



**ILAHIA COLLEGE OF ENGINEERING AND TECHNOLOGY
DEPARTMENT OF ELECTRICAL AND ELECTRONICS ENGINEERING**

PREVIOUS YEAR QUESTION PAPER AND SOLVED ANSWER

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Course Code: MCN202

Course Name: CONSTITUTION OF INDIA

MODULE 4

PART A

Answer all questions, each carries 3 marks.

1. Discuss the appointment and removal of Governor.

Procedure for appointment of governor (1.5 marks)

Procedure for removal of governor (1.5 marks)

Qualification for the appointment of Governor

▪ **Article 157** states the two qualifications to be fulfilled for a person to be appointed

as a Governor: (a) He should be an Indian citizen.

(b) He should have completed 35 years of age.

(c) He should not be a member of either House of Parliament or a House of the state legislature.

(d) He should not be holding any office of profit

TERM OF GOVERNOR'S OFFICE

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

•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.

2. Suppose a state legislature passes a law that is potentially in violation of fundamental rights. Analyse the legal avenues available to challenge such legislation.

If a state legislature passes a law potentially violating fundamental rights, legal avenues to challenge it include filing a writ petition under Article 226 of the Constitution in the High Court or directly appealing to the Supreme Court under Article 32, arguing that the law is void to the extent of the contravention.

ഒരു സംസ്ഥാന നിയമസഭ മൗലികാവകാശങ്ങൾ ലംഘിക്കുന്ന ഒരു നിയമം പാസാക്കിയാൽ, അതിനെ വെല്ലുവിളിക്കാനുള്ള നിയമപരമായ മാർഗങ്ങളിൽ ഭരണഘടനയുടെ ആർട്ടിക്കിൾ 226 പ്രകാരം ഹൈക്കോടതിയിൽ റിട്ട് ഹർജി ഫയൽ ചെയ്യുകയോ ആർട്ടിക്കിൾ 32 പ്രകാരം സുപ്രീം കോടതിയിൽ നേരിട്ട് അപ്പീൽ നൽകുകയോ ഉൾപ്പെടുന്നു. നിയമം ലംഘനത്തിന്റേ പരിധി വരെ അസാധുവാണെന്ന് വാദിക്കുകയോ ചെയ്യാം.

3. Discuss the eligibility of Chief Minister

Eligibility Criteria

Age: at least 25 years of age

Citizenship: The candidate must be a citizen of the country.

Membership of Legislative Assembly:

Majority Support: the leader of the political party

4. How is a minister appointed in State council?

Minister appointed in State council

Election as a Member: state legislative assembly (MLA)

Formation of Government

Selection of Ministers

Appointment by the Governor

Allocation of Portfolios

PART B

Answer questions, each carries 10 marks.

1. Explain the composition, powers and functions of State Legislature.

STATE LEGISLATURE

Articles 168 to 212 in Part VI of Constitution deals with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the state legislature.

Organisation Of State Legislature

- There is no uniformity in the organisation of state legislatures.
- Most of the states have an unicameral system, while others have a bicameral system.

- In the states having bicameral system, the state legislature consists of the Governor, the Legislative Council and the Legislative Assembly.
- The Legislative Council (Vidhan Parishad) is the upper house, while the Legislative Assembly (Vidhan Sabha) is the lower house.

Legislative Assembly (Vidhan Sabha) (First Chamber or Popular House)

Composition

- The legislative assembly consists of representatives directly elected by the people on the basis of universal adult franchise.
- Its maximum strength is fixed at 500 and minimum strength at 60.
- The Governor can nominate one member from the Anglo-Indian community.
- The Constitution provided for the reservation of seats for scheduled castes and scheduled tribes in the assembly of each state on the basis of population ratios.

Duration

- The Legislative Assembly is not a continuing chamber. Its normal term is five years from the date of its first meeting after the general elections.

Presiding Officer

- Each House of state legislature has its own presiding officer. There is a Speaker and a Deputy Speaker for the legislative assembly. The Speaker and Deputy Speaker are elected by the assembly itself from amongst its members.

Legislative Council (Vidhan Parishad) (Second Chamber or House of Elders)

Composition

- Unlike the members of the Legislative Assembly, the members of the Legislative Council are indirectly elected.
- The maximum strength of the Council is fixed at one-third of the total strength of the assembly and the minimum strength is fixed at 40.

Duration

- The Legislative Council is a continuing chamber, that is, it is a permanent body and is not subject to dissolution.
- One – Third of its members retire on the expiration of every second year. So a member continues as such for six year.

Presiding Officer

- A Chairman and a Deputy Chairman for the legislative council. Chairman and Deputy Chairman are elected by the council itself from amongst its members

Membership Of State Legislature Qualifications

- He must be a citizen of India.
- To bear true faith and allegiance to the Constitution of India.
- To uphold the sovereignty and integrity of India.
- He must be not less than 30 years of age in the case of the legislative council and not less than 25 years of age in the case of the legislative assembly.
- A person to be elected to the legislative assembly must be an elector for an assembly constituency in the concerned state.
- He must be a member of a scheduled caste or scheduled tribe if he wants to contest a seat reserved for them.

