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## Governor's Role in Calling an Assembly Session

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### Why in News

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Recently, the Kerala **Governor** has turned down a request of the state **Cabinet** to **summon a special sitting of the Assembly** to debate the new **three central farm laws**.

### Key Points

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- **Constitutional Provisions Related to Governor's Role in Calling an Assembly Session:**

- **Article 174:** Says that the **Governor shall from time to time summon the House** or each House of the Legislature of the State to meet at such time and place as he thinks fit.

The provision also puts on the Governor the **responsibility of ensuring that the House is summoned at least once every six months**.

- **Article 163:** Although it is the Governor's prerogative to summon the House, according to Article 163, the Governor is required to **act on the "aid and advice" of the Cabinet**.

So when the Governor summons the House under Article 174, this is not of his or her own will but on the **aid and advice of the Cabinet**.

- **Exception:**

When the **Chief Minister appears to have lost the majority and the legislative members of the House propose a no-confidence motion** against the Chief Minister, then **the Governor can decide on his or her own on summoning the House**.

The **actions of the Governor**, when using his **discretionary powers** can be **challenged in court**.

- **Supreme Court's (SC) Ruling Related to Governor's Role:**

In **2016**, the **SC** looked into the constitutional crisis in Arunachal Pradesh after the Governor had imposed **President's Rule** in the state. The SC ruled

- In **ordinary circumstances** during the period when the Chief Minister and his council of ministers enjoy the confidence of the majority of the House, the **power vested with the Governor under Article 174** to summon, prorogue and dissolve the house(s) must be **exercised in consonance with the aid and advice of the chief minister and his council of ministers.**
  - **Summon:** Summoning is the process of **calling all members of the Parliament/Assembly to meet.**
  - **Prorogue:** Prorogation means the **termination of a session of the House.**
  - **Dissolve:** A dissolution **ends the very life of the existing House**, and a new House is constituted after general elections are held.
- The court read the **power to summon** the House as a **"function"** of the Governor and **not a "power"** he enjoys.

- **Sarkaria Commission (1983) on Governor's Role:**

- So long as the **Council of Ministers enjoys the confidence of the Assembly**, its **advice** in these matters, unless patently unconstitutional, must be deemed as **binding on the Governor.**
- It is only where such advice, if acted upon, would lead to an infringement of a constitutional provision, or **where the Council of Ministers has ceased to enjoy the confidence of the Assembly**, that the question arises whether the **Governor may act in the exercise of his discretion.**

- **Consequences in Kerala Case:**

If the Kerala government insists on holding the special session, there can be **no legal ground to deny** a request for summoning the session as:

- The Governor's powers are limited with regard to summoning the House.
- If the Governor refuses, the Governor's refusal can also be **challenged in court.**

## **Governor**

- The Governor's appointment, his powers and everything related to the office of Governor have been discussed under **Article 153 to Article 162 of the Indian Constitution.**

One person can be appointed as Governor for two or more States.

- The **role** of the Governor is quite **similar** to that of the **President of India.**
  - The Governor performs the **same duties as the President**, but for the State.
  - The Governor stands as **executive head of a State** and the **working remains the same as that of the office of President of India.**

- It is stated that the Governor has a dual role.
  - He is the **constitutional head of the state**, bound by the advice of its council of ministers.
  - He functions as a **vital link between the Union Government and the State Government**.
- **Eligibility:**

**Article 157 and Article 158** of the Constitution of India specify eligibility requirements for the post of governor. They are as follows:

A governor must:

  - Be a citizen of India.
  - Be at least 35 years of age.
  - Not be a member of the either house of the Parliament or house of the state legislature.
  - Not hold any office of profit.
- **Appointment:**

He is **appointed by the President** by warrant under his hand and seal.
- **Term:**

The **term** of governor's office is **normally 5 years** but it can be terminated earlier by:

  - **Dismissal by the President** on the advice of the council of ministers headed by the Prime Minister of the country.
    - Dismissal of governors without a valid reason is not permitted.
    - However, it is the duty of the President to **dismiss a governor whose acts are upheld by courts as unconstitutional and malafide**.
  - **Resignation** by the governor.

- **Discretionary Powers:**

- **Appointment of the Chief Minister:** Generally, the leader of the party with majority is appointed as the Chief Minister. But in a situation where no party gets an absolute majority, the Governor exercises his discretionary powers in appointing the Chief Minister.
- **Dismissal of a Ministry:** A minister holds offices during the pleasure of the Governor. When the ministry loses support of the house, the governor will dismiss the ministry. But he cannot dismiss it until it loses majority support.
- **Advising the President for proclamation of Emergency:** The Governor advises the President to proclaim emergency when he is satisfied that the Government cannot carry on in accordance with the provisions of the constitution, under Article 356.
- **Reservation of a bill for the consideration of the President:** However, situations are mentioned in Article 200, when he will reserve the bill, yet he can use discretion regarding this matter.
- **Dissolution of Legislative Assembly:** The Governor summons, prorogues and dissolves the Legislative Assembly, according to Article 174. When the ministry loses the majority and the Governor is satisfied, he may dissolve the House.

**Source:IE**