

### UNIT-III

### SPEAKER OF LOK SABHA

India's first Prime Minister Pt. Jawahar Lal Nehru had said that in a parliamentary democracy, **the Speaker represents the dignity and the freedom of the House** and because the House represents the country, the speaker in a way becomes the **symbol of the country's freedom and liberty**.

#### Speaker of the Lok Sabha

- The Lok Sabha, which is the highest legislative body in the country, chooses its Speaker who presides over the day to day functioning of the House.
- Electing the Speaker of the House is one of the first acts of newly constituted House.
- The office of the Speaker is a **Constitutional Office**. The Speaker is guided by the constitutional provisions and the Rules of Procedure and Conduct of Business in Lok Sabha.
- The Speaker is placed very high in the **Warrant of Precedence** in the country i.e. at **rank 6**.
- Adequate Powers are vested in the office of the Speaker to help her/him in the smooth conduct of parliamentary proceedings.
  - The constitution provides that the **Speaker's salary and allowances** are not to be voted by the Parliament and are to be **charged on the Consolidated Fund of India**.
  - In the Lok Sabha chamber, the Speaker's chair is distinctively placed to enable a commanding view of the entire House.
- The Speaker is assisted by the Secretary-General of the Lok Sabha and senior officers of the Secretariat on parliamentary activities, practice and procedure.
- **In the absence of the Speaker, the Deputy Speaker discharges the functions.** A member from the Panel of Chairmen presides over the House in the absence of both the Speaker and the Deputy Speaker.

#### Election of the Speaker

- **No specific qualifications** are prescribed for being elected as the speaker.
  - **The constitution states that the Speaker must be a member of the House** but an understanding of the constitution and conventions of the Parliament is considered a major asset.
- The House elects its presiding officer **by a simple majority of members present, who vote in the House**.
- **Usually, a member belonging to the ruling party is elected Speaker.**
  - The process has evolved over the years where the ruling party nominates its candidate after informal consultations with leaders of other parties and groups in the House.
  - Once the decision on the candidate is taken, the name is **normally proposed by the Prime Minister or the Minister of Parliamentary Affairs**.
  - **This convention ensures that once elected, the Speaker enjoys the respect of all sections of the House.**
- There are also instances when members not belonging to the ruling party were elected to the office of the Speaker.
  - GMC Balayogi and Manohar Joshi belonging to the TDP and the Shiv Sena respectively served as the Speaker in the 12th and 13th Lok Sabha during the NDA coalition headed by the BJP.
- After the speaker is elected, the Prime Minister and the Leader of the Opposition (if there in the House, otherwise, the leader of the largest party in the House in the opposition) escort the Speaker to the Chair.

- **When the Lok Sabha is dissolved, the Speaker remains in his office till the first meeting of the new assembly** when the new speaker is elected.

## Removal of the Speaker

- The **Speaker's term** is coterminous with the term of the Lok Sabha i.e. **5 years**.
- However, the constitution has given the Lower House authority to remove the Speaker if needed. **The House can remove the Speaker through a resolution passed by an effective majority** (more than 50% of the total strength of the house present and voting) as per Articles 94 and 96 of the Indian Constitution.
- The Speaker can also be removed **on getting disqualified from being a Lok Sabha member under sections 7 and 8 of the Representation of the People Act, 1951**.
- A speaker can also tender his resignation to a Deputy Speaker.
  - Dr. Neelam Sanjiva Reddy is the only Speaker who resigned from the office.
  - Dr. Reddy also has the distinction of being the only Speaker who was later elected as the President of India.

## Powers of the Lok Sabha Speaker

According to the Constitution of India, a Speaker is vested with immense administrative and discretionary powers, some of which are enumerated below:

