

State Executive**GOVERNOR****Introduction**

- The Constitution of India envisages the same pattern of government in the states as that for the Centre, that is, a parliamentary system.
- Deals with the government in the states.
- **Articles 153 to 167 in Part VI of the Constitution** deal with the state executive.
- The state executive consists of the governor, the chief minister, the council of ministers and the advocate general of the state. Thus, there is no office of vice-governor (in the state) like that of Vice-President at the Centre.
- The governor is the chief executive head of the state. But, like the president, he is a nominal executive head (titular or constitutional head).
- The governor also acts as an agent of the central government. Therefore, the office of governor has a dual role.
- Usually, there is a governor for each state, but **the 7th Constitutional Amendment Act of 1956** facilitated the appointment of the same person as a governor for two or more states.

Appointment of Governor (Article 155)

- The governor is neither directly elected by the people nor indirectly elected by a specially constituted electoral college as is the case with the president.
- He is appointed by the president by warrant under his hand and seal. In a way, he is a nominee of the Central government.
- But, as held by the Supreme Court in 1979, the office of governor of a state is not an employment under the Central government.
- It is an independent constitutional office and is not under the control of or subordinate to the Central government.
- The Draft Constitution provided for the direct election of the governor on the basis of universal adult suffrage.
- But the Constituent Assembly opted for the present system of appointment of governor by the president because of the following reasons:

- The direct election of the governor is incompatible with the parliamentary system established in the states.
- The mode of direct election is more likely to create conflicts between the governor and the chief minister.
- The governor being only a constitutional (nominal) head, there is no point in making elaborate arrangements for his election and spending huge amount of money.
- The election of a governor would be entirely on personal issues. Hence, it is not in the national interest to involve a large number of voters in such an election.
- An elected governor would naturally belong to a party and would not be a neutral person and an impartial head.
- The election of governor would create separatist tendencies and thus affect the political stability and unity of the country.
- The system of presidential nomination enables the Centre to maintain its control over the states.
- The direct election of the governor creates a serious problem of leadership at the time of a general election in the state.
- The chief minister would like his nominee to contest for governorship.
- Hence, a second-rate man of the ruling party is elected as governor.
- Therefore, the American model, where the Governor of a state is directly elected, was dropped and the Canadian model, where the governor of a province (state) is appointed by the Governor-General (Centre), was accepted in the Constituent Assembly.
- The Constitution lays down only two qualifications for the appointment of a person as a governor. These are: (Article 157)
 - He should be a citizen of India.
 - He should have completed the age of 35 years.
- Additionally, two conventions have also developed in this regard over the years.

- First, he should be an outsider, that is, he should not belong to the state where he is appointed, so that he is free from the local politics.
- Second, while appointing the governor, the president is required to consult the chief minister of the state concerned, so that the smooth functioning of the constitutional machinery in the state is ensured.
- Both the conventions have been violated in some of the cases.

Conditions of Governor's Office (Article 158)

- The Constitution lays down the following conditions for the governor's office:
 - He should not be a member of either House of Parliament or a House of the state legislature.
 - If any such person is appointed as governor, he is deemed to have vacated his seat in that House on the date on which he enters upon his office as the governor.
 - He should not hold any other office of profit.
 - He is entitled without payment of rent to the use of his official residence (the Raj Bhavan).
 - He is entitled to such emoluments, allowances and privileges as may be determined by Parliament.
 - When the same person is appointed as the governor of two or more states, the emoluments and allowances payable to him are shared by the states in such proportion as determined by the president.
 - His emoluments and allowances cannot be diminished during his term of office.
- In 2018, parliament increased the salary to 3.50 lakh per month.
- Like the President, the governor is also entitled to a number of privileges and immunities.
- He enjoys personal immunity from legal liability for his official acts.
- During his term of office, he is immune from any criminal proceedings, even in respect of his personal acts.
- He cannot be arrested or imprisoned.

- However, after giving two months' notice, civil proceedings can be instituted against him during his term of office in respect of his personal acts. (Article 361)
- Before entering upon his office, the governor has to make and subscribe to an oath or affirmation. In his oath, the governor swears:(Article 159)
 - To faithfully execute the office;
 - To preserve, protect and defend the Constitution and the law; and
 - To devote himself to the service and well-being of the people of the state.
- The oath of office to the governor is administered by the chief justice of the concerned state high court and in his absence, the senior-most judge of that court available.
- Every person discharging the functions of the governor also undertakes the similar oath or affirmation.

