
GOVERNORSHIP: NAVIGATING THE HELM OF STATE LEADERSHIP

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ABSTRACT

As the constitutional head of each state and union territory, the Governor plays a crucial role in India's federal system. Their diverse position includes a number of crucial duties. First off, governors actively participate in the legislative process and have the authority to propose, oppose, and adopt bills, which has a substantial impact on the state's legal system. Additionally, they are tasked with the essential duty of guaranteeing the effective application of state laws, effective government, and adherence to the rule of law. Governors have the authority to declare states of emergency in times of emergency, giving them the power to uphold law and order, protect residents, and quickly allocate resources, highlighting their role in preserving the peace and stability of the state. Additionally, governors represent their respective states in diplomatic relationships with other states in India as well as internationally, making them important participants in the development of foreign policy. Meanwhile, it's critical to recognize that governors frequently have political affiliations, which might influence their decisions and interactions with state politics. In order to successfully navigate the complexities of their positions in a diverse and dynamic political environment, governors must strike a delicate balance between their constitutional obligations and their political allegiances. In conclusion, the Governor's office plays a crucial role in protecting the independence of state governments, safeguarding the nation's democratic values, and overseeing the complex interactions between politics, governance, and diplomacy within the Indian federal system.

Keywords: Lieutenant Governor, Ceremonial, Political, Supervisory, Integrity, Emergency.

INTRODUCTION:

“The governor is the constitutional head of an Indian State, with powers and responsibilities comparable to the president of India at the national level. There are lieutenant governors and administrators for Union Territories, just as there are governors for states. A governor is the constitutional leader who makes all decisions with the guidance of the chief minister and the council of ministers.”

Governors serve as the constitutional heads of individual states in India's complex and diversified political environment, playing a critical role in the country's federal structure. Governors, like the President of India, possess major authorities and responsibilities in their respective states. In addition, Lieutenant Governors and Administrators have the same authority in Union Territories. The function of Governor is diverse, encompassing both ceremonial and constitutional aspects. On the one hand, they represent the state's unity and integrity by representing the President at the state level. This ceremonial function consists of hoisting the national flag, attending state functions, and taking part in other state activities. They, on the other hand, carry out a variety of constitutional powers and tasks, albeit with significant constraints. Governors are tasked with various critical obligations in their constitutional capacity. They are in charge of calling and proroguing the state legislature, where elected representatives debate major issues and legislation. In rare circumstances, such as when the constitutional machinery fails, Governors have the ability to dissolve the legislative assembly, clearing the way for new elections. “Constitutional authority has been granted to governors to be supervised by the Chief Minister and the Council of Ministers”. The Chief Minister, who leads the majority party or coalition in the state legislature, has true executive authority in the state. The Council of Ministers, comprised of various cabinet ministers, assists the Chief Minister in state governance. Governors can also play an important role in balancing powers between the state and federal governments. They have the authority to refer state bills to the President for review, which can result in central intervention in state affairs, particularly if a proposed law is found to be in disagreement with the Indian Constitution. Central government and President appoints governor as they are the subject of political manoeuvring. This has occasionally resulted in Governors being picked to represent the ruling party at the centre, leading to questions about their role and behaviour.

In summary, Indian state governors are constitutional leaders who must strike a difficult balance between ceremonial duties and constitutional responsibilities. While they have enormous powers, their position is inextricably interwoven with the political dynamics of the

state, the advise of the Chief Minister and Council of Ministers, and India's greater federal system.

QUALIFICATIONS:

Articles 157 and 158 of the Indian Constitution establish the qualifications for the position of governor. The Requirements are :

- The age of the governor should be 35 years .
- It is voidable to a governor to be a member of the of the parliament or house of the state legislature.
- Any office of profit should not be held by Governor.

Before nominating someone to be Governor, the government follows two conventions:

- That an individual will not be appointed as the state's governor to where the person belongs. An outsider will be chosen for the job.
- Before appointing a governor, the President consults with the Chief Minister of the respective state.