- The Speaker presides over the meetings in the Lower House. In other words, the Speaker **conducts business in Lok Sabha** by ensuring discipline and decorum among members.
- S/he **guards the rights and privileges of the members** of Lok Sabha, deciding who should speak at what time, the questions to be asked, the order of proceedings to be followed, among others.
- **A Speaker uses his/her power to vote, in order to resolve a deadlock.** That is, when the House initiates a voting procedure, the speaker does not cast a vote in the first instance. It is only when the two sides receive equal number of votes that the Speaker's vote breaks the deadlock, making his/her position impartial.
- In the absence of a quorum in the House, it is the duty of the Speaker to adjourn the House or to suspend any meeting, until a quorum is met.
- The Speaker **decides the agenda** that must be discussed in a meeting of the Members of the Parliament.
- The Speaker is invested with the immense powers of interpreting the Rules of Procedure. Since s/he is a member of the House as well as the Presiding Officer, s/he ensures the discipline of the House.
  - The Speaker ensures that MPs are punished for unruly behaviour.
  - A Speaker can also **disqualify a Member of Parliament from the House on grounds of defection (under the Tenth Schedule of the Constitution)**.
  - A member who flouts the Speaker's orders or directions may be named by the Speaker and in such cases, the member may have to withdraw from the House.
  - S/he also issues warrants to execute the orders of the House, wherever necessary and delivers reprimands on behalf of the House.
- The Speaker also permits various parliamentary procedures like the motion of adjournment, the motion of no confidence, the motion of censure, among others.
- The Speaker **presides over the joint sitting of the two Houses of Parliament**.
- Once a **Money Bill** is transmitted from the Lower House to the Upper House, the Speaker is solely responsible for endorsing his or her certificate on the Bill. In other words, s/he is **given the pivotal power to decide whether any Bill is a Money Bill**. His/her decision is considered final.
- **Except for the no-confidence motion, all other motions which come before the House come only after the Speaker permits them.**
- The Speaker also decides on **granting recognition to the Leader of the Opposition in the Lok Sabha**.

- The Speaker **has under his or her jurisdiction, a number of Parliamentary Committees** such as the Rules Committee, the Business Advisory Committee and the General Purposes Committee. The Speaker nominates the various Chairmen to these Committees while monitoring the committees' workings as well.
- S/he is the **ultimate arbiter and interpreter** of those provisions which relate to the functioning of the House. His/her decisions are final and binding and ordinarily cannot be questioned, challenged or criticized.

## Speaker's Administrative Role

- The Speaker is also the **head of the Lok Sabha Secretariat**.
- The Speaker's authority over the Secretariat staff of the House and its security arrangements is supreme.
- **No alteration or addition can be made in the Parliament House** and no new structure can be erected in the Parliament Estate without the Speaker's permission.
- It is through the Speaker that the decisions of the House are communicated to individuals and authorities outside the Parliament.
- Speaker decides the form and manner in which the proceedings of the House are published.

## Other Roles and Responsibilities

- Speaker's approval is sought for the date on which the House will start before it is convened by the President.
- The Speaker decides the form in which amendments may be moved to the Motion of Thanks to the President's address.
- **With regard to moving amendments to a Bill, the permission of the Speaker is required.**
- It depends solely on the Speaker to refer any question of privilege to the Committee of Privileges for examination, investigation and report.
- When a decision of the House is to be ascertained on a motion made by a member, **the question is put by the Speaker before the House to obtain the decision.**
- The Speaker makes obituary references in the House, formal references to important national and international events and the valedictory address at the conclusion of every Session of the Lok Sabha and also when the term of the House expires.

## Speaker and Inter-Parliamentary Relations

- S/he is the **ex-officio President of the Indian Parliamentary Group**. It was set up in 1949 and functions as the National Group of the Inter-Parliamentary Union and the main branch of the Commonwealth Parliamentary Association.
  - Inter-Parliamentary Union is an organization made up of national parliaments from around the world.
  - The Commonwealth Parliamentary Association (CPA) has been the voice of parliamentary democracy across the Commonwealth for more than nine decades.
- In that capacity, members of various Indian Parliamentary Delegations going abroad are nominated by him/her after consulting the chairman of the Rajya Sabha. Most often, the Speaker leads such delegations.
- Besides, the Speaker is the **Chairman of the Conference of Presiding Officers of Legislative Bodies in India**.

**Westminster Model:** The **Westminster system** is a democratic parliamentary system of government that originated in the Palace of Westminster, the location of the Parliament of the United Kingdom. The important features of the Westminster system include:

- **A head of state, who is the nominal** or theoretical source of executive power, holds numerous reserve powers, but in practice is a ceremonial figurehead. Such examples include the British Sovereign or the President of India.
- **A de facto executive branch** usually made up of members of the legislature with the senior members of the executive in a Cabinet; such members have executive authority on behalf of the nominal or theoretical executive authority.
- The presence of opposition parties;

- **An elected legislature**, or a system in which one of two houses is elected and the other appointed;
- **The ability of the lower house of parliament to, by default, dismiss a government** by "withholding (or blocking) Supply" (rejecting a budget), passing a no-confidence motion, or defeating a confidence motion.