Term of Governor's Office (Article 156)

- A governor holds office for a term of five years from the date on which he enters upon his office.
- However, this term of five years is subject to the pleasure of the President.
- Further, he can resign at any time by addressing a resignation letter to the President.
- The Supreme Court held that the pleasure of the President is not justifiable.
- The governor has no security of tenure and no fixed term of office.
- He may be removed by the President at any time.
- The Constitution does not lay down any grounds upon which a governor may be removed by the President.
- Hence, the National Front Government headed by V P Singh (1989) asked all the governors to resign as they were appointed by the Congress government.
- Eventually, some of the governors were replaced and some were allowed to continue.

- The same thing was repeated in 1991, when the Congress Government headed by P V Narasimha Rao changed fourteen governors appointed by the V P Singh and Chandra Sekhar governments.
- The President may transfer a Governor appointed to one state to another state for the rest of the term.
- Further, a Governor whose term has expired may be reappointed in the same state or any other state.
- A governor can hold office beyond his term of five years until his successor assumes charge.
- The underlying idea is that there must be a governor in the state and there cannot be an interregnum.
- The President can make such provision as he thinks fit for the discharge of the functions of the governor in any contingency not provided for in the Constitution, for example, the death of a sitting governor.
- Thus, the chief justice of the concerned state high court may be appointed temporarily to discharge the functions of the governor of that state.

Powers and Functions of Governor

- A governor possesses executive, legislative, financial and judicial powers more or less analogous to the President of India.
- However, he has no diplomatic, military or emergency powers like the president.
- The powers and functions of the governor can be studied under the following heads:
 - Executive powers.
 - Legislative powers.
 - Financial powers.
 - Judicial powers.

Executive Powers

- The executive powers and functions of the Governor are:
 - All executive actions of the government of a state are formally taken in his name (Article 154).

- He can make rules specifying the manner in which the Orders and other instruments made and executed in his name shall be authenticated.
- He can make rules for more convenient transaction of the business of a state government and for the allocation among the ministers of the said business.
- He appoints the chief minister and other ministers. They also hold office during his pleasure. There should be a Tribal Welfare minister in the states of Chattisgarh, Jharkhand, Madhya Pradesh and Odisha appointed by him. The state of Bihar was excluded from this provision by the 94th Amendment Act of 2006.
- He appoints the advocate general of a state and determines his remuneration. The advocate general holds office during the pleasure of the governor.
- He appoints the state election commissioner and determines his conditions of service and tenure of office. However, the state election commissioner can be removed only in like manner and on the like grounds as a judge of a high court.
- He appoints the chairman and members of the state public service commission. However, they can be removed only by the president and not by a governor.
- He can seek any information relating to the administration of the affairs of the state and proposals for legislation from the chief minister.
- He can require the chief minister to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.
- He can recommend the imposition of constitutional emergency in a state to the president. During the period of President's rule in a state, the governor enjoys extensive executive powers as an agent of the President.
- He acts as the chancellor of universities in the state. He also appoints the vice-chancellors of universities in the state.

Legislative Powers

- A governor is an integral part of the state legislature. In that capacity, he has the following legislative powers and functions:
 - He can summon or prorogue the state legislature and dissolve the state legislative assembly.
 - He can address the state legislature at the commencement of the first session after each general election and the first session of each year.
 - He can send messages to the house or houses of the state legislature, with respect to a bill pending in the legislature or otherwise.
 - He can appoint any member of the State legislative assembly to preside over its proceedings when the offices of both the Speaker and the Deputy Speaker fall vacant. Similarly, he can appoint any member of the state legislature council to preside over its proceedings when the offices of both Chairman and Deputy Chairman fall vacant.
 - He nominates one-sixth of the members of the state legislative council from amongst persons having special knowledge or practical experience in literature, science, art, cooperative movement and social service (Article 169).
 - He can nominate one member to the state legislature assembly from the Anglo-Indian Community (Repealed by 104th Constitutional Amendment Act, 2019).
 - He decides on the question of disqualification of members of the state legislature in consultation with the Election Commission.
 - When a bill is sent to the governor after it is passed by state legislature, he can (Article 200):
 - Give his assent to the bill, or
 - Withhold his assent to the bill, or
 - Return the bill (if it is not a money bill) for reconsideration of the state legislature. However, if the bill is passed again by the state legislature with or without amendments, the governor has to give his assent to the bill, or