Disqualifications

- If he is of unsound mind and stands so declared by a court.
- If he is not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state.
- If he is so disqualified under any law made by Parliament.
- He must not have been found guilty of certain election offences or corrupt practices in the elections.
- He must not have been convicted for any offence resulting in imprisonment for two or more years.
- He must not have failed to lodge an account of his election expenses within the time.
- He must not have been dismissed from government service for corruption or disloyalty to the state.

Powers And Functions of The State Legislature

- **Law Making Function:** The State Legislature is empowered to make laws on State List and Concurrent List
- **Financial Powers:** The State Legislature keeps control over the finances of the State.

2. Discuss the role of High Courts in state judiciary.

The State Judiciary

In the Indian single integrated judicial system, the high court operates below the Supreme Court but above the subordinate courts. The judiciary in a state consists of a high court and a hierarchy of subordinate courts. The high court occupies the top position in the judicial administration of a state. Articles 214 to 231 in Part VI of the

Constitution deal with the organization, independence, jurisdiction, powers, procedures and so on of the high courts.

High Court

The Constitution of India provides for a high court for each state, but the Seventh Amendment Act of 1956 authorized the Parliament to establish a common high court for two or more states or for two or more states and a union territory. The Constitution does not specify the strength of a high court and leaves it to the discretion of the president.

Appointment of Judges

The judges of a high court are appointed by the President. The chief justice is appointed by the President after consultation with the chief justice of India and the governor of the state concerned.

Qualifications of Judges

He should be a citizen of India. He should have held a judicial office in the territory of India for ten years; or he should have been an advocate of a high court (or high courts in succession) for ten years.

Jurisdiction And Powers Of High Court

Original Jurisdiction: It means the power of a high court to hear disputes in the first instance, not by way of appeal

Writ Jurisdiction: Article 226 of the Constitution empowers a high court to issue writs including habeas corpus, mandamus, certiorari, prohibition and quo warranto for the enforcement of the fundamental rights of the citizens and for any other purpose.

The high court can issue writs to any person, authority and government not only within its territorial jurisdiction but also outside its territorial jurisdiction.

Appellate Jurisdiction: A high court is primarily a court of appeal. It hears appeals against the judgments of subordinate courts functioning in its territorial jurisdiction. It has appellate jurisdiction in both civil and criminal matters.

Supervisory Jurisdiction: A high court has the power of superintendence over all courts and tribunals functioning in its territorial jurisdiction (except military courts or tribunals).

Control over Subordinate Courts: A high court has an administrative control and other powers over the subordinate courts.

A Court of Record: The judgments, proceedings and acts of the high courts are recorded for perpetual memory and testimony.

Power of Judicial Review: Judicial review is the power of a high court to examine the constitutionality of legislative enactments and executive orders of both the Central and state governments.

3.Explain the composition and functions of State Executive.

THE STATE EXECUTIVE

- The State Executive consists of the Governor, the Chief Minister, the Council of Ministers and the Advocate General of the state.
- Article 153 to 167 in Part VI of the Indian Constitution deals with the state executive
- There is no post of vice governor in the state.

The Governor

- **Article 153** of Indian Constitution provides for **every state to have a Governor**.

Just like the President is the nominal head of the republic, the Governor is the nominal head of the state. The Governor plays the role of being the constitutional head of the state as well as a link between the state government and the central government.

- The **7th Constitution Amendment Act of 1956** has added a provision under Article 153

which provides for same person to act as the Governor of two states simultaneously.

Appointment of Governor

- Appointment of Governor is talked about under **Article 155** and information

regarding his tenure and removal are provided under **Article 156**.

- **Article 155** states that the President appoints the Governor by warrant under his

hand and seal. The Governor shall hold office as long as he enjoys the pleasure of the President.

- According to above mentioned Articles, the Governor's term of office shall be five

years from the date on which he enters upon his office.

- Every Governor, before entering his office takes an oath before the Chief Justice

of the High Court or the senior most judge, in the absence of the former. This is mentioned under **Article 159**.

- The Governor may resign his office by writing a letter undersigned by him

addressed to the President.

- 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.

- Article 361 lays down the provisions for the protection of the Governor. The

Governor shall not be answerable to any court for the performance and disposal of his duties. There can be no criminal proceedings or a process to arrest him during the term of this office.

Qualification for the appointment of Governor

- **Article 157** states the two qualifications to be fulfilled for a person to be appointed

as a Governor: (a) He should be an Indian citizen.

(b) He should have completed 35 years of age.

(c) He should not be a member of either House of Parliament or a House of the state legislature.

(d) He should not be holding any office of profit.

Powers And Functions Of Governor

- **Executive Powers:**

He appoints the Chief Minister and other ministers, advocate general of a state, state election commissioner, the chairman and members of the state public service commission, acts as the chancellor of universities in the state. He appoints the vice chancellors of universities in the state.

