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## Role Of Governor And Constitution Of India

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### Abstract:

The office of the Governor has a long history, though none too pleasant. Its colonial origin ethos and bureaucratic background naturally occasioned animated discussions in the Constituent Assembly on such aspect as the appointment, assigned to him a somewhat complex role - he was made a component of the State apparatus as well as a link between the Union and the federating unit, the latter in particular investing him with " a significance for national integration and for the preservation of national standards."

Every state in India has a governor, according to the Indian Constitution. According to Article 153, there must be a governor for each state. The 7th Constitutional Amendment Act of 1956 made it possible for the same individual to be appointed as governor of two or more states under particular circumstances. The Governor is the state's top executive. However, like the President of India, he only has nominal or titular authority. On the other hand, the Governor also represents the Central Government, which implies that his position has a dual function.

**Keywords:** Governor, Power and duties, committee's recommendation, conflict, Supreme Court

### Introduction:-

Each state's governor is appointed by the Indian President via a warrant that bears his signature. Each state's governor must be chosen by the central government. Note: Unlike presidential elections, there isn't a direct or indirect election for governor. The position of governor is an autonomous constitutional office that is not a part of the union administration. The governor does not work for or report to the union government. The Indian government is structured similarly to Canada's model, with the Union nominating a governor and the President appointing him.

### ELIGIBILITY TO RUN FOR GOVERNOR

Unlike members of the "Lok Sabha or Rajya Sabha, or even the Prime Minister or President", who must meet a number of requirements to hold office, the Governor only has to meet two:

1. He needs to be a citizen of India.
2. He should be over the age of 35.

Before putting forward a candidate for governor, the government must follow the following two rules:

1. That individual was not chosen to serve as the state's governor. He must be an outsider with no connection to the state to which he is being appointed.
2. Before selecting a governor, the President consults with the Chief Minister.

## THE GOVERNOR'S CONSTITUTIONAL POSITION

The Constitutional Position of the governor can be understood by the following articles<sup>4</sup> : Constitutional Position of the Governor

“Article Provision” “Article 154” “He is the executive head of the state. All the executive functions will be performed by him or by the officers subordinate to him in accordance with the Constitution”

“Article 163” “He will be aided and advised by the Chief Minister and Council of Ministers unless he is performing a function at his discretion” Note: • “The power to act at his own discretion is a power that is not given to the President. • 42nd Amendment Act made the advice of the Council of Ministers’ binding on the President but not on the Governor in state”

“Article 164” “The Council of Ministers are collectively responsible to the state legislative assembly” Note: “This provision is the foundation of the state parliamentary system”

The Governor lacks actual authority since he is just the official head of state. The Chief Minister and Council of Ministers are endowed with real authority. Articles 154, 163 (discretionary authority), and 164 must be specifically mentioned when analysing his constitutional status. According to Article 256<sup>5</sup>, each state must use its executive authority in accordance with the legislation passed by Parliament. It also provides that the Union may use its executive authority to command the state when the government believes it is necessary for a particular objective

### Recent conflicts between the Governor and Chief Minister Issues pertaining to the office of governor

- The chief minister's selection has been the topic of recent debates.
- Choosing when to demonstrate a legislative majority
- It appears to take a long time to ratify measures or reserve them for the President.
- Misuse of Article 356<sup>17</sup> - In certain states, a governor's request for President's Rule (Article 356) hasn't always been founded on "objective material," but rather on political whim or fancy. Political parties in control at the federal level have exploited this authority to overthrow governments in states run by opposing parties.
- Making negative remarks about certain state government programmes.
- Using the governor's authority in his capacity as chancellor of public colleges
- Abuse of Power by the Center: There are many instances of the governor's office being used improperly, almost always at the direction of the centre's governing party.<sup>18</sup> Generally speaking, the governor selection procedure has generated controversial.
- Biased Ideology-The central government has nominated politicians and former bureaucrats who identify with a certain political ideology as governors in a number of instances. This is biased and goes against the neutral seat required by the constitution.
- Puppet Rulers- The Rajasthan governor was recently accused of breaking the model code of conduct. The expectation of non-partisanship from those holding constitutional positions is violated by their support for the main governing party.
- Favoring a Specific Political Party- The governor's discretionary powers to choose the biggest party or alliance's leader to lead the formation of the government after an election have often been abused to favour a specific political party

- Partisan role in Hung assemblies- Governors have the discretion to choose which party or combination of parties is most suited to form the government in the event of hung assemblies. At the Centre's direction, governors misuse this power in a politicised way.