- Reserve the bill for the consideration of the president. In one case such reservation is obligatory, that is, where the bill passed by the state legislature endangers the position of the state high court. In addition, the governor can also reserve the bill if it is of the following nature (Article 201):
 - Ultra-vires, that is, against the provisions of the Constitution.
 - Opposed to the Directive Principles of State Policy.
 - Against the larger interest of the country.
 - Of grave national importance.
 - Dealing with compulsory acquisition of property under Article 31A of the Constitution.
- He can promulgate ordinances when the state legislature is not in session. These ordinances must be approved by the state legislature within six weeks from its reassembly. He can also withdraw an ordinance anytime. This is the most important legislative power of the governor (Article 213).
- He lays the reports of the State Finance Commission, the State Public Service Commission and the Comptroller and Auditor-General relating to the accounts of the state, before the state legislature

Financial Powers

- The financial powers and functions of the governor are:
 - He sees that the Annual Financial Statement (state budget) is laid before the state legislature (Article 202).
 - Money bills can be introduced in the state legislature only with his prior recommendation (Article 199).
 - No demand for a grant can be made except on his recommendation.
 - He can make advances out of the Contingency Fund of the state to meet any unforeseen expenditure.
 - He constitutes a finance commission after every five years to review the financial position of the panchayats and the municipalities.

Judicial Powers

- The judicial powers and functions of the governor are:
 - He can grant pardons, reprieves, respites and remissions of punishment or suspend, remit and commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the state extends (Article 161).
 - He cannot pardon death sentence.
 - He cannot exercise the powers for military court.
 - He is consulted by the president while appointing the judges of the concerned state high court.
 - He makes appointments, postings and promotions of the district judges in consultation with the state high court.
 - He also appoints persons to the judicial service of the state (other than district judges) in consultation with the state high court and the State Public Service Commission

Constitutional Position of Governor

- The Constitution of India provides for a parliamentary form of government in the states as in the Centre.
- Consequently, the governor has been made only a nominal executive, the real executive constitutes the council of ministers headed by the chief minister.
- In other words, the governor has to exercise his powers and functions with the aid and advice of the council of ministers headed by the chief minister, except in matters in which he is required to act in his discretion (i.e., without the advice of ministers).
- In estimating the constitutional position of the governor, particular reference has to be made to the provisions of Articles 154, 163 and 164. These are:
 - The executive power of the state shall be vested in the governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution (Article 154).

- There shall be a council of ministers with the chief minister as the head to aid and advise the governor in the exercise of his functions, except in so far as he is required to exercise his functions in his discretion (Article 163).
- The council of ministers shall be collectively responsible to the legislative assembly of the state (Article 164). This provision is the foundation of the parliamentary system of government in the state.
- From the above, it is clear that constitutional position of the governor differs from that of the president in the following two respects:
 - While the Constitution envisages the possibility of the governor acting at times in his discretion, no such possibility has been envisaged for the President.
 - After the 42nd Constitutional Amendment (1976), ministerial advice has been made binding on the President, but no such provision has been made with respect to the governor.
- The Constitution makes it clear that if any question arises whether a matter falls within the governor's discretion or not, the decision of the governor is final and the validity of anything done by him cannot be called in question on the ground that he ought or ought not to have acted in his discretion.
- The governor has constitutional discretion in the following cases:
 - Reservation of a bill for the consideration of the President.
 - Recommendation for the imposition of the President's Rule in the state.
 - While exercising his functions as the administrator of an adjoining union territory (in case of additional charge).
 - Determining the amount payable by the Government of Assam, Meghalaya, Tripura and Mizoram to an autonomous Tribal District Council as royalty accruing from licenses for mineral exploration.
 - Seeking information from the chief minister with regard to the administrative and legislative matters of the state.
- In addition to the above constitutional discretion (i.e., the express discretion mentioned in the Constitution), the governor, like the president, also has

situational discretion (i.e., the hidden discretion derived from the exigencies of a prevailing political situation) in the following cases:

