

## GOVERNOR

### I. Constitutional Position of Governor

- **Constitutional head** of the State
- **Real executive power** lies with the Council of Ministers, headed by the CM
- **Dual role**
  - Constitutional head of State
  - Agent of the Centre
- **Parliamentary system** at the state level

Articles: **153–167 (Part VI)**

### II. Constitutional Provisions

- **Article 153** – Governor for each State
  - The same person can be the Governor of **two or more States** (7th CAA, 1956)
- **Article 154** – Executive power vested in the Governor
- **Article 163** – Council of Ministers to aid and advise the Governor
- **Article 164** – Collective responsibility of Council to Assembly

### III. Appointment of Governor

- **Article 155**
- Appointed by the **President of India**
- Appointment by **warrant under the President's hand and seal**
- **Not elected**, neither direct nor indirect
- Based on the **Canadian model**

### Supreme Court View

- **Hargovind Pant Case 1979**
  - The Governor is **NOT an employee of the Centre**
  - Independent **constitutional office**

### IV. Why the Governor is Appointed and Not Elected

- Avoid conflict with CM
- Prevent dual political legitimacy
- Reduce election cost
- Prevent separatist tendencies
- Ensure neutrality
- Enable Centre's stabilising role

### V. Sarkaria Commission Recommendations

- The Governor should:
  - Be **eminent**
  - Be **from outside the State**
  - Be **politically neutral**
  - Have **minimal recent political involvement**
- No Governor of the ruling Centre party in an opposition-ruled State
- **Consultation with CM** recommended
- Suggested **constitutional amendment to Article 155** (not implemented)

#### VI. Qualifications of Governor

#### Article 157

- Citizen of India
- Minimum **35 years** of age
- No educational qualification prescribed
- No domicile requirement

#### VII. Conventions

- Governor from outside the State
- Consultation with CM before appointment (not mandatory)

#### VIII. Oath or Affirmation

- Administered by:
  - **Chief Justice of the State High Court**
  - Or the senior-most judge
- Same oath for **acting Governor**

#### IX. Conditions of Office

#### Article 158

- Cannot be:
  - MP or MLA
  - Holder of any **office of profit**
- Residence: **Raj Bhavan** (rent-free)
- Salary & allowances:
  - Determined by Parliament
  - **Cannot be reduced during the term**
- If the Governor of multiple States → expenses shared

#### X. Term of Office

- **5 years**
- Holds office **during pleathre sure of the President**
- Can resign anyithe me → to the President
- Can be:

- Transferred
- Reappointed
- Continue till the successor assumes office

## No grounds for removal mentioned in the Constitution

### XI. Immunities and Privileges

#### Article 361

- **No criminal proceedings** during the term
- **No arrest or imprisonment**
- Civil proceedings allowed for personal acts
  - **2-month prior notice mandatory**

#### Rameshwar Prasad Case 2006

- Immunity for official acts even if mala fide alleged

### XII. Powers and Functions of the Governor

#### A. Executive Powers

- Appoints:
  - Chief Minister
  - Ministers
  - Advocate General
  - State Election Commissioner
  - Chairman & Members of State PSC
- Makes rules for State business
- Seeks information from CM
- Chancellor of State Universities
- Can recommend **President's Rule**
- Acts as the Centre's representative during President's Rule

#### B. Legislative Powers

- Summon the prorogue State Legislature
- Address Legislature
- Nominate members (where applicable)
- Appoint presiding officers
- **Veto powers over Bills**

#### Veto Options

- Assent

- Withhold assent
- Return Bill (except Money Bill)
- Reserve Bill for President

### C. Financial Powers

- Causes the State Budget to be laid
- Money Bill needs the Governor's recommendation
- Advances from **Contingent Fund**
- Constitutes the **State Finance Commission** every 5 years

### D. Judicial Powers

- Pardoning power for State law offences
- Consulted in appointment of High Court judges
- Appoints:
  - District judges (with HC)
  - Other judicial officers (with HC & PSC)

### XIII. The Governor and President

- The Governor has **constitutional discretion**
- The President has **no discretion**
- After **42nd** is **CAA 1976**:
  - The President is bound by the ministerial advice
  - The Governor is **not expressly bound**
- President can consider the State Bill only if **reserved by the Governor**

### XIV. Discretionary Powers of Governor

#### A. Constitutional Discretion

- The Reserving Bills for the President
- Recommending President's Rule
- Determining discretionary matters (final authority)

#### B. Situational Discretion

- Appointing CM in the hung Assembly
- Dismissal of Ministry if the majority lost
- Dissolution of Assembly
- Death/resignation of CM

### XV. Special Responsibilities

- Based on the President's directions
- Acts independently after consulting the Council

### FACTS

- The Governor is **not subordinate to the Centre**
- The Governor **can act in discretion**; the President cannot
- The governor enjoys **criminal immunity**
- The governor is **appointed**, not elected
- The governor's salary **cannot be reduced**
- The same person can be the Governor of **multiple States**

Aspire with Ram IAS