



Governor's Powers to Call for a Floor Test

For Prelims: Floor Test, Constitutional Provisions, Governor's Discretionary Powers

For Mains: Constitutional Provisions related to summoning powers of Governor

Why in News?

In Maharashtra's political crisis, the Governor's decision to call for the floor test has been in the spotlight once again.

What are the Constitutional Provisions related to the Governor in calling for a Floor Test?

▪ About:

- **Article 174** of the Constitution **authorizes the Governor to summon, dissolve and prorogue** the state legislative assembly.
 - **Article 174(2)(b)** of the Constitution gives powers to the Governor to dissolve the Assembly on the aid and advice of the cabinet. However, the Governor can apply his mind when the advice comes from a Chief Minister whose majority could be in doubt.
- According to **Article 175(2)**, the Governor can summon the House and call for a floor test to prove whether the government has the numbers.
- 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.
- **When the House is in session, it is the Speaker who can call for a floor test.** But when the Assembly is not in session, the Governor's residuary powers under Article 163 allow him to call for a floor test.

▪ 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.

What is the Supreme Court's View on the Governor's Power in Calling the Floor Test?

- 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**.
- In 2020, the Supreme Court, in ***Shivraj Singh Chouhan & Ors versus Speaker, Madhya Pradesh Legislative Assembly & Ors***, upheld the powers of the Speaker to call for a floor test if there is a prima facie view that the government has lost its majority.
 - "The Governor is not denuded of the power to order a floor test where on the basis of the material available to the Governor it becomes evident that the issue as to whether the government commands the confidence of the House requires to be assessed on the basis of a floor test.

What is a 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.
 - Some legislators may be absent or choose not to vote. The numbers are then considered based only on those MLAs who were present to vote.

UPSC Civil Services, Previous Year Questions (PYQ)

Q. With reference to the Legislative Assembly of a State in India, consider the following statements: (2019)

1. The Governor makes a customary address to Members of the House at the commencement of the first session of the year.
2. When a State Legislature does not have a rule on a particular matter, it follows the Lok Sabha rule on that matter.

Which of the statements given above is/are correct?

- A. 1 only
- B. 2 only
- C. Both 1 and 2
- D. Neither 1 nor 2

Ans: C

Exp:

- Article 176(1) of the Constitution of India enjoins that the Governor shall address both the Houses assembled together at the commencement of the first Session after each general election to the Assembly and at the commencement of the first session of each year and inform the Legislature of the causes of its Summons. **Hence, statement 1 is correct.**
- Article 208 deals with the Rules of Procedure in State Legislatures. It states that:
 - A House of the Legislature of a State may make rules for regulating subject to the provisions of this Constitution, its procedure and the conduct of its business.
 - Until rules are made under clause (1), the rules of procedure and standing orders in force

immediately before the commencement of this Constitution with respect to the Legislature for the corresponding Province shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.

- So in case, when there is no rule on a particular subject in the State Legislature, under a convention since colonial times, state legislatures follow the rules of the Lok Sabha. **Hence, statement 2 is correct.**
- **Therefore, option (c) is the correct answer.**

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