- Appointment of chief minister when no party has a clear-cut majority in the state legislative assembly or when the chief minister in office dies suddenly and there is no obvious successor.
- Dismissal of the council of ministers when it cannot prove the confidence of the state legislative assembly.
- Dissolution of the state legislative assembly if the council of ministers has lost its majority.
- Moreover, the governor has certain special responsibilities to discharge according to the directions issued by the President.
- In this regard, the governor, though has to consult the council of ministers led by the chief minister, acts finally on his discretion. They are as follows:
 - Maharashtra—Establishment of separate development boards for Vidarbha and Marathwada.
 - Gujarat—Establishment of separate development boards for Saurashtra and Kutch.
 - Nagaland—With respect to law and order in the state for so long as the internal disturbance in the Naga Hills–Tuensang Area continues.
 - Assam—With respect to the administration of tribal areas.
 - Manipur—Regarding the administration of the hill areas in the state.
 - Sikkim—For peace and for ensuring social and economic advancement of the different sections of the population.
 - Arunachal Pradesh—With respect to law and order in the state.
 - Karnataka – Establishment of a separate development board for Hyderabad-Karnataka region.
- Thus, the Constitution has assigned a dual role to the office of a governor in the Indian federal system.
- He is the constitutional head of the state as well as the representative of the Centre (i.e., President).

CHIEF MINISTER**Introduction**

- In the scheme of parliamentary system of government provided by the Constitution, the governor is the nominal executive authority and the Chief Minister is the real executive authority.
- The governor is the head of the state.
- The Chief Minister is the head of the government.
- Thus the position of the Chief Minister at the state level is analogous to the position of prime minister at the Centre.

Appointment of Chief Minister

- The Constitution does not contain any specific procedure for the selection and appointment of the Chief Minister.
- **Article 164** only says that the Chief Minister shall be appointed by the governor.
- However, this does not imply that the governor is free to appoint any one as the Chief Minister.
- In accordance with the conventions of the parliamentary system of government, the governor has to appoint the leader of the majority party in the state legislative assembly as the Chief Minister.
- But, when no party has a clear majority in the assembly, then the governor may exercise his personal discretion in the selection and appointment of the Chief Minister.
- In such a situation, the governor usually appoints the leader of the largest party or coalition in the assembly as the Chief Minister and ask him to seek a vote of confidence in the House within a month.
- The governor may have to exercise his individual judgement in the selection and appointment of the Chief Minister when the Chief Minister in office dies suddenly and there is no obvious successor.
- However, on the death of a Chief Minister, the ruling party usually elects a new leader and the governor has no choice but to appoint him as Chief Minister.

- The Constitution does not require that a person must prove his majority in the legislative assembly before he is appointed as the Chief Minister.
- The governor may first appoint him as the Chief Minister and then ask him to prove his majority in the legislative assembly within a reasonable period.
- This is what has been done in a number of cases.
- A person who is not a member of the state legislature can be appointed as Chief Minister for six months, within which time, he should be elected to the state legislature, failing which he ceases to be the Chief Minister.
- According to the Constitution, the Chief Minister may be a member of any of the two Houses of a state legislature.
- Chief Ministers have been selected from the Lower House (legislative assembly), but, on a number of occasions, a member of the Upper House (legislative council) has also been appointed as Chief Minister.

Oath, Term and Salary (Article 164)

- Before the Chief Minister enters his office, the governor administers to him the oaths of office and secrecy. In his oath of office, the Chief Minister swears:
 - To bear true faith and allegiance to the Constitution of India,
 - To uphold the sovereignty and integrity of India,
 - To faithfully and conscientiously discharge the duties of his office, and 4. to do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will.
 - In his oath of secrecy, the Chief Minister swears that he will not directly or indirectly communicate or reveal to any person(s) any matter that is brought under his consideration or becomes known to him as a state minister except as may be required for the due discharge of his duties as such minister.
- The term of the Chief Minister is not fixed and he holds office during the pleasure of the governor.
- This does not mean that the governor can dismiss him at any time.

- He cannot be dismissed by the governor as long as he enjoys the majority support in the legislative assembly.
- If he loses the confidence of the assembly, he must resign or the governor can dismiss him.
- The salary and allowances of the Chief Minister are determined by the state legislature.
- In addition to the salary and allowances, which are payable to a member of the state legislature, he gets a sumptuary allowance, free accommodation, travelling allowance, medical facilities, etc.