- There are several cases when the opposition parties are asked to form governments even if they seem to have fewer seats.

- For instance, despite the opposition alliance claiming a majority, the governor of Karnataka recently asked the BJP to form the government there.<sup>19</sup>

## West Bengal

- West Bengal Governor Dhankhar is said to have regularly called both the “Chief Secretary and the Director General of Police”. He often mentions the Chief Minister on Twitter when they fail to show up.

- On the grounds of the State Assembly, Mr. Dhankhar recently had a run-in with Assembly Speaker Biman Banerjee.

- He refused to sign the “Howrah Municipal Corporation (Amendment) Bill 2021”, postponing elections for the local government.

**Maharashtra** • Governor Bhagat Singh Koshyari of Maharashtra has halted the Speaker election since the position became vacant in February 2021. • The governing coalition rejects the governor's assertion that the State Assembly cannot set its own rules. • Until the case made it to the High Court, he had refused to accept the “Council of Ministers' advice about the nomination of 12 members to the Legislative Council”.

**Tamil Nadu** • The T.N. Admission to Undergraduate Medical Degree Courses Bill, which was approved by the Assembly in September 2021, has not been acted upon by Governor R.N. Ravi of Tamil Nadu.

## JUDGEMENTS AND RECOMMENDATIONS BY SUPREME COURT AND COMMITTEES

The governor's office has often been exploited, often in accordance with the preferences of the center-right dominant party. This is a result that can be explained by the governor's appointment procedure. Most often, political ideologists have been chosen by governments to serve as a governor, which goes against the constitution's need for neutral or nonpartisan governors. Biases as a consequence have been evident in Goa and the state of Karnataka.

It was the first time that the governor postponed convening the assembly despite the state cabinet's request that he do so as he raised queries and sought answers about the house's agenda. It should be noted that, even if the Governor offers a different date, he is required to sign the order. The elected alone has the power to choose the proposed session's start date.

The Supreme Court's seven-judge constitutional panel ruled in *Shamsher Singh v. State of Punjab*<sup>22</sup> in 1974 that "the Governor has no jurisdiction to refuse to act on the advice of the Council of Ministers." A viewpoint like that is counter to the idea of responsible government. The Governor's involvement is revealed in this statement.

The Supreme Court rejected the argument in the *S.R. Bommai v. Union of India* case (1994)<sup>23</sup> that the Assembly is the sole arena for testing the majority of the government and not the Governor's judgement, which is referred to as the agent of the Central Government. In spite of getting a copy of the resolution voted by the Janata Dal Assembly, the then-Governor of Karnataka, P. Venkatasubbaiah, declined to offer Bommai (the state's chief executive in 1989) the chance to test his majority in the Assembly. Then, Bommai sent a petition to the Karnataka High Court to challenge the Governor's suggestion of President's Rule, but the High Court turned down the petition

The Sarkaria Commission (1988) had also stressed the importance of the personalities of the governors who would be chosen. Four requirements were listed, including the need for the candidate to be "eminent in some field of life," "from outside the state," and "separate and not too closely associated with the local politics of the state.

## CONCLUSION :-

The Governor has extensive power. He has the option to use certain abilities. The Governor has the power to advise, support, and caution the minister regardless of their political party. The personality and skills of the person holding the position of governor are what define it. If the Governor has a strong personality, he will have a great deal of influence over his government. A weak Governor, however, would have an impact on the whole ministry. For the government to function properly, the governor must use his discretion and personal judgement while acting prudently, impartially, and efficiently. Instead of a panel chosen by the state legislature, the Inter-state Council, not the federal government, should have the real authority to appoint governors. The Governor's Code of Conduct should outline certain "norms and standards" that the governor may use and practise in making decisions while exercising his "discretion" and his powers. India's federal structure has to be tightened in order to stop the governor's position from being misused. In this approach, the Inter-State council and Rajya Sabha's role as the federalism chamber must be reinforced.

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