

QUICK REVISION MODULE (UPSC PRELIMS 2024) POLITY

STATE EXECUTIVE

Article 153 to 167 in Part VI of the constitution deal with the State executive.

State Executive=
Governor + CM + COM + AG of
the state.

GOVERNOR

The Constitution, under Article 153, provides for a Governor for each state.

Note: The 7th CAA of 1956, same person can be Governor for two or more states.

Appointment-
President by warrant under his hand and seal.

Qualifications:

- 1.) should be a citizen of India
- 2.) should have completed the age of 35 years.

Note: Additional Convention (not in Constitution): Outsider + President should consult CM of concerned State.

CONDITIONS FOR GOVERNOR'S OFFICE

Governor cannot be a member of either House of the Parliament or any of the State Legislatures.

If a Member of a Legislature is appointed as the Governor of any States, he shall immediately cease to be a Member upon such appointment.

Cannot hold any office of profit.

The Parliament determines the emoluments and allowances payable to him and also his free official residence.



1

Oath

- By **Chief Justice of the concerned High Court** and in his absence administered by the senior-most available Judge of the concerned High Court.



2

Transfer

- From one State to another by the President.
- Resignation** - by addressing his resignation to the President.



3

Term

- 5 years, but he remains in office during the pleasure of the President.



4

Removal

- Dismissal by the President at whose 'pleasure' he holds the office [Article 156(1)] Resignation [Article 156(2)].
- The grounds on which a Governor may be removed are not specified in the Constitution.

POWERS AND FUNCTIONS OF THE GOVERNOR



EXECUTIVE POWERS

All executive actions of the government of a State are formally taken in the Governor's name.



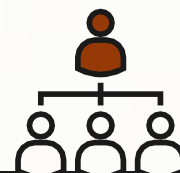
He can seek any information relating to the administration of the affairs of the state and proposals for legislation from the Chief Minister.



President make a presidential recommendation to the emergency in the state under Article 356.



He acts as the chancellor of universities in the state. He also appoints the vice-chancellors of universities in the state.



He appoints the Chief Minister, the other subordinate ministers, the Advocate General of the State, State Election Commissioner, Service Commissioners of the State Public

LEGISLATIVE POWERS

Governor of the State **summons or prorogues** the state legislature and he can dissolve the State Legislative Assembly.



He **nominates 1/6th of the members of the State Legislative Council** from amongst the persons having special knowledge or practical experience in literature, art, science, cooperative movement and social service.



When both the offices of the Speaker and the Deputy Speaker fall vacant then the Governor appoints any member of the State's Legislative Assembly.



Can **promulgate ordinances** when the **State Legislature** is not in session, ordinances must be approved by the State Legislature within six weeks from its reassembly.



Governor can reserve for the President's consideration any bill passed by the State Legislature, which endangers **the position of the State High Court, against the Constitution's provisions or opposing DPSP.**



Lays reports of the State Finance Commission, the SPSCs and the CAG relating to the accounts of the State, before the State Legislature.



Confirms that the state budget or the Annual Financial Statement is laid before the State Legislature.



Money Bills can be introduced in the State Legislature only with the **prior recommendation** of the Governor.

FINANCIAL POWERS



Demand for a grant can be made only on the Governor's recommendation.



To review the financial position of the Panchayats and the Municipalities, the Governor **constitutes a Finance Commission** in the state after every five years.



To meet any unforeseen expenditure, he can make advances out of the **Contingency Fund of the State.**

JUDICIAL POWERS



Governor is consulted by the President, while appointing the Judges of the concerned State High Court.



He makes appointments, **postings and promotions of the district judges** in consultation with the State High Courts.