Powers and Functions of Chief Minister

- The powers and functions of the Chief Minister can be studied under the following heads: In Relation to Council of Ministers
- The Chief Minister enjoys the following powers as head of the state council of ministers:
 - The governor appoints only those persons as ministers who are recommended by the Chief Minister.
 - He allocates and reshuffles the portfolios among ministers.
 - He can ask a minister to resign or advise the governor to dismiss him in case of difference of opinion.
 - He presides over the meetings of the council of ministers and influences its decisions.
 - He guides, directs, controls and coordinates the activities of all the ministers.
 - He can bring about the collapse of the council of ministers by resigning from office.
 - Since the Chief Minister is the head of the council of ministers, his resignation or death automatically dissolves the council of ministers.
 - The resignation or death of any other minister, on the other hand, merely creates a vacancy, which the Chief Minister may or may not like to fill.

- In Relation to the Governor the Chief Minister enjoys the following powers in relation to the governor:
 - He is the principal channel of communication between the governor and the council of ministers. It is the duty of the Chief Minister:
 - To communicate to the Governor of the state all decisions of the council of ministers relating to the administration of the affairs of the state and proposals for legislation;
 - To furnish such information relating to the administration of the affairs of the state and proposals for legislation as the governor may call for; and
 - If the governor so requires, to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.
 - He advises the governor with regard to the appointment of important officials like advocate general, chairman and members of the state public service commission, state election commissioner, and so on.

In Relation to State Legislature

- The Chief Minister enjoys the following powers as the leader of the house:
 - He advises the governor with regard to the summoning and proroguing of the sessions of the state legislature.
 - He can recommend the dissolution of the legislative assembly to the governor at any time.
 - He announces the government policies on the floor of the house.

Other Powers and Functions

- In addition, the Chief Minister also performs the following functions:
 - He is the chairman of the State Planning Board.
 - He acts as a vice-chairman of the concerned zonal council by rotation, holding office for a period of one year at a time.
 - He is a member of the Inter-State Council and the National Development Council, both headed by the prime minister
 - He is the chief spokesman of the state government.

- He is the crisis manager-in-chief at the political level during emergencies.
- As a leader of the state, he meets various sections of the people and receives memoranda from them regarding their problems, and so on.
- He is the political head of the services.
- He plays a very significant and highly crucial role in the state administration.
- The discretionary powers enjoyed by the governor reduces to some extent the power, authority, influence, prestige and role of the Chief Minister in the state administration.

Relationship with the Governor

- The following provisions of the Constitution deal with the relationship between the governor and the Chief Minister:
 - **Article 163:** There shall be a council of ministers with the Chief Minister as the head to aid and advise the governor on the exercise of his functions, except in so far as he is required to exercise his functions or any of them in his discretion.
 - **Article 164:**
 - The Chief Minister shall be appointed by the governor and other ministers shall be appointed by the governor on the advise of the Chief Minister;
 - The ministers shall hold office during the pleasure of the governor; and
 - The council of ministers shall be collectively responsible to the legislative assembly of the state.
 - **Article 167:** It shall be the duty of the Chief Minister:
 - To communicate to the governor of the state all decisions of the council of ministers relating to the administration of the affairs of the state and proposals for legislation;

- To furnish such information relating to the administration of the affairs of the state and proposals for legislation as the governor may call for; and
- If the governor so requires, to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.

STATE COUNCIL OF MINISTERS

Introduction

- As the Constitution of India provides for a parliamentary system of government in the states on the Union pattern, the council of ministers headed by the chief minister is the real executive authority in the politico administrative system of a state.
- The council of ministers in the states is constituted and function in the same way as the council of ministers at the Centre.
- The principles of parliamentary system of government are not detailed in the Constitution; but two **Articles (163 and 164)** deal with them in a broad, sketchy and general manner.
- Article 163 deals with the status of the council of ministers while Article 164 deals with the appointment, tenure, responsibility, qualifications, oath and salaries and allowances of the ministers.

Constitutional Provisions

Article 163—Council of Ministers to aid and advise Governor

- There shall be a Council of Ministers with the Chief Minister as the head to aid and advise the Governor in the exercise of his functions, except in so far as he is required to exercise his functions in his discretion.
- If any question arises whether a matter falls within the Governor's discretion or not, decision of the Governor shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.
- The advice tendered by Ministers to the Governor shall not be inquired into in any court.

