:

1. President can send back the advice to the Council of Ministers for reconsideration once;

Unit-2

2. If the same advice is sent again without modifications by the Council then President is bound to accept it.

The Vice President (Article 63)

Article 63 talks about the vice president of India.

Functions of the Vice-President

There are some important functions and duties to be performed by the Vice-President of India. Article 64 and Article 65 of the Indian constitution talks about the following functions:

1. The Vice-President is the ex-officio Chairman of Rajya Sabha(the Council of States);
2. The Vice President casts his vote in case of a tie in Rajya Sabha;
3. The Vice President represents the Council of States on ceremonial occasions;
4. He protects the rights and privileges of the members of the Rajya Sabha;
5. He travels, for goodwill missions, to foreign countries;
6. The Vice-President shall perform the functions of President, in cases where the President is not able to perform his functions due to absence or illness etc until the President resumes his duty;
7. The Vice-President shall act as President, If the vacancy is created for the post of President due to his resignation, removal, and death or otherwise until a new President is elected;
8. The period between the Vice-President acting as the President and the election of a new President can be extended for a maximum period of six months.

The Council of Ministers

Article 74 of the Indian constitution states that:

Unit-2

1. There should be a Council of Ministers to aid and advise the president;
2. The Council of Ministers must have a Prime Minister at the head to aid and advise the President;
3. The President should exercise his functions and act in accordance with advice rendered by the Council of Ministers;
4. The Council of Ministers should reconsider any advice sent back by the President;
5. The President is bound to act in accordance with the advice tendered by the Council, after reconsideration.

Size of Ministries

The executive powers in India are exercised by the Council of Ministers. These ministers constitute ministries having cabinet minister, junior minister, etc. Before 2003, the size of ministries was not specified under any provision leading to a lot of chaos.

After the **91st amendment Act of 2003** came into existence, it marked a ceiling limit to the size of the ministries. The amendment stated that the strength of the Council of Ministers cannot exceed more than 15% of the total number of members of the Lok sabha or relevant Legislative Assembly of the state.

An exception was provided to the smaller states like Sikkim, Mizoram, and Goa, having a strength of lesser than 40 members in the legislative assemblies.

Disqualification on defection on the ground of split in a political party

Article 102(2) and **Article 191(2)** provides for Anti-Defection laws regarding the members of Lok sabha. According to this law, a member of a House, belonging to any political party, shall be disqualified as a member of the House on the following basis-

Unit-2

1. If the person voluntarily gives up his/her membership of the political party to which he/she belongs; or
2. If the person votes or abstains from voting in contrary to any direction issued by the political party or by any person or authority authorized to give directions.

In either case, the prior permission of such political party, person or authority must be sought. The voting or abstention must be approved by the political party, person or authority within fifteen days from the date of voting or abstention.

When a member of a House claims that he and any other members of his party have formed a group representing a faction emerging as a result of a split in his original political party. If such a group consists of one-third or more of the members of such a political party then the ministers cannot be disqualified under Anti-Defection laws.

A non-member can become a Minister

Article 75 of the Constitution of India provides for provisions relating to the appointment of the Union Ministers.

At first, the Prime Minister is appointed by the President and then the President appoints other ministers on the advice of the Prime Minister.

The provision clearly states that any minister, who is not a member of either House of the Parliament, shall cease to be a minister after the period of six months from the date of his appointment.

The non-member must get elected to either House of the Parliament in order to continue as a Minister of Lok Sabha.

Unit-2

A convicted person cannot be appointed Chief Minister

When the question arose whether a convicted can be appointed as Chief Minister or not.

The issue was decided in the negative by the Supreme Court in the famous case of **B.R. Kapoor v State of Tamil Nadu and Anr** (Famously known as Ms. J. Jayalalitha Case). It was held that any person who is convicted for a criminal offense and sentenced to imprisonment, for a period of two years, or more, cannot be appointed the Chief Minister of any State under **Article 164(1)** of the Indian Constitution.

Dissolution of Parliament

In our country, the Lok Sabha has a five-year term but it can be dissolved earlier. **Article 83(2)** of the Indian Constitution states that at the completion of five years term, from the starting date of Lok Sabha meetings, it can be dissolved. In such cases, an election is held to elect the new Members of Parliament.

The Lok Sabha can also be dissolved by the President on the advice of the Prime Minister before the expiry of its term.

The President can also dissolve the Lok Sabha, if he feels that a viable government cannot be formed, after the resignation or fall of a regime, as the case may be.

Principle of Collective Responsibility

The principle of Collective Responsibility means that the Council of Ministers is collectively responsible as a body for all the actions, omissions and conduct of the government.

It states that all ministers stand or fall together in Parliament. The Government is considered as a unity of ministers instead of single individuals. It means that the minister should publicly support the decisions made by the cabinet, even if they disagree privately. This support even includes voting for government in the legislature.

