

# Executive of the States

## The Governor

1. The Governor of a state is appointed by the President and holds his office at the pleasure of the President.
2. Qualifications for the post of Governor are : ? Should be a citizen of India. ? Should be over 35 years of age. ? Must not hold other office of profit and should not be a Member of the Legislature of the Union or of any State {Ref.: Art. 158}
3. If a Member of a Legislature is appointed Governor, he ceases to be Member immediately upon such appointment.
4. The normal term of a Governor's office is five years, but it may be terminated earlier by : ? Dismissal by the President {Ref.: Art. 156 (1)}; ? Resignation {Art. 156(2)}.
5. There is no bar to a person being appointed Governor more than once.

## Why an appointed Governor

1. Because, it would save the country from the consequences of still another election, run on personal issues.
2. If the Governor is elected by direct vote, then he might consider himself superior to the Chief Minister, leading to friction between the two.
3. The expenses involved and the elaborate machinery of election would not match the powers of Governor.
4. A second rate man of his party may get elected as Governor.
5. Through appointed Governor the Union Government can maintain its control over the state
6. The method of election may encourage separatist tendencies.

## Powers of Governor

The Governor has no diplomatic or military powers like the President, but he has executive, legislative and judicial powers analogous to those of the President.

**Executive :** Governor has the power to appoint Council of Ministers, Advocate General and the members of the State Public Service Commission.

1. The Ministers as well as Advocate General hold office during the pleasure of the Governor but the Members of the State Public Service Commission can be removed only by the President on the report of the Supreme Court and in some cases on the happening of certain disqualifications {Ref.: Art. 317}.
2. The Governor has no power to appoint Judges of the State High Court but he is entitled to be consulted by the President in the matter {Ref.: Art. 217(1)}.
3. Like the President the Governor has the power to nominate members of the Anglo Indian community to the Legislative Assembly of his State.
4. To the Legislative Council, the Governor can nominate persons having special knowledge or practical experience of literature, science, art, cooperative movement and social service {Ref.: Art. 171(5)}.
5. 'Co-operative movement' is not included in the corresponding list for Rajya Sabha.
6. Legislative : Governor is a part of the State Legislature and he has the right of addressing and sending messages, and of summoning, proroguing and dissolving the State Assembly.
7. Judicial : The Governor has the power to grant pardons, reprieves, respites, or remission etc. of punishment {Ref.: Art. 61}.
8. Emergency :The Governor has no emergency powers to counter external aggression or armed rebellion.
9. He has the power to report to the President if Government of the State cannot be carried on in accordance with the Constitution {Ref.:Art. 356}.

### **Chief Minister and The State Council of Ministers**

1. Chief Minister is the head of the State Council of Ministers.
2. The Chief Minister is appointed by the Governor.
3. The other Ministers are appointed by the Governor on the advice of Chief Minister.
4. Any person may be appointed a Minister but he must become member of the legislature within six months of such appointment.

5. The Council of Ministers is collectively responsible to the Legislative Assembly of the state but individually responsible to the Governor.
6. The relation between the Governor and his Ministers is similar to that between the President and his Ministers.

### **Discretionary functions of the Governor**

1. The functions which are specially required by the Constitution to be exercised by the Governor in his discretion are :
2. The Governor of Assam can determine the amount payable by the State of Assam to the District Council, as royalty accruing from licences for mineral. ? When a Governor is appointed administrator of an adjoining Union Territory, he can function as such administrator independently of his Council of Ministers. ? The President may direct that the Governor of Maharashtra or Gujarat shall have a special responsibility for taking steps for the development of Vidarbha and Saurashtra. ? The Governor of Nagaland has similar special responsibility with respect to law and order in that State. ? Governor of Manipur has special responsibility to secure the proper functioning of the Committee of the Legislative Assembly consisting of the members elected from the Hill Areas of that State. ? Governor of Sikkim has special responsibility for peace and equitable arrangement for ensuring the social and economic development. ? The Governor has the power to dismiss an individual Minister any time. ? Governor can dismiss a Council of Ministers or the Chief Minister, only when the Council of Ministers has lost confidence of the Legislative Assembly and the Governor does not think fit to dissolve the Assembly.

### **The Advocate General**

1. Each state has an Advocate-General, an official corresponding to the Attorney-General of India and having similar functions for the State.
2. He is appointed by the Governor of the state and holds office during the pleasure of the Governor.
3. Only a person who is qualified to be a judge of a High Court can be appointed Advocate-General. He receives such remuneration as the Governor may determine.
4. He has the right to speak and to take part in the proceedings of, but no right to vote in, the Houses of the Legislature of the state {Ref. : Art. 177}.

5. Some states have bi-cameral Legislature (having two Houses). The Seven States having two Houses are Andhra Pradesh, Telangana, Bihar, Karnataka, Maharashtra, Uttar Pradesh and Jammu & Kashmir.
6. In the remaining States, the Legislature is uni-cameral and has the Legislative Assembly only.
7. For creation or abolition of Legislative Council, the Legislative Assembly of the State should pass a resolution by a special majority followed by an Act of Parliament {Ref. : Art. 169}.
8. The size of the Legislative Council may vary, but its membership should not be more than  $\frac{1}{3}$  of the membership of the Legislative Assembly but not less than 60.
9. Legislative Council is a partly nominated and partly elected body.
10. Election to the Legislative Council is indirect and in accordance with proportional representation by single transferable vote.
11.  $\frac{5}{6}$  of the total number of members of the Council is indirectly elected and  $\frac{1}{6}$  is nominated by the Governor.
12.  $\frac{1}{3}$  of the total members of the Council is elected by local bodies such as municipalities, district boards.
13.  $\frac{1}{12}$  is elected by graduates of three years' standing residing in the State.
14.  $\frac{1}{12}$  is elected by teachers of secondary schools or higher educational institutions.
15.  $\frac{1}{3}$  is elected by a member of the Legislative Assembly from amongst persons who are not members of the Assembly.
16. The Chairperson is nominated by the Governor from persons specialised in literature, science, art, cooperative movement and social service.
17. The Court cannot question the bona fides or propriety of the Governor's nomination in any case.
18. The Legislative Assembly of each State is directly elected on the basis of adult suffrage from territorial constituencies.
19. The Number of members of the Assembly can not be more than 500 nor less than 60.

20. The Assembly in Mizoram and Goa have only 40 members each. While the Assembly in Sikkim has only 32 members.
21. Governor can nominate one member of the Anglo-Indian community in the Assembly {Ref.: Art. 333}.
22. The duration of the Legislative Assembly is five years. It may be dissolved sooner than five years, by the Governor.
23. The term of five years may be extended by the Parliament in case of Proclamation of Emergency by the President for not more than one year at a time {Ref.: Art. 72(1).}
24. Legislative Council (Vidhan Parishad) is a permanent body like the Council of States (Rajya Sabha).
25. The Legislative Council is not dissolved. One-third of the members of Legislative Council retire on the expiry of every second year {Ref.: Art. 172(2)}
26. A Legislative Assembly has its Speaker and Deputy Speaker and a Legislative Council has its Chairman and Deputy Chairman, and the provisions relating to them are analogous to those relating to the corresponding officers of the Union Parliament.

### **Qualifications for membership of State Legislature are :**

1. Should be a citizen of India;
2. For Legislative Assembly, not less than twenty-five years of age and for Legislative Council not less than thirty years of age;
3. Should possess other qualifications prescribed in that behalf by or under any law made by Parliament {Ref.: Art. 173}