

State Executive

- Governor
- Chief Minister
- State Cabinet
- State Legislature
- High Court
- Subordinate Courts
- Special Provisions (Art.370, 371, 371J) for some states

■ Governor

- Art. 153 to 167 in **Part VI** of the Constitution deal with the state executive.
- The state executive consists of the governor, the chief minister, the council of ministers and the advocate general of state.
- The governor is the chief executive head of the state. Like the president, he is a nominal executive head. The governor also acts as an agent of the central government. Therefore the office of governor has a dual role.
- Usually, there is a governor for each state, but the 7th Constitutional Amendment Act of 1956 facilitated the appointment of the same person as governor for two or more states.

■ Appointment of Governor (Art.155)

- He is appointed by the president by warrant under his hand and seal. In a way, he is a nominee of the central government. Lieutenant Governor Generals are appointed by President.
 - For the appointment of a person as a Governor, he should be a citizen of India. He should have completed the age of 35 years. Governor can be transferred from one state to another state.
 - He should not be a member of either House of Parliament or a House of the state legislature. He is entitled without payment of rent to use of his official residence Raj Bhavan. He is entitled to such emoluments, allowances and privileges as may be determined by Parliament.
- ## ■ Term of Governor's Office
- 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.

■ Powers and Functions of Governor

- **Executive Powers** : All executive actions of the government of a state are formally taken in his name.
- **Legislative Powers** : He can summon or prorogue(discontinue the session) the state legislature and dissolve the state legislative assembly which is advised to him by Chief Minister.
- **Financial Powers** : He sees that the Annual Financial statement (state budget) is laid before the state legislature. Money bills can be introduced in the state legislature only with his prior recommendation.
- **Judicial Powers** : He can grant pardons, reprieves, respites and remissions of punishment or suspend, remit and commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the state extends. He cannot pardon death sentence. The only authority to pardon death sentence is President.
- He makes appointments, postings and promotions of the district judges in consultation with the state high court.

Chief Minister (Art.164)

- In the scheme of Parliamentary system of government, the governor is the nominal executive authority (de jure executive) and the Chief Minister is the real executive authority (de facto executive).
- In other words, the governor is the head of the state while the chief minister is the head of the government. He presides over the meetings of the council of ministers and influences its decisions.
- Chief Minister shall be appointed by the governor. Leader of the majority party shall be the Chief Minister. He is the bridge between minister and governor. He presides the cabinet meeting of the Legislative Assembly.
- 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.
- He can recommend the dissolution of the legislative assembly to the governor at any time.
- He announces the government policies on the floor of the house.
- He is the chairman of the State Planning Board.

State Cabinet/State Legislature

- The membership of Legislative Assembly of state varies between 60 and 500. **Uttar Pradesh** has the highest number of members i.e. 404 members in its Assembly. Minimum age to contest for Legislative assembly election is 25 years (MLA).
- Two houses in the Government is Legislative Assembly and Legislative Council. It is known as Bicameral. Out of 28 states in India 6 states have Bicameral government. These are Andhra Pradesh, Telangana, Karnataka, Maharashtra, Bihar and Uttar Pradesh. The system of legislature in Karnataka is bicameral.
- 1/6 members are nominated by Governor to legislative council(Upper House). 1/3 members are elected from Local bodies. The term of legislative council is 6 years. Minimum age required to contest in legislative council election is 30years.
- The total number of seats in Legislative Assembly of Karnataka is **224**.
- The total number of ministers, including the chief minister, in the council of ministers in a state shall **not exceed 15 per cent** of the total strength of the legislative assembly of that state.
- Collective responsibility of the state council of ministers means, all ministers are collectively responsible to the State Legislative Assembly.
- Money bill/Financial bill can only be discussed in Legislative Assembly, this bill cannot originate in Legislative council.

