

1) Discuss the collective responsibility of Council of Ministers:-

Council of Ministers:-

The Council of Ministers (COM's) is headed by the PM. Council of Ministers is the real executive as powers of Union are exercised by Council of Ministers. Ministers are appointed by President on advice of PM.

As per convention, Council of Ministers comprises 3 categories of Ministers

* Cabinet Minister:- They are the senior most and usually heads a ministry.

* Ministers of state:- They are the second highest ranking ministers who are normally, not given independent charge of ministry or department.

* Deputy ministers:- They are the lowest ranking who are never given independent charge of ministry.

* Responsibility of Ministers:- Ministers have 2 types of responsibilities:-

(i) Collective Responsibility 15(3):- The Council of Ministers is collectively responsible to Lok Sabha. The decision approved by Cabinet becomes the decision of entire Council of Ministers. The collective decisions may pertain to a single ministry but if it is defeated in Lok Sabha, not just the ministry concerned has to resign, but

also the entire council of ministers has to resign.

2) Individual Responsibility 15(2): Ministers are individually responsible to the PM which means a minister can be removed by President on advice of PM at any time without even assigning any ground for removal.

2) Supreme Court at the apex of the Indian judiciary is the highest authority to uphold the constitution of India, to protect the rights & liberties of citizens and to uphold the values of rule of law. Hence it is known as the guardian of our Constitution.

* Power of Supreme Court:-

1) Power to punish for contempt of court with simple imprisonment for 6 months or 5 upto 2000. Civil contempt means willful disbelief to any judgement. Criminal contempt means doing any act which lowers the authority of the court or causing interference in judicial proceedings.

* Rights of Supreme Court:-

The 2 most important rights of judiciary are:

* It can restore fundamental rights by issuing writs of Habeas corpus, mandamus etc. under Article 32 of constitution & same action can be taken by high courts as well

Article 226 of constitution.

* Under Article 13 of constitution - Supreme court can declare the concerned law as unconstitutional & therefore non-optional.

* The J.R. is one of the most important powers of Supreme Court.

3) * The Election Commission of India, abbreviated as ECI is a constitutional body responsible for administering elections in India, according to rules & regulations mentioned in the constitution of India.

* It was established on Jan 25, 1950.

* The major aim of ECI is to define the control the process of elections conducted at various levels, Parliament, state legislatures and offices of the President & VP of India.

functions & Powers of ECI:-

Key functions of ECI are as follows:-

a) The ECI is considered as the guardian free & reasonable elections.

b) It issues the model code of conduct in every election for political parties & candidates so that the decorum of democracy is maintained.

c) It regulates political parties & registers these for being eligible to contest elections.

d) It publishes the allowed limits of campaign expenditure per candidate to all the political parties & also monitors the same.

e) The political parties must submit their annual reports to the ECI for getting tax benefits on contributions.

f) It generates that all political parties regularly submit their audited financial reports.

g) The ECI can repress the results of opinion polls if it deems such an action fit for the cause of democracy.

h) The ECI can postpone candidates who fail to submit their election expense accounts timely.

4) The Union Public Service Commission (UPSC) is independent constitutional body.

Composition of UPSC:-

The UPSC consists of a chairman & other members.

They are appointed by President of India.

It is left at the discretion of President who determines its composition.

Usually, the Commission consists of 9 to 11 members including the chairman.

The Constitution authorizes the President to determine the condition of service of the chairman & other members of Commission.

The chairman & members of Commission hold office for a term of 6 yrs or until they attain the age of 65 yrs.

Functions of UPSC:-

- 1) conduct examinations for appointment to services of Union.
- 2) Direct recruitment by selection through interviews
- 3) Appointment of officers on Promotion/ deputation/ absorption.
- 4) Disciplinary uses relating to different civil services.

3) A writ means order. The constitution of India empowers the supreme court & high courts to issue writs for the enforcement of fundamental rights conferred by the Part-3 of the Indian constitution under article 32 & Article 226. There are 5 types of writs.

* Habeas Corpus:-

Habeas Corpus is a latin term which literally means "you should have body". The writ is issued to produce person before a court who has been detained or imprisoned & not produced before the magistrate within 24 hrs whether in prison (or) private custody & would release the person if detention is found illegal.

Mandamus:-

Mandamus is latin word, means 'to command'. It is judicial remedy of an order to act legally & to abstain from

perpetrating an unlawful act, whose as legal right which cast certain legal obligation on B, A can seek a writ of mandamus directing B to perform its legal duty.

* Certiorari :- It is a latin word means 'to inform'. It may be judicial order operating in persona & carried out in the original legal proceedings, be issued against constitutional bodies, statutory bodies like corporation, non statutory bodies like companies requiring the records of any action to be certified by court & dealt according to laws.

The various grounds on basis of writ of certiorari is issued

→ Lack of jurisdiction

→ Excess of jurisdiction

→ Abuse of jurisdiction

→ Violation of principles of natural justice

→ Error of law apparent on face of record.

* Prohibition :- refers "to forbid or to stop" & is popularly known as 'stay order'. The writ is issued by supreme court or any high court when a lower court or a quasi-judicial body tries to violate powers vested in it.