Unit-2

Minister's Individual Responsibility

The Ministerial Individual Responsibility means that a cabinet minister is ultimately responsible for all the actions of his ministry or department.

Whenever there is an individual ministerial responsibility, the party to which the minister is a part is not answerable for the failure of the minister. The minister shall himself take the blame for the actions of his ministry and resign.

Appointment of Prime Minister

The Prime Minister of India is appointed by the President through provisions under **Article 84** and **Article 75**. Prime minister is the leader of the majority party or coalition of parties of Lok sabha. When a party achieves majority the leader of that party is called upon by the President to be the Prime Minister of the country. He is considered as the real head of the country.

Constitutional Duties of Prime Minister

The constitution envisages the Prime Minister with certain rights and duties. The functions of the Prime Minister are as follows:

1. The Prime Minister proposes the names of the members to President for appointment as Ministers of the government;
2. Prime minister can reshuffle the Cabinet and decides for the distribution of charges of different ministries as well;
3. He presides over the meetings of the Cabinet and can also change the decisions taken by the Cabinet;
4. He suggests the President of India about the resignation or removal of any minister from the Cabinet;
5. He also directs and controls the functioning of Ministers in the Cabinet;
6. The Prime Minister may resign at any time and can even ask the President of India to dissolve the Cabinet.;

Unit-2

7. He can advise the President to dissolve entire Lok Sabha to conduct fresh elections;
8. The Cabinet stops functioning If the Prime Minister resigns from his post, and spontaneously dissolves after the death of the Prime Minister.

Rights and powers regarding Appointments:

Prime Minister can advise the President for the appointment of the following:

1. Comptroller and Auditor General of India;
2. Attorney General of India;
3. Advocate General of India;
4. Chairman and members of UPSC;
5. Selection of Election Commissioners;
6. Members and chairman of the Finance Commission.

Rights/Powers with regard to Parliament of India:

Prime Minister is the leader of the Lok sabha with rights to exercise the powers as follows:

1. The prime minister decides the foreign policy of the country.
2. He is the speaker of the Central Government.
3. He is the leader of the majority party or coalition of parties in the Parliament.
4. The Prime Minister is also is the chairman of various organizations including:
 1. NITI Aayog;
 2. National Development Council;
 3. National Integration Council;
 4. Inter-state Council;
 5. National Water Resources Council.

Unit-2

1. He is also the head of the disaster management team during a political level emergency.
2. He is also the political head of all the forces.

Dismissal of a Minister

The minister of the Lok sabha can be removed from his post under the following conditions:

1. Upon the death of the minister;
2. Upon self resignation from the minister;
3. If the minister is dismissal by the President, for unconstitutional his acts as per **Article 75(2)**;
4. Article 75 of the constitution states that the minister holds the office at the pleasure of the President;
5. Upon direction from the Court for committing the violation of any law;
6. If the minister loses the eligibility to be a member of Parliament.

Dismissal of the Cabinet

The Cabinet of Minister dissolves if:

1. The Prime Minister asks the President of India to dissolve the Cabinet;
2. The Prime Minister advises the President to dissolve entire Lok Sabha to conduct fresh elections;
3. If the Prime Minister resigns from his post;
4. The cabinet automatically dissolves after the death of the Prime Minister.

The Attorney-General of India

Article 76 and **Article 78** speaks of the Attorney General of India. The Attorney General of India is the highest law officer in the country.

Unit-2

Term and Appointment

The Attorney General is appointed by the President and holds the office at the pleasure of the President.

Qualification

The person to be appointed as the Attorney General of India must be qualified to become a judge of the Supreme Court of India.

Functions and Duties of Attorney-General

Article 76(2) and (3) defines the functions and duties of the Attorney General of India. Article 76(2) states that:

1. Attorney General can give advice to the Government of India regarding legal matters assigned to him by the President;
2. He must also perform other duties of any legal character that are assigned to him by the President;
3. He also has to discharge the functions given to him by the Constitution or any other legislation.

Whereas Article 76(3) states that in the performance of his official duties:

1. The Attorney General can appear on behalf of the Government of India in the Supreme Court, in cases where the Government of India is a party concerned;
2. He also has to appear on behalf of the government, in regards to references made by the President before the Supreme Court under Article 143 of the Constitution;
3. He has to appear on behalf of the government in any case in the High Court, where the Government of India is a party in concern.

Unit-2

Conclusion

Wherefore, the Union Executive is one of the most important organs of the Indian democracy. It forms the soul of our Indian administrative system. Union executive act as the strong shoot for all the branches of administrative and executive bodies. The Constitution-makers have assembled together all the provisions needed to form a strong and responsible executive system for our nation. Thus, it makes it important for the citizens as well to coordinate with the executive for the better functioning of our Indian democratic system.