High Court

- The institution of high court originated in India in 1862 when the high courts were set up at Calcutta, Bombay and Madras. In 1866, a fourth high court was established at Allahabad.
- At present there are 25 high courts in the country. Art.214 to 231 in Part VI of the Constitution deal with the organisation, independence, jurisdiction, powers, procedures and so on of the high courts.
- High Court of Karnataka its principal bench is located in Bengaluru. Additional benches in Dharwad and Kalaburgi.
- **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 governor of the state concerned. The system to appoint judges in India is known as Collegium System.
- Present Chief Justice of Karnataka is Abhay Shreeniwas Oka.
- Parliament is having power to establish common High Court for more than one state. E.g. Hyderabad high court which has jurisdiction over 2 states namely Andhra Pradesh & Telangana. Guwahati high court, which has jurisdiction over 4 states namely Assam, Nagaland, Mizoram & Arunachal Pradesh.

- **Qualifications of Judges** : A person to be appointed as a judge of a high court, should be a citizen of India. He should have held judicial office in the territory of India for **ten years**. He should have been practised as an advocate in a high court for ten years.
- **Tenure of Judges** : The constitution has not fixed the tenure of a judge of a high court. However, it makes the following provisions, like he holds the office until he attains the age of 62 years.
 - He can resign his office by writing to the president.
 - He can be removed from his office by the President on the recommendation of the Parliament.
 - He vacates his office when he is appointed as a judge of the Supreme Court or when he is transferred to another high court.
 - The Salaries and other emoluments of the High Court Judges shall be determined by the **Parliament**.

- **Removal of Judges** : A judge of a high court can be removed from his office by an order of the president.
- **Transfer of Judges** : The President can transfer a judge from one high court to another after consulting the Chief Justice of India.
- High court can issue writ petition under **Art. 226**.

■ Jurisdiction of High Courts

- **Original Jurisdiction** : It means the power of a high court to hear disputes in the first instance, not by way of appeal.
- **Writ Jurisdiction** : Art. 226 of the Constitution empowers a high court to issue writs for the enforcement of the fundamental rights of the citizens and for any other purpose.
- **Appellate Jurisdiction** : A high court is primarily a court of appeal. It hears appeal against the judgements of subordinate courts functioning in its territorial jurisdiction.
- **Supervisory Jurisdiction** : A high court has the power of superintendence over all courts and tribunals.
- **Power of Judicial Review** : It is the power of a high court to examine the constitutionality of legislative enactments and executive orders of both central and state governments. On examination, if they are found to be violative of the Constitution they can be declared as unconstitutional.
- Control over Subordinate courts
- A court of record

■ Subordinate Courts

- They are the subordination to the state high court. They function below and under the high court at district and lower levels.
 - Art. 233 to 237 in **Part VI** of the Constitution make the following provisions to regulate the organization of subordinate courts and to ensure their independence from the executive.
- ## ■ Appointment of District Judges
- The appointment, posting and promotion of district judges in a state are made by the **governor** of the state in consultation with the high court.
- Qualification to appoint as district judge is he should not already be in the service of the Central or the state government.
 - He should have been an advocate or a pleader for **seven** years.
 - He should be recommended by the high court for appointment.

Structure and Jurisdiction

High Court

District and Sessions Judge's Court

- Civil Side
- Subordinate Judge's Court
- Munsiff's Court

District and Sessions Judge's Court

- Criminal Side
- Chief Judicial Magistrate Court
- Judicial Magistrate's Court

- The district judge is the highest judicial authority in the district. He possesses original and appellate jurisdiction in both civil as well as criminal matters.
- In other words, the district judge is also the sessions judge. When he deals with civil cases, he is known as the district judge and when he hears the criminal cases, he is called as the sessions judge.
- The sessions judge has the power to impose any sentence including life imprisonment and capital punishment (death sentence).
- The National Legal Services Authority(NALSA) has been constituted under the Legal Services Authorities Act, 1987 to monitor and evaluate implementation of legal aid programmes and to lay down policies and principles for making legal services available under the Act.
- Lok Adalat is a forum where the cases(disputes) which are pending in a court or which are at pre-litigation stage(not yet brought before court) are compromised or settled in an amicable manner.

Special Provisions for some States

- **Art. 370** of the Indian Constitution gave special status to Jammu and Kashmir, it was included in the Constitution on Oct 17, 1949, Art. 370 exempts J&K from the Indian Constitution and permits the state to draft its own Constitution. It restricts Parliament's legislative powers in respect of J&K.
- On 5th Aug 2019, the Government of India revoked the special status, granted under Art. 370 of the Indian Constitution to Jammu and Kashmir, now J&K is no more a state; Union territories of J&K and Ladakh come into existence. Now India has in total 9 Ut's.
- **Art. 371 to 371-J** in **Part XXI** of the constitution contain special provisions for twelve states.
- Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Telangana, Sikkim, Mizoram, Arunachal Pradesh, Goa and Karnataka.
- The intention behind them is to meet the aspirations of the people of backward regions of the states or to protect the cultural and economic interests of the tribal people of the states or to deal with the disturbed law and order condition in some parts of the states or to protect the interests of the local people of the states.