* Quo Warrants :- is a latin word which means 'by what warrant'. The writ is issued by/to restrain a person from holding

the writ is issued.

6) * Parliament privileges are defined in Article 105 of the Indian Constitution. The members of the parliament are exempted from any civil (or) criminal liability for any statement made or act done in course of their duties.

* The privileges enjoyed by the members are
→ freedom of speech: The members of Parliament have been vested with the freedom of speech & expression

→ freedom from arrest:- The members enjoy freedom from arrest in any civil case 40 days before & after the adjournment of the house & also when the house is in session.

→ freedom from appearing as a witness: The members of the parliament enjoy special privileges & are exempted from attending court as witness.

* Privileges enjoyed by the members collectively as a part of parliament:-

→ Rights to prohibit the publication of Proceedings.

As stated in article 105(2) of the Constitution, no person shall be held liable for publishing any reports, discussions etc of the house under the authority of member of house.

→ Right to exclude strangers:- The members of house have power & right to exclude strangers who are not members of the house from the Proceedings

→ Right to punish members & outsiders for breach of its privileges:- The Indian Parliament has the power to punish any person whether strangers (or) any members of house for any breach (or) contempt of the house.

→ Right to regulate internal affairs of house:- Each house has a right to regulate its proceedings in the way it deems fit & proper.

- 1) * The constitution of India has provided that India shall be a republic with parliamentary form of government. Accordingly, the President of the Republic, as head of the state, is elected by the representatives of people returned to Parliament & the state legislatures.
- * His normal term of office is 5 years though he can be removed earlier by impeachment process.
- * He also can seek re-election for one more term. He is aided & advised by the Council of Ministers, headed by PM.
- * Being head of Parliamentary form of Govt. the President who is head of state is supposed to be only figure head, whereas real power & authority is vested in the PM and his Council of Ministers.
- * In India, the President enjoys powers during normal times, whereas he has different set of powers during emergency.

* The constitution fathers has various alternatives before them for electing the president of Republic. However, methods of direct & indirect election focussed their attention.

* Moreover, there could be the possibility of clashes between directly elected President & prime Minister for supremacy, which nation will afford.

8) Preamble:-

* A Preamble is an introductory & expressionary statement in a document that explains the document's purpose & underlying philosophy.

* The Preamble of the constitution (or) Preface is based on 'Objectives resolution' drafted & moved by Pandit Nehru, & adopted by the Constituent assembly.

26th Nov 1949.

* It is regarded as the Preamble serves as a channelizing tool for the interpretation of the constitution as a whole.

* The original draft of the constitution opened with the words "Sovereign Democratic Republic" in the first line. The words "Socialist" & "Secular" was inserted by the 42nd Amendment in 1976.

* The Preamble states : We, the people of India, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic & to secure all the citizens

* Justice, Liberty, Equality & Fraternity.

* The significance of Preamble lies in as follows:-

→ The terms sovereign, socialist, democratic republic suggests the nature of Indian states.

→ The ideals of equality, liberty, justice reflect the objectives of constitution for people of nation.

→ The Preamble promotes fraternity for maintaining the unity & integrity of nation.

9.) A bill deemed to be money bill if it contains "only provisions dealing with imposition, abolition, remission, alteration or regulation of any tax". An ordinary bill can be introduced in any of houses of parliament while money bill can only be introduced in Lok Sabha.

| MONEY BILL | ORDINARY BILL |
|---|--|
| 1) Can be introduced in Lok Sabha only. | 1) Can be introduced in either house of Parliament |
| 2) Can be introduced only by recommendations of President | 2) Recommendations of President is not required. |

3) Can be detained by Rajya Sabha for a max of 14 days.

3) Rajya Sabha can detain it for a max of 6 months

→ Process of Passing an Ordinary Bill:-

a) First reading:- It includes the introduction of the bill in either of the houses of the parliament by a minister (or) private minister. It is followed by grant of leave & its publication in the Gazette of India.

b) Second Reading:- At this stage, bill undergoes detailed scrutiny including discussions of every clause. This stage can be further divided into general, committee & consideration stage.

c) Third Reading:- At this stage, no amendments are allowed. The bill needs to be passed by a simple majority of members present & voting in the house.

d) Bill in the second house:- If the second house passes the bill without any amendments, the bill is sent to President for his assent.

e) Assent of President - If the President gives his assent to the bill, the bill becomes an act & placed on the statute book. If the President withholds the assent to the bill, the bill ends.

10) * Article 256 talks about the failure of constitutional machinery in state also known as President's rule.

* If the President on Governor's report or otherwise is satisfied that the situation has arisen that the government can't be carried on in accordance with constitutional provisions he may issue state Emergency.

* President can declare emergency either by report of the governor or he himself is satisfied that the situation is such that the emergency has to be imposed.

* But at times President may declare an emergency when a report is not received from the Governor.

* After the 42nd amendment of the Constitution the state emergency was made immune from judicial review. But later in the 44th Amendment the legality of President's rule could be challenged.

The consequences of state emergency are:-

The president assumes all executive power of state himself.

During such proclamation, the state assembly is either dissolved (or) suspended.

Parliament makes laws regarding the state lost. The high court of the state functions

Independently.

President also proclaims ordinances in the state.