Article 164—Other Provisions as to Ministers

- The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister. However, in the states of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the scheduled castes and backward classes or any other work. The state of Bihar was excluded from this provision by the 94th Amendment Act of 2006.
- The total number of ministers, including the chief minister, in the council of ministers in a state shall **not exceed 15 per cent of the total strength of the legislative assembly of that state**. But, the number of ministers, including the chief minister, in a state shall not be less than 12. This provision was added by the 91st Amendment Act of 2003.
- A member of either House of state legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister. This provision was also added by the 91st Amendment Act of 2003.
- The ministers shall hold office during the pleasure of the Governor.
- The council of ministers shall be collectively responsible to the state Legislative Assembly.
- The Governor shall administer the oaths of office and secrecy to a minister.
- A minister who is not a member of the state legislature for any period of six consecutive months shall cease to be a minister.
- The salaries and allowances of ministers shall be determined by the state legislature

Article 166—Conduct of Business of the Government of a State

- All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.
- Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor.

- The validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.
- The Governor shall make rules for the more convenient transaction of the business of the government of the state, and for the allocation among ministers of the said business in so far as it is not business with respect to which the Governor is required to act in his discretion.

Article 167—Duties of Chief Minister It shall be the duty of the Chief Minister of each state

- To communicate to the governor of the state all decisions of the council of ministers relating to the administration of the affairs of the state and proposals for legislation
- To furnish such information relating to the administration of the affairs of the state and proposals for legislation as the governor may call for
- If the governor so requires, to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council

Article 177—Rights of Ministers as Respects the Houses

- Every minister shall have the right to speak and take part in the proceedings of the Assembly (and also the Council where it exists) and any Committee of the State Legislature of which he may be named a member. But he shall not be entitled to vote

Nature of Advice by Ministers

- Article 163 provides for a council of ministers with the chief minister at the head to aid and advise the governor in the exercise of his functions except the discretionary ones.
- If any question arises whether a matter falls within the governor's discretion or not, the decision of the governor is final and the validity of anything done by him cannot be called in question on the ground that he ought or ought not to have acted in his discretion.

- Further, the nature of advice tendered by ministers to the governor cannot be enquired by any court.
- This provision emphasises the intimate and the confidential relationship between the governor and the ministers.
- In 1971, the Supreme Court ruled that a council of ministers must always exist to advise the governor, even after the dissolution of the state legislative assembly or resignation of a council of ministers.
- Hence, the existing ministry may continue in the office until its successor assumes charge.
- Again in 1974, the Court clarified that except in spheres where the governor is to act in his discretion, the governor has to act on the aid and advice of the council of ministers in the exercise of his powers and functions.
- He is not required to act personally without the aid and advice of the council of ministers or against the aid and advice of the council of ministers.
- Wherever the Constitution requires the satisfaction of the governor, the satisfaction is not the personal satisfaction of the governor but it is the satisfaction of the council of ministers.

Appointment of Ministers

- The chief minister is appointed by the governor.
- The other ministers are appointed by the governor on the advice of the chief minister.
- This means that the governor can appoint only those persons as ministers who are recommended by the chief minister.
- But, there should be a tribal welfare minister in Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha. Originally, this provision was applicable to Bihar, Madhya Pradesh and Odisha.
- The 94th Amendment Act of 2006 freed Bihar from the obligation of having a tribal welfare minister as there are no Scheduled Areas in Bihar now and the fraction of population of the Scheduled Tribes is very small.
- The same Amendment also extended the above provision to the newly formed states of Chhattisgarh and Jharkhand. Usually, the members of the

state legislature, either the legislative assembly or the legislative council, are appointed as ministers.

- A person who is not a member of either House of the state legislature can also be appointed as a minister.
- But, within six months, he must become a member (either by election or by nomination) of either House of the state legislature, otherwise, he ceases to be a minister.
- A minister who is a member of one House of the state legislature has the right to speak and to take part in the proceedings of the other House. But, he can vote only in the House of which he is a member.

Oath and Salary of Ministers

- Before a minister enters upon his office, the governor administers to him the oaths of office and secrecy. In his oath of office, the minister swears:
 - To bear true faith and allegiance to the Constitution of India,
 - To uphold the sovereignty and integrity of India,
 - To faithfully and conscientiously discharge the duties of his office, and
 - To do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will.
- In his oath of secrecy, the minister swears that he will not directly or indirectly communicate or reveal to any person(s) any matter that is brought under his consideration or becomes known to him as a state minister except as may be required for the due discharge of his duties as such minister.
- The salaries and allowances of ministers are determined by the state legislature from time to time.
- A minister gets the salary and allowances which are payable to a member of the state legislature.
- Additionally, he gets a sumptuary allowance (according to his rank), free accommodation, travelling allowance, medical facilities, etc.

