



Governor's Power to Summon the House

Why in News

- The recent Rajasthan government crisis has brought into the spotlight the role of the [Governor](#) in summoning the House of the State Assembly.

Key Points

▪ The Rajasthan's Case:

- The Rajasthan Governor has returned the proposal by the State Cabinet, seeking to convene a session of the Assembly, for the second time, which would have allowed the Rajasthan chief minister to **prove his strength on the floor of the House**.
- This has raised legal questions on the powers of the Governor to summon a House.

▪ Powers to Summon the House:

- **Article 174** of the Constitution **authorizes the Governor to summon, dissolve and prorogue** the state legislative assembly.
- However, the Governor can exercise the above only **as per Article 163** of the Constitution which says that the **Governor acts on the aid and advice of the Council of Ministers** headed by the Chief Minister.
- In 2016, the [Supreme Court](#) in ***Nabam Rebia and Bamang Felix vs Deputy Speaker case (the Arunachal Pradesh Assembly case)*** said that the power to summon the House is **not solely vested in the Governor** and should be exercised with aid and advice of Council of Ministers and not at his own.

- The Court highlighted the facts that the **Governor is not an elected authority and is a mere nominee of the President**, such a **nominee cannot have an overriding authority over the representatives of the people**, who constitute the House or Houses of the State Legislature.
- Allowing the Governor to overrule the State Legislature or the State executive **would not harmoniously augur with the strong democratic principles** enshrined in the provisions of the Constitution. Specially so, because the Constitution is founded on the principle of **ministerial responsibility**.

▪ Governor's Discretionary Power:

- Article 163 (1) essentially **limits any discretionary power of the Governor only to cases where the Constitution expressly specifies** that the Governor must act on his own and apply an independent mind.
- The Governor can exercise his discretionary power under Article 174, **when the chief minister has lost the support of the House** and his strength is debatable.
 - Generally, when doubts are cast on the chief minister that he has lost the majority, the opposition and the Governor would rally for a **floor test**.
 - On numerous occasions, the courts have also clarified that when the majority of the ruling party is in question, a floor test must be conducted at the earliest available opportunity.

- However in Rajasthan's case, despite requests from the chief minister, who is enjoying the majority, the Governor has used discretionary power twice and returned requests to call for a session.

Floor Test

- It is a **term used for the test of the majority**. If there are **doubts against the Chief Minister (CM)** of a State, he/she can be **asked to prove the majority in the House**.
 - In case of a **coalition government**, the **CM** may be **asked to move a vote of confidence and win a majority**.
- In the **absence of a clear majority**, when there is more than one individual staking claim to form the government, the **Governor may call for a special session** to see who has the majority to form the government.

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