



Mains Practice Question

Q. Despite unique constitutional positioning, the governor is sometimes not seen as willing or able to discharge his functions as judiciously, impartially and efficiently as envisaged by the constitution framers. Comment (250 words)

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Approach

- Give brief introduction of Governor.
- Discuss the issues related to abuse of post of Governor in federal polity failing to function impartially and efficiently.
- Give conclusion.

Introduction:

- India is a federal constitution, however due to unique conditions of India, constitution makers decided for post of governor as head of administration to be appointed by President of India, holding office at his pleasure.
- Governor is not the member of a party; he is the representative of the people as a whole in the State. It is in the name of the people that he carries on the administration.

Body

- **Abuse of the post of Governor**
 - **Misuse of Article 356 :** Governor has to submit report to advise the President to proclaim emergency if there is constitutional breakdown. This power has been abused by political parties in power at centre to dismiss governments in state governed by parties in opposition.
 - In **S R Bommai case**, SC proclaimed that action under Article 356 can be judicially reviewed, it made clear that material i.e. Governor's report which forms the basis of imposition of President rule can be examined and struck down if found not reasonable.
- **Power of Reserving bill:** Constitution provides that Governor can reserve the bill for consideration of President. Even though constitution does not provide centre the power to veto state's legislation, through power of reservation centre exercises this power by vetoing or delaying any legislation through President refusal to assent to state's legislation.
- **As an agent of political party in power at center:** Governors are not shy of revealing their partisan preference. For instance, in recent times Governors have exhorted voters to vote for particular party.
- **Partisan role in Hung assemblies:** In case of hung assemblies, there is discretion for Governors as to which party or coalition of parties are in best position to form the government. This discretion is abused by Governors in partisan manner at the instruction of centre. There are numerous instance where despite the parties apparently having lesser seats than the parties in opposition are invited to form government e.g. Recently, Governor invited BJP for forming government in Karnataka despite opposition coalition claiming majority.
- **Arbitrary Removal of Governors:** There have been instances of removal of governors in States

with Government change at the centre. Disapproving the practice of replacing Governors after a new government comes to power at the Centre; the Supreme Court in 2010 had said that the Governors of states cannot be changed in an arbitrary manner with the change of power.

Conclusion:

- The **Sarkaria Commission** recommendations that a person to be appointed as a Governor should be eminent in some walk of life, a person from outside the State, a detached figure and not too intimately connected with the local politics of the State; and he should be a person who has not taken too great a part in politics generally and particularly in the recent past still remain relevant.
- Moreover, as development of conventions with respect to role of Governor has not been successful, there is need to amend the constitution to curtail the abuse of post of Governor.

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