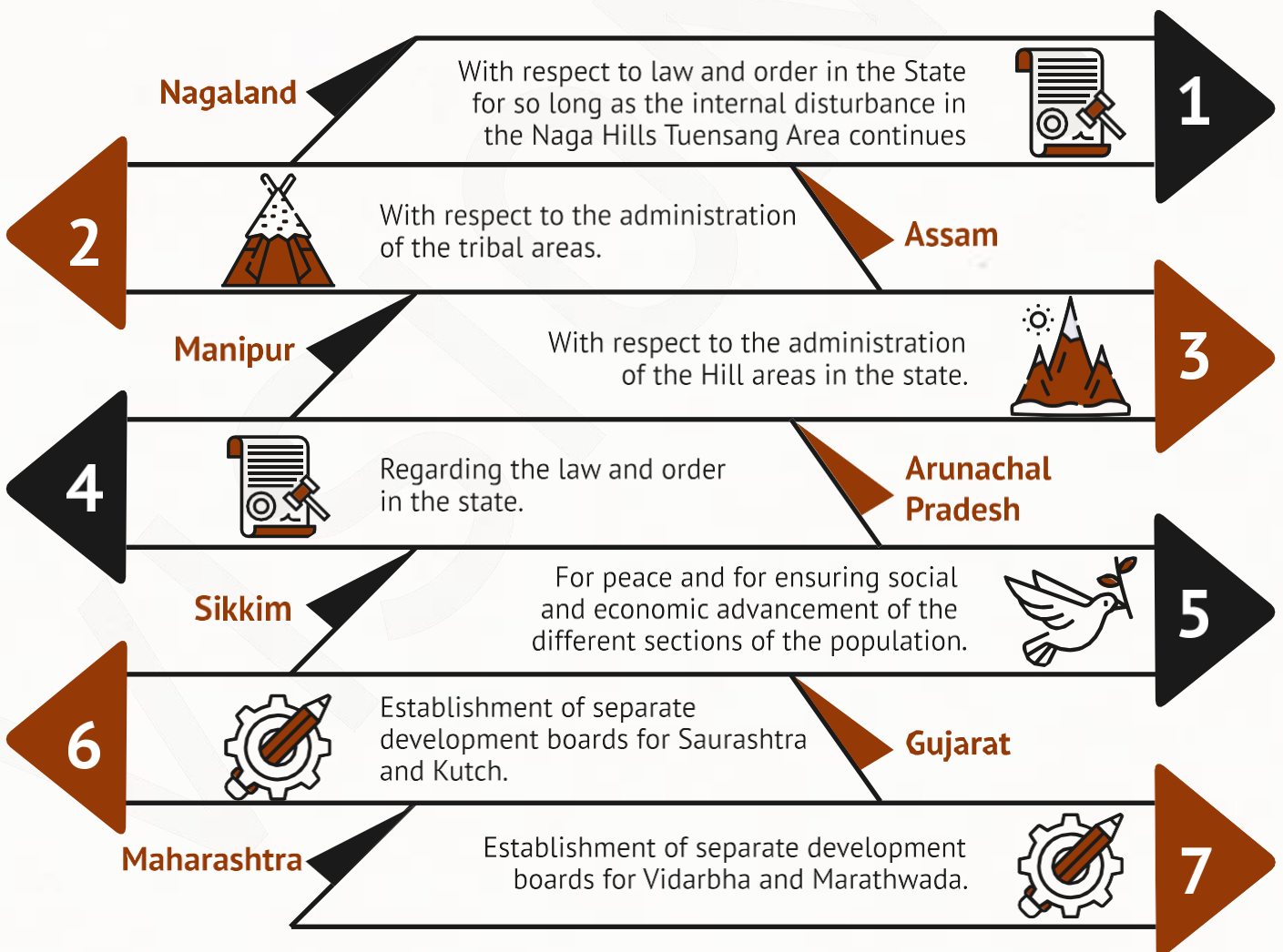
He appoints persons to the judicial service of the state (other than the District Judges) in consultation with the State High Court and the State Public Service Commission.



Mercy Powers The Governor can grant pardons, reprieves, respites and remissions of punishment or suspend, **however Governor cannot pardon a death sentence.**

Note: Unlike, President, Governor doesnot have **mercy powers in respect to punishment or sentence by a court-martial (military court).**

SPECIAL POWERS AND RESPONSIBILITIES OF GOVERNOR UNDER THE ARTICLES 371 TO 371J



Note: Schedule VI of the Constitution also accords special powers and responsibilities to the Governor. He has the power to divide the areas inhabited by different scheduled tribes in an autonomous district into autonomous regions.

DISCRETIONARY FUNCTIONS OF THE GOVERNOR



Can give or withhold assent to Bills, return a Bill for reconsideration of the house concerned or both the houses. Also, act in his discretion in the case of reservation of a Bill for the consideration of the President.



Advise the President on issue of failure of Constitutional machinery and recommends imposition of the President's rule in the concerned State.



Use his discretion while exercising the functions as the administrator of an adjoining Union Territory (in case of additional charge).

Note: Governor, like the President, also enjoys situational/circumstantial discretion.

ISSUES RELATED TO THE OFFICE OF GOVERNOR

Lack of Objective Criteria for untimely dissolution: While Article 174 gives powers to the Governor to dissolve the assembly, but the Constitution is silent on as to when and under what circumstances can the House can be dissolved.



Political reasons being cited for Dissolution: Potential for political instability in the future and to prevent emerging alliances is often used as a reason to dissolve state assemblies.



Missing Political Neutrality in Governor's Office: The post has been reduced to becoming a retirement package for politicians for being politically faithful to the government of the day. For e.g. Bihar State Assembly was dissolved by the Governor in 2005 on apprehensions of "horse trading". Later the Supreme Court called the decision to be illegal and mala fide.



M M Punchhi Commission: The Governor should follow "constitutional conventions" in a case of a hung Assembly. It suggested a provision of 'Localized Emergency' by which the centre government can tackle issue at town/district level without dissolving the state legislative assembly.