Responsibility of Ministers

- Collective Responsibility The fundamental principle underlying the working of parliamentary system of government is the principle of collective responsibility.
- **Article 164** clearly states that the council of ministers is collectively responsible to the legislative assembly of the state.
- This means that all the ministers own joint responsibility to the legislative assembly for all their acts of omission and commission.
- They work as a team and swim or sink together.
- When the legislative assembly passes a no-confidence motion against the council of ministers, all the ministers have to resign including those ministers who are from the legislative council.
- Alternatively, the council of ministers can advise the governor to dissolve the legislative assembly on the ground that the House does not represent the views of the electorate faithfully and call for fresh elections.
- The governor may not oblige the council of ministers which has lost the confidence of the legislative assembly.
- The principle of collective responsibility also mean that the cabinet decisions bind all cabinet ministers (and other ministers) even if they deferred in the cabinet meeting.
- It is the duty of every minister to stand by the cabinet decisions and support them both within and outside the state legislature.
- If any minister disagrees with a cabinet decision and is not prepared to defend it, he must resign. Several ministers have resigned in the past owing to their differences with the cabinet

Individual Responsibility

- **Article 164** also contains the principle of individual responsibility.
- It states that the ministers hold office during the pleasure of the governor.
- This means that the governor can remove a minister at a time when the council of ministers enjoys the confidence of the legislative assembly.

- But, the governor can remove a minister only on the advice of the chief minister.
- In case of difference of opinion or dissatisfaction with the performance of a minister, the chief minister can ask him to resign or advise the governor to dismiss him.
- By exercising this power, the chief minister can ensure the realisation of the rule of collective responsibility.

No Legal Responsibility

- As at the Centre, there is no provision in the Constitution for the system of legal responsibility of the minister in the states.
- It is not required that an order of the governor for a public act should be countersigned by a minister.
- Moreover, the courts are barred from enquiring into the nature of advice rendered by the ministers to the governor.

Composition of the Council of Ministers

- The Constitution does not specify the size of the state council of ministers or the ranking of ministers.
- They are determined by the chief minister according to the exigencies of the time and requirements of the situation.
- Like at the Centre, in the states too, the council of ministers consists of three categories of ministers, namely, cabinet ministers, ministers of state, and deputy ministers.
- The difference between them lies in their respective ranks, emoluments, and political importance.
- At the top of all these ministers stands the chief minister—supreme governing authority in the state.
- The cabinet ministers head the important departments of the state government like home, education, finance, agriculture and so forth.
- They are members of the cabinet, attend its meetings and play an important role in deciding policies.

- Thus, their responsibilities extend over the entire gamut of state government.
- The ministers of state can either be given independent charge of departments or can be attached to cabinet ministers.
- However, they are not members of the cabinet and do not attend the cabinet meetings unless specially invited when something related to their departments are considered by the cabinet.
- Next in rank are the deputy ministers.
- They are not given independent charge of departments.
- They are attached to the cabinet ministers and assist them in their administrative, political and parliamentary duties.
- They are not members of the cabinet and do not attend cabinet meetings.
- At times, the council of ministers may also include a deputy chief minister.
- The deputy chief ministers are appointed mostly for local political reasons.

Cabinet

- A smaller body called cabinet is the nucleus of the council of ministers.
- It consists of only the cabinet ministers.
- It is the real centre of authority in the state government. It performs the following role:
 - It is the highest decision making authority in the politico-administrative system of a state.
 - It is the chief policy formulating body of the state government.
 - It is the supreme executive authority of the state government.
 - It is the chief coordinator of state administration.
 - It is an advisory body to the governor.
 - It is the chief crisis manager and thus deals with all emergency situations.
 - It deals with all major legislative and financial matters.
 - It exercises control over higher appointments like constitutional authorities and senior secretariat administrators.

Cabinet Committees

- The cabinet works through various committees called cabinet committees.
- They are of two types—standing and ad hoc.
- The former are of a permanent nature while the latter are of a temporary nature.
- They are set up by the chief minister according to the exigencies of the time and requirements of the situation.
- Hence, their number, nomenclature and composition varies from time to time.
- They not only sort out issues and formulate proposals for the consideration of the cabinet but also take decisions. However, the cabinet can review their decisions.