- **Provisions for Maharashtra and Gujarat** : Under **Art.371**, the President is authorised to provide that the Governor of Maharashtra and Gujarat would have special responsibility for the establishment of separate development boards for - Vidarbha, Marathwada and the rest of Maharashtra. Saurashtra, Kutch and the rest of Gujarat.
- **Provisions for Nagaland** : **Art. 371A**, The Acts of Parliament relating to the following matters will not apply to Nagaland unless the State Legislative Assembly so decides, i.e. religious or social practises of Nagas, Naga customary law and procedure, ownership and transfer of land and its resources.
- **Provisions for Assam and Manipur** : **Art. 371B**, the President is empowered to provide for the creation of a committee of the Assam Legislative Assembly consisting of the members elected from the Tribal Areas of the state.
- **Art. 371C** makes the special provisions for Manipur, the President is authorized to provide for the creation of a committee of the Manipur Legislative Assembly consisting of the members elected from the Hill Areas of the State.

- **Provisions for Andhra Pradesh or Telangana : Art. 371D and 371E** contain the special provisions for Andhra Pradesh. In 2014, Art. 371D has been extended to the state of Telangana by the Andhra Pradesh Re-organisation Act of 2014. Under Art. 371D the President is empowered to provide for equitable opportunities and facilities for the people belonging to different parts of the state in the matter of public employment and education and different provisions can be made for various parts of the state.
- **Provisions for Sikkim :** The 36th Constitutional Amendment Act of 1975 made Sikkim a full fledged state of the Indian Union. It included new **Art. 371F** containing special provisions with respect to Sikkim. The Sikkim Legislative Assembly is to consist of not less than 30 members. One seat is allotted to Sikkim in the Lok Sabha and Sikkim forms one Parliamentary Constituency.
- **Provisions for Mizoram : Art. 371G** specifies following special provisions for Mizoram, The Acts of Parliament relating to the following matters would not apply to Mizoram unless the State Legislative Assembly so decides, religious and social practises of Mizos, Mizo customary law and procedure. The Mizoram Legislative Assembly is to consist of not less than 40 members.

- **Provisions for Arunachal Pradesh and Goa** : Under **Art. 371H** the following special provisions are made for Arunachal Pradesh, The Governor of Arunachal Pradesh shall have special responsibility for law and order in state. In the discharge of this responsibility, the Governor, after consulting the Council of Ministers, exercises his individual judgement and his decision is final. This special responsibility of the Governor shall cease when the President so directs.
- The Arunachal Pradesh Legislative Assembly is to consist of not less than 30 members.
- **Goa** : **Art. 371I**, provides that the Goa Legislative Assembly is to consist of not less than 30 members.
- **Provisions for Karnataka** : Under **Art. 371J**, the President is empowered to provide that the Governor of Karnataka would have special responsibility for, the establishment of a separate development board for Hyderabad Karnataka region.

- The reservation of seats in educational and vocational training institutions in the region for students who belong to the region.
- The reservation in the state government posts in the region for persons who belong to the region.
- Art. 371J provided special provisions for the Hyderabad Karnataka region of state of Karnataka. This was inserted in the constitution by the 98th Constitutional Amendment Act of 2012.
- The special provisions aim to establish an institutional mechanism for equitable allocation of funds to meet the development needs over the region, as well as to enhance human resources and promote employment from the region by providing for local cadres in service and reservation in educational and vocational training institutions.
- Total **7** districts are included in Hyderabad Karnataka region they are Bidar, Kalaburgi, Yadgir, Raichur, Koppal, Vijayanagara and Bellary. In 2019, the Hyderabad Karnataka region was officially renamed as **Kalyana Karnataka**.

Presented by
Neelesh Jadhav, B.Com LL.M
Assistant Professor in Law