SC Judgements ;

S.R. Bommai Case (1994): The court accorded primacy to a floor test as a check of majority. The court also said that the power under Article 356 is extraordinary and must be used wisely and not for political gain.



Rameshwar Prasad Case (2006): Bihar Governor's recommendation for dissolving the Assembly the previous year was held to be illegal and mala fide. A Governor cannot shut out post-poll alliances altogether as one of the ways in which a popular government may be formed.



CHIEF MINISTER

1

- He is the head of the government and is the real executive authority (de facto executive).
- Article 164 states that the Chief Minister shall be appointed by the Governor.

2

- Generally, the leader of the majority party in the State Legislative Assembly is appointed by the Governor.
- In case of **Hung assembly** - Governor appoints the leader of party or coalition and asks him to seek a vote of confidence in the House within a month.

3

- **Oath** - Governor
- **Note:** In Oath swears allegiance to Constitution, uphold Sovereignty & integrity of India + takes Oath of Secrecy.
- **Term** - Not fixed, hold office during the pleasure of Governor.
- **Removal** - Can not be dismissed as long enjoy majority support, if loses confidence of the assembly must resign or Governor can dismiss him.
- **Salary & Allowances:** Determined by the State Legislature.

POWERS AND FUNCTIONS OF THE CHIEF MINISTER

In Relation to the COM

- ▶ CM is head of the COM, resignation/death lead to the dissolution of COM.
- ▶ Presides over the meetings of the COM and influences its decisions.
- ▶ Allocates, reshuffles the portfolios among ministers.
- ▶ Presides over the meetings of the COM and influences decisions.
- ▶ In case of difference of opinion CM can advise the Governor to dismiss the concerned minister.

In Relation to the Governor

- ▶ Communicate to the Governor all decisions relating to the administration of the state.
- ▶ Advises the Governor for appointment of Advocate-General of the State, Chairman and Members of SPSC, State Election Commissioner.

In Relation to State Legislature

- ▶ Advises the Governor for summoning and proroguing of the sessions.
- ▶ Can any time recommend the Governor for the dissolution of the assembly.

CM ENJOYS SOME OTHER POWERS AND FUNCTIONS

Chairman of the **State Planning Board**

Acts as a Vice-Chairman of the concerned **Zonal Council by rotation**, holding office for a period of one year at a time.

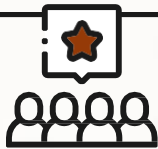
Member of the Inter-State Council and the National Development Council, both headed by the prime minister.

Acts as the crisis manager-in-chief at the political level during emergencies.

STATE COUNCIL OF MINISTERS

CONSTITUTIONAL PROVISIONS

Article 163	<ul style="list-style-type: none"> ▶ COM to aid and advise Governor, subject to his discretionary powers. ▶ The advice tendered by Ministers to the Governor shall not be inquired into in any court
Article 164	<ul style="list-style-type: none"> ▶ CM shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the CM. ▶ COM collectively responsible to the state Legislative Assembly. ▶ A minister who is not a member of the state legislature for any period of six consecutive months shall cease to be a minister. ▶ The salaries and allowances of ministers shall be determined by the state legislature. ▶ The total number of ministers (including the CM) in a state shall not exceed 15 per cent of the total strength of the legislative assembly of that state. <p>Note: The no. of ministers, including the CM, in a state shall not be less than 12 (added by 91st CAA).</p>
Article 177	<ul style="list-style-type: none"> ▶ Every minister shall have the right to speak and take part in the proceedings of the Assembly and any of its Committees. But not entitled to Vote.



Collective Responsibility

- Article-164: COM is collectively responsible to State legislative assembly
- As a team sink and swim together
- Cabinet decision binds all the ministers even if they differ
- When assembly passes NCM all ministers have to resign



Individual Responsibility

- Article-164: Also contains the principle of individual responsibility
- Each minister is responsible to the Governor for the department under his care
- In case of difference of opinion or dissatisfaction CM can ask him to resign

ADVOCATE GENERAL OF THE STATE

1

- ▶ **Article 165** of the Indian Constitution provides for an Advocate General for the State.

2

- ▶ **Appointment- By Governor**
- ▶ **Qualification** - Judge of a High Court or must have held judicial office for ten years or advocate of HC for 10 years.

3

Functions

- ▶ Advises state government upon legal matters.
 - ▶ Article 177 gives **right to speak and take part in the proceedings of the Houses** of Legislature. However, have no right to vote.
- Note:** Functions of Advocate General in respect of the State are similar to that of the Attorney General of India.

TERM AND REMOVAL



Constitution does not fix the term of Advocate General in India. He remains in the office during the pleasure of the Governor.



Constitution does not contain the procedure and grounds to remove the Advocate General of State. Governor can remove him/her at any point in time.



Resignation – Submitting the resignation letter to the state Governor.