The Central Government has been continuously ignoring the aforementioned facts:

APPOINTMENT:

“The governor of each state is appointed by the President of India.” The factors used to evaluate candidates are not specified in the Constitution. A person may be named governor of two or more states at the same time. A governor has no direct or Indirect election, as there is for President. The governor's role is a separate constitutional role that is not part of the union executive. The union government gets no report from the Governor. “The nomination of a governor by the Union and his appointment by the President in India adhere to the Canadian model of governance.”

OFFICE TERM:

For the duration of the President's tenure, a governor is appointed. Another idea is that they are chosen after the President receives advice from the 'council of ministers'. As a result, the Central Government appoints them. They will serve for a period of five years from the date of their appointment. They will serve until the President picks a governor after their 5-year term expires. The High Court Chief Justice of the respective state may be appointed as Governor in

the absence of one.

POWERS AND FUNCTIONS OF THE GOVERNOR:

In the oath of office under Article 159 of the Indian constitution, it has been said that the main job of the governor in state administration has to protect and uphold the constitution of India. The governor's acts, suggestions, and supervisory powers over a state's administrative and legislative institutions is used to carry out the Constituted provisions under articles 167c, Article 200, Article 213, Article 355, and etc.

There are no diplomatic or military powers provided to the governor unlike the Indian President. They do have legislative, executive, and judicial powers comparable to those of the President. The Powers a governor possesses are:

EXECUTIVE POWERS:

‘These are administrative in nature. The full power of state government are constituted with the governor. The CM is appointed by the Governor, with the majority of the State Legislative Assembly and the other member of the council are also appointed by the governor and advisory ministries are delegated by Chief During the governor's 'pleasure,' the Council of Ministers retains authority. The President has the power to uphold the state emergency if any governor reports are break down in a state to President.’ The governor appoints the chief minister, the attorney general, and the chairman and members of the State Public Service Commission. The governor selects a state election commissioner, whom the president then dismisses. When the Election Commission or a Regional Commissioner makes a request, the governor or president must make the required employees available. The governor carries out all executive actions of a state, the chancellor of the majority of the state's institutions is the governor. “Because of the dignity and impartiality of the role of chancellor, the governor is in a unique position to protect university autonomy and protect it from inappropriate political influence. The governor has the authority to order an examination of all university and affiliated college components and to take appropriate action based on the findings of the investigation. The chancellor appoints the search committee for vice chancellor openings. The governor grants assent to the warrant of degrees and withdraws degrees or distinctions based on Senate recommendations” The governor approves or rejects Senate legislation and appoints university lecturers based on the recommendations of different committees. The Governor may create regulations controlling the recruitment and employment of secretarial staff of the Legislative Assembly or the Legislative Council after consulting with the Speaker of the Legislative Assembly or the

Chairman of the Legislative Council. If the State Legislature does not pass legislation governing the aforementioned recruitment, the Governor has the authority to select such persons. If a governor believes that the Anglo-Indian community in his or her state's Legislative Assembly is underrepresented, he or she may appoint one member to the Assembly. One-sixth of a state's Legislative Council members may be appointed by the governor if they have specific knowledge or practical experience in literature, science, art, cooperative movements, or social services.

LEGISLATIVE POWERS:

The governor can address and deliver messages to the State Legislature, as well as call, prorogue, and dissolve it. “The Chief Minister with his council must be exercised the authority of the legislative as he or she also has the authority to make grant requests and recommend Money Bills to the Houses of the State Legislature, either personally or through others “Every opening of the first year the state legislature and the elections assembly is addressed by the governor.” A bill can be sent back to the legislature if it is not a money bill. However, if the state legislature sends it back to the governor a second time, the governor may not refuse to sign it. This has never happened in the history of the states”. Since 1950, the Tamil Nadu Government returns the NEET exemption bill to its respective governor for the first time in 2022. Specific measures may also be reserved for the president's signature by the governor. When the state legislature is not in session and the governor believes that legislation is required, the governor has the authority to issue an executive order. “These ordinances will be presented to the state legislature during the upcoming session. They are only effective for six weeks from the date the state legislature reconvenes, unless they are issued earlier. When the Governor receives notification from the electoral commission that a member of the State legislature is no longer complying with the provisions of Article 191, the Governor has the authority to remove that individual from office. The governor may request that the state's attorney general visit both houses of the legislature and report any criminal behaviour to them.”