## **AMENDMENT PROCESS IN THE CONSTITUTION**

### **What is Article 368?**

The present position is that the Parliament under Article 368 can amend any part of the Constitution including the Fundamental Rights but without affecting the 'basic structure' of the Constitution. However, the Supreme Court is yet to define or clarify as to what constitutes the 'basic structure' of the Constitution..

### **Can Fundamental Rights be amended as per Article 368?**

Article 368 does not contain a power to amend the constitution but only a procedure. The power to amend comes from the normal legislative power of Parliament. Therefore, amendments which "take away or abridge" the Fundamental Rights provisions cannot be passed.

### **Can the preamble be amended under Article 368?**

It has been clarified by the Supreme Court that being a part of the Constitution, the Preamble can be subjected to Constitutional Amendments exercised under article 368, however, the basic structure cannot be altered. Therefore it is considered as the heart and soul of the Constitution.

- Both houses of the parliament have passed the **Constitution (124<sup>th</sup>) Amendment Bill 2019**.
- The Bill was passed by the special majority in both the houses i.e. a majority (that is, more than 50%) of the total membership of each House and a majority of two-thirds of the members of each House present and voting.
- Debate on the 10% 'forward quota' Bill saw arguments on the amendment procedure, including whether the Bill should be ratified by state Assemblies, and questions related to aided and unaided institutions.
- The government has said that to amend part 3 of Article 368 of the Constitution which concerns the Fundamental Rights, there is no need for the amendment to be ratified by the state legislatures.
- The 93<sup>rd</sup> Amendment Act, 2006 that added Article 15(5) to the Constitution was approved only by both houses of Parliament.
- The Constitution (124th Amendment) Bill, 2019 was not required to be ratified by half the state assemblies.

## **Procedure for Amendment of Constitution**

- Article 368 in Part XX of the Constitution deals with the power of parliament to amend the constitution and its procedures.
- Article 368 provides for two types of amendments, that is, by a special majority of Parliament and the special majority of parliament along with the ratification of half of the states legislatures by a simple majority.
- Amendment of certain provisions of the constitution requires amendment by a simple majority of each house present and voting. These amendments are not deemed to be amendments under Article 368.

### **Simple Majority**

- A number of provisions in the Constitution can be amended by a simple majority of the two Houses of Parliament outside the scope of Article 368.
- These provisions include
  - formation of new states and alteration of areas, boundaries or names of existing states,
  - abolition or creation of legislative councils in states,

- use of official language,
- citizenship – acquisition, and termination,
- elections to Parliament and state legislatures,
- fifth Schedule – administration of scheduled areas and scheduled tribes,
- sixth Schedule – administration of tribal areas.

## Special Majority

- Under **Article 368(2)**, Parliament can amend the Constitution by passing a Bill with a special majority.
- Fundamental Rights and Directive Principles are the two most important provisions that can be amended by the special majority. All provisions that do not require ratification by states, and those that come directly under the purview of Article 368, can be amended by the special majority.

## Special Majority with the consent of half of States

- Those provisions of the Constitution which are related to the federal structure of the polity can be amended by a special majority of the Parliament and also with the consent of half of the state legislatures by a simple majority.
- Provisions related to the federal structure enshrined in the Constitution can be amended only by a special majority and with the consent of the states.
- Other important provisions that require ratification by the states include the election of President; Supreme Court and High Courts; representation of states in Parliament; distribution of legislative powers between the Union and the states; and the extent of executive power of the Union and the states.
- Most importantly, an amendment to Article 368 itself, requires ratification by the states.

## Basic Structure Doctrine

- In Kesavananda Bharati case 1973, the supreme court has ruled that parliament has the power to amend any part of the constitution but it cannot alter the “basic structure of the constitution”.
- The constituents of basic structure are not clearly defined by the court. However, it has been interpreted to provisions like values enshrined in preamble like secularism, equality etc., federalism, separation of power, independence judiciary, rule of law etc.