



## Role and Power of Governor

**For Prelims:** Constitutional Provisions Related to Governor

**For Mains:** Friction Points in Governor-State Relations, Article 356, Administrative Reforms Commission (1968), Rajamannar Committee (1971) and Justice V.Chelliah Commission (2002).

### Why in News?

The Governor acts in '**Dual Capacity**' as the **Constitutional head of the state and as the representative of the Union government.**

- In recent years, the **bitterness between states and Governors** has been largely about the **selection of the party to form a government, deadline for proving majority, sitting on Bills, and passing negative remarks on the state administration.**
- Due to this, Governor is referred to with negative terms like an **agent of the Centre, Puppet and rubber stamps.**

### What are Constitutional Provisions Related to the Governor?

- **Article 153** says that there shall be a Governor for each State. **One person can be appointed as Governor for two or more States.**
  - A Governor is appointed by the President and is a nominee of the Central Government.
- It is stated that the **Governor has a dual role.**
  - He is the **constitutional head of the state**, bound by the advice of his **Council of Ministers (CoM).**
  - He functions as a **vital link between the Union Government and the State Government.**
- **Articles 157 and 158** specify eligibility requirements for the post of governor.
- Governor has the power to **grant pardons, reprieves, etc. (Article 161).**
- There is a CoM with the CM at the head to aid and advise the Governor in the exercise of his functions, **except some conditions for discretion. (Article 163)**
- The Governor appoints the Chief Minister and other Ministers **(Article 164).**
- Governor assents, withholds **assent, or reserves the bill for the consideration** of the President passed by the Legislative Assembly **(Article 200).**
- Governors may promulgate the **Ordinances** under certain circumstances **(Article 213).**

### What are the Friction Points in Governor-State Relations?

- Governor is envisaged as an **apolitical head** who must act on the advice of the council of ministers. However, the **Governor enjoys certain discretionary powers granted under the Constitution.** For example,
  - Giving or **withholding assent** to a Bill passed by the state legislature,
  - **Determining the time** needed for a party to prove its majority, or
  - Which party must be called first to do so, **generally after a hung verdict in an**

### election.

- There are **no provisions** laid down for the manner in which the Governor and the state must engage publicly when there is a **difference of opinion**.
- The Governor has a 5-year tenure, he can remain in office only until the **pleasure of the President**.
  - In 2001, the **National Commission to Review the Working of the Constitution**, held that the Governor owes his appointment and his continuation to the Union.
  - There is the apprehension that he is likely to act in accordance with the instructions received from the Union Council of Ministers.
- In the Constitution, there are **no guidelines for exercise of the Governor's powers**, including for appointing a CM or dissolving the Assembly.
- There is **no limit** set for how long a Governor can withhold assent to a Bill.
- The Governor sends a report to the centre which forms the basis of the Union cabinet's recommendations to the President for invoking **Article 356 (President's Rule)**.

## What Reforms have been Suggested?

- **On Appointment and Removal of Governor:**
  - The "**Punchhi commission - 2010**" recommended that there should be a provision for the impeachment of the governor by the state legislature.
    - The state chief minister should have a say in the governor's appointment.
- **On the Use of Article 356:**
  - The "**Punchhi commission - 2010**" recommended that Articles 355 & 356 be amended.
  - The **Sarkaria Commission (1988)** recommended that Article 356 should be used in very rare cases when it becomes unavoidable to restore the breakdown of constitutional machinery in the State.
  - **Recommendations** have also been given by the **Administrative Reforms Commission (1968)**, **Rajamannar Committee (1971)** and **Justice V.Chelliah Commission (2002)**.
- **On Dismissal of State Government under Article 356:**
  - **S.R. Bommai Judgment (1994):** The case put an end to the arbitrary dismissal of State governments by a hostile Central government.
    - The verdict ruled that the floor of the Assembly is the only forum that should test the majority of the government of the day, and not the subjective opinion of the Governor.
- **On Discretionary Powers:**
  - The Supreme Court in the **Nabam Rebia judgment (2016)** ruled that the exercise of Governor's discretion Article 163 is limited and his choice of action should not be arbitrary or fanciful.

## Way Forward

- **Strengthening of Federalism:** In order to check misuse of the office of governor, there is a need to strengthen federal setup in India.
  - In this regard, the Inter-State council and the role of Rajya Sabha as the chamber of federalism must be strengthened.
- **Reform the Method of Appointment of Governor:** The appointment can be made from a panel prepared by the state legislature and actual appointing authority should be the Inter-state Council, not the central government.
- **Code of Conduct for Governor:** This 'Code of Conduct' should lay down certain 'norms and principles' which should guide the exercise of the governor's 'discretion' and his powers which he is entitled to use and exercise on his judgement.

**Source: IE**