JUDICIAL POWERS:

Him/Her the authority to tell district court after the talk with judges consulting the state High Court and the right of governor is to grant pardons, respites or remissions of punishment as it suspend and remits of any convicted person.

DISCRETIONARY POWERS:

“If no single party obtains a clear majority, the governor has the authority to appoint a chief

ministerial candidate who will form a majority coalition as quickly as practicable. They have the authority to impose the president's rule. They give reports to the president on state issues either on their own initiative or at the president's request. They might refuse to sign a bill and instead send it to the president for approval. During an emergency declared under Article 353 of the Constitution, the governor may override the recommendation of the council of ministers if the president expressly authorizes it.

EMERGENCY POWERS:

The governor has no role or powers in an emergency crisis to battle foreign attack or armed insurgency as the President, unless expressly approved by the president under articles 160, 356, and 357.”

LEGAL IMMUNITY:

Article 361 of the constitution states that the governor cannot be summoned for questioning unless he/she voluntarily decides to testify in court in support of his/her controversial activities, even if the courts rule that the governor's unconstitutional choices are illegal. For the governor's participation, the courts would rule on the facts presented by the union administration.

“The Supreme Court addressed in the case 'Rameshwar Prasad & Ors vs. Union of India & ANR that, while the governor won't be prosecuted and imprisoned during his or her tenure, the governor will be prosecuted for the guilt committed during their governorship, as previously declared by the courts.”

PAYMENT & PRIVILEGES:

The Governors (Emoluments, Allowances, and Privileges) Act of 1982 oversees governors' numerous emoluments, allowances, and privileges.

“The benefits are an addition to their monthly salary are the perks given to the governor and his family.”

“Rent-free housing, domestic facilities, leave allowances, transportation, and free use of an unlimited number of motor vehicles. Travel perks, allowances for renewing furnishings and maintaining official residences, entertainment reimbursement, hospitality grant, household establishment expenses, office expenses, miscellaneous expenditure allowance, tour expenses, and any other bills approved by the President.”

ROLE & RESPONSIBILITIES:

The Governor also plays an important role in the state's legislative process. By approving or

vetoing measures passed by the state legislature, they play an important role in this process. They can also propose laws and organize special legislative sessions, actively changing the legal structure of the state. Additionally, the Governor has appointment power. This authority includes the appointment of state officials such as judges, commission members, and leaders of state agencies. These appointees have a considerable impact on the state's orientation and governance.

The Governor's primary preoccupation is financial concerns. They participate actively in the state's budgetary process, submitting a budget proposal to the state legislature that outlines financial goals and spending plans. They are in charge of managing budget execution once it has been authorised, ensuring that resources are deployed efficiently and effectively. Governors also play an important role in sustaining state law and order. They can proclaim a state of emergency in times of crisis, such as natural catastrophes or public health emergencies, which gives them the right to take immediate action to protect individuals and allocate resources. Governors play diplomatic and intergovernmental functions in addition to domestic matters. They communicate with other states, foreign ambassadors, and the federal government, lobbying for the interests of their state. They take part in international conferences and negotiations, which has an impact on the state's external relations. The Governor's partisanship adds a particular depth to their function. The majority of Governors are members of a political party, and their partisanship influences their decisions and interactions with state politics. This affiliation can influence their policy decisions, governance techniques, and interactions with the state legislature, influencing the administration's direction and priorities.

Finally, under a federal system, the Governor of a state is a crucial figure with different responsibilities ranging from ceremonial to substantial. Not only do they represent state authority, but they also actively participate in managing the state, creating laws, overseeing the executive branch, and influencing the state's destiny. Furthermore, their partisanship complicates their governance because their political connections might have a substantial impact on state policy and political dynamics.