Under **Article 356**, the Governor can recommend the President for the imposition of a State Emergency and during such emergency, he enjoys extensive executive powers as an agent of the President.

- **Legislative Powers:**

He can address the state legislature at the beginning of the first session every year and after the state assembly elections.

The Governor has the power to summon and prorogue both houses of the Legislature.

He has to make sure that the maximum gap between the two sessions of the houses is 6 months.

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 can nominate one member to the state legislature assembly from the Anglo-Indian Community.

Under **Article 192**, the Governor has the authority to disqualify any legislator who fails to comply with the conditions given under **Article 191**.

The Governor can hold a bill and send it to the President for his consideration. Or, he can either give assent to a bill or withhold it or send it back for reconsideration (except for money bills.)

- **Financial Power:**

A money bill cannot be introduced in the state legislature without prior approval of the Governor.

The state Contingency Fund is at his disposal and he can make withdrawals out of it to meet unforeseen expenditure.

He makes sure that the Annual state budget is discussed and put before the State Legislature.

▪ **Judicial Power:**

He is consulted by the President while appointing the judges of the concerned state high court.

He makes appointments, posting and promotions of the district judges in consultation with the state high court.

▪ **Pardoning Power:**

According to Article 161, the Governor can grant pardons, reprieves, respites and remission of punishment or suspend, remit and commute the sentence of any person convicted of any offence relating to matters under the state executive power exception being cases decided by a court martial. He cannot grant pardon in cases where a death penalty has been given.

The Chief Minister

- Chief minister is the executive head of the state government.
- Article 164 says that the Chief Minister shall be appointed by the governor.
- The governor has to appoint the leader of the majority party in the state legislative assembly as the Chief Minister.
- But when no party has a clear majority in the assembly, then the governor may exercise his personal discretion in the selection and appointment of the Chief Minister. In such a situation, the governor usually appoints the leader of the largest party or coalition in the assembly as the Chief Minister and ask him to seek a vote of confidence in the House within a month.
- A person who is not a member of the state legislature can be appointed as chief minister for six months.
- According to the constitution, the chief minister must be a member of any of the two houses of a state legislature. However, he need not be a member of legislative assembly at the time of appointment.

Term Of Office

The Chief Minister holds the office during the pleasure of the governor. However, Governor cannot remove him at any time or even dismiss him till the time he enjoys the support of the majority of the house. When CM loses the confidence of the assembly, he has to resign and Governor dismisses him then.

Powers And Functions Of Chief Minister

In Relation To Council Of Ministers:

- The Governor appoints only those persons as ministers who are recommended by the chief Minister.

- He allocates and reshuffles the portfolios among ministers. He can ask a minister to resign or advise the Governor to dismiss him in case of difference of opinion.
- He presides over the meetings of the council of ministers and influences its decisions.
- He guides, directs, controls and coordinates the activities of all the ministers.

In Relation To The Governor:

- He is the principal channel of communication between the Governor and the Council of Ministers, to communicate to the Governor of the state all decisions of the Council of Ministers relating to the administration.
- He advises the Governor with regard to the appointment of important officials like Advocate General, Chairman and members of the State Public Service Commission, State Election Commissioner and so on.

Other Powers and Functions:

- He is the chairman of the State Planning board.
- He is a member of the Inter-State Council and the Governing Council of NITI Aayog, both headed by the Prime Minister.
- He is the chief spokesman of the state government.
- He is the crisis manager in chief at the political level during emergencies.

4, Discuss the administrative structure of union territories, distinguishing from the states.

UNION TERRITORIES

Under **Article 1** of the constitution, the territory of India comprises three categories of territories.

- (a) Territories of the states,
- (b) Union territories
- (c) Territories that may be acquired by the Government of India at any time

At present, there are 28 states and 8 union territories and no acquired territories. The union territories are those areas which are under the direct control and administration of the Central Government. Hence they are also known as ‘centrally administered territories’.

❖ **Articles 239 to 241 in Part VIII** of the constitution deal with the union territories.

❖ Every union territory is administered by the President acting through an administrator appointed by him.

- ❖ An administrator of a union territory is an agent of the President and not head of state like a Governor.
- ❖ The President can specify the designation of an administrator. It may be Lieutenant Governor or chief Commissioner or Administrator.
- ❖ There are 8 Union Territories in India.
 - Andaman and Nicobar Islands
 - Dadra And Naga Haveli and Daman And Diu
 - Chandigarh
 - Lakshadweep
 - Puducherry
 - Delhi
 - Ladakh
 - Jammu And Kashmir

What are the duties and functions of Advocate general of the state?

What are the responsibilities carried out by the advocate general of the state?

- To give advice to the government of the state upon such legal matters which are referred to him by the Governor.
- To perform such other duties of a legal character that are assigned to him by the Governor.
- To discharge the functions conferred on him by the constitution of any other law.
- The Advocate General is entitled to appear before any court of law within the state.

What are the powers enjoyed by the Governor

Powers And Functions Of Governor

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