REMOVAL OF A GOVERNOR:

The Governor can be terminated in two respective ways but as the governor's tenure is of a "demi-decade" tenure:

- "Unjust dismissal by the president, who selects the governor at his or her authority. According to this other assumption, he or she can be ousted if the 'council of ministers' recommends it to

the President. As a result, only the Central Government can depose him or her. “It is the president's responsibility, however, to dismiss a governor whose actions have been found unconstitutional and fraudulent by courts.”

- The governor has stepped down.

“The Constitution makes no express provision for removing a Governor from office. The bribery, treason, corruption and violation of the constitution, this power may be employed.”

CASE LAWS

Here are some cases with relation to this topic:

1. S.R. Bommai v. Union of India (1994):

Context: This landmark case involved the abuse of Article 356 of the Indian Constitution, which permits the President to impose President's Rule (or Governor's Rule at the state level) in states in the event of a constitutional breakdown. The case centred on the removal of state governments.

Relationship with the Governor: The case focused on the Governor's role in advocating President's Rule as well as the rules that govern such recommendations. It emphasised that the Governor should exercise their judgement in a fair, impartial, and independent manner.

2. Nabam Rebia and etc. vs. Deputy Speaker and Ors. (2016):

Background: This case was tied to a political crisis in Arunachal Pradesh, where the Governor's role in the operation of the state assembly was called into question.

Relationship with the Governor: The case highlighted the Governor's obligations in ensuring the smooth operation of the state assembly, as well as the requirement for the Governor to act impartially when deciding on matters pertaining to government formation and the floor test.

3. Rameshwar Prasad v. Union of India (2005)* and *Bhagwat Jha Azad v. Rameshwar Prasad (2005):

Background: These cases concerned the Speaker's disqualification of Members of the Legislative Assembly (MLAs), which affected the balance of power in the state legislature.

Relationship to Governor: The Governor's function was indirectly tied, as in times of political turmoil and potential government instability, the Governor may be forced to make judgements about government formation based on suggestions from political parties.

4. Rajasthan University v. Rajshree Khandelwal (2005):

Background: This case concerned educational issues, specifically the dismissal of a college principal by a university.

Governor Relationship: While not directly related to the Governor's constitutional obligations, it highlights the Governor's role as Chancellor of state universities, emphasising their engagement in education and administration.

The Governor's role is clear in all of these cases, either through their constitutional duties or their involvement in ensuring the stability of state governments. They also emphasize the delicate balance that Governors must strike in order to exercise their responsibilities impartially and in compliance with the Constitution. Decisions in these cases frequently serve as crucial precedents for interpreting the role of the Governor in the Indian federal system.

CONCLUSION:

The Governor is the constitutional representative of all states and union territories, and his or her role is crucial in upholding federalism and democracy. The Governor's office is important in India for a variety of reasons. It includes their participation in the legislative process, as they contribute to the passage of measures and the integrity of the state legislature. They also play an important role in the executive branch, overseeing the operation of the state government and ensuring that laws are faithfully implemented. They are in charge of keeping law and order through the state, particularly during crises and emergencies. Governors can proclaim states of emergency, which give them exceptional authorities to protect residents and effectively manage resources. The Governor's diplomatic function is also notable, as they represent the interests of the state in relations with other states and the federal government. Their involvement in multilateral forums and talks demonstrates their importance in international affairs. It is crucial to note, however, that in the Indian setting, the Governor may also play a partisan role. The majority of Governors have political affiliations, which can influence their decisions and interactions with state politics. This dual nature of their function emphasizes the importance of Governors striking a balance between their constitutional responsibilities and political loyalties.

In essence, the Governor's office serves as a defender of constitutional values and the federal structure in the Indian setting. It is vital to preserving the integrity of state governments, safeguarding residents' well-being, and contributing to the nation's democratic framework.