



Sambhav

Day 11

Question 1. Discuss the discretionary power of the Governor of a state. Mention the steps taken to make the Governor's office more effective. (250 Words)

Question 2. After the abrogation of Article 370, there have been many significant changes in the Union Territory (UT) of Jammu & Kashmir. Discuss (250 Words)

21 Nov 2022 | GS Paper 2 | Polity & Governance

Approach / Explanation / Answer

Answer 1

Approach:

- Start your answer by giving a brief about Governor.
- Discuss the Constitutional and discretionary powers of the Governor.
- Discuss the measures taken to make the office of Governor more effective.
- Conclude Suitably.

Introduction

The Governor is the **chief executive head of the state**. But, like the president, he is a **nominal executive head (titular or constitutional head)**. The governor also acts as an agent of the central government. Therefore, the office of the governor has a dual role. Usually, there is a governor for each state, but the **7th Constitutional Amendment Act of 1956** facilitated the appointment of the same person as a governor for two or more states.

Body

Discretionary Power of the Governor of the State

According to Article 163, there shall be a **council of ministers with the chief minister as the head to aid and advise the governor in the exercise of his functions**, except in so far as he is required to exercise his functions in his discretion.

The Constitution makes it clear that if any question arises whether a matter falls within the governor's discretion or not, the decision of the governor is final and the validity of anything done by him cannot be called in question on the ground that he ought or ought not to have acted in his discretion.

Constitutional Discretion

The governor has constitutional discretion in the following cases:

- **Reservation of a bill** for the consideration of the President.
- Recommendation for the **imposition of the President's Rule** in the state.
- While exercising his **functions as the administrator of an adjoining union territory** (in case of additional charge). Determining the amount payable by the Government of Assam, Meghalaya, Tripura and Mizoram to an autonomous Tribal District Council as royalty accruing from licenses for mineral exploration.
- **Seeking information from the chief minister** with regard to the administrative and legislative matters of the state.

Situational Discretion

In addition to the above constitutional discretion (i.e., the express discretion mentioned in the Constitution), the governor, like the president, also has situational discretion (i.e., the hidden discretion derived from the exigencies of a prevailing political situation) in the following cases:

- **Appointment of chief minister** when no party has a clear-cut majority in the state legislative assembly or when the chief minister in office dies suddenly and there is no obvious successor.
- **Dismissal of the council of ministers** when it cannot prove the confidence of the state legislative assembly.
- **Dissolution of the state legislative assembly** if the council of ministers has lost its majority.

Discretionary Powers of Governor vis-a-vis President

The constitutional position of the governor differs from that of the president in the following two respects:

- While the Constitution envisages the possibility of the governor acting at times in his discretion, no such possibility has been envisaged for the President.
- After the **42nd Constitutional Amendment (1976)**, ministerial advice has been made binding on the President, but no such provision has been made with respect to the governor.

Steps Taken to Make the Governor's Office More Effective

- **S. R. Bommai case:** The President's Rule was imposed in States over 100 times prior to 1994 mostly on the recommendation of the state Governor. But after the Supreme Court's judgment in the **S. R. Bommai case**, such rampant practices came to an end as the Supreme Court declared that the imposition of President's Rule shall be confined only to the breakdown of constitutional machinery.
- **Sarkaria Commission:** It sought to restore dignity to the Raj Bhavan by focusing more on the appointee who shall be an eminent person in some walk of life, someone outside the respective State so that he would not have any personal interest to protect.
- **First Administrative Reforms Commission (1966):** In its report on "Centre-State Relationships", it had recommended strongly that once the Governor completes his term of five years, he shall not be made eligible for further appointment as Governor.
- **National Commission (2000):** It also reiterated the view of the Sarkaria Commission regarding the appointment of Governor. It enriched the discourse by stipulating that there should be a time-limit, desirably six months to give assent or to reserve a Bill for consideration of the President.
- **Punchhi Commission:** While Sarkaria Commission recommended that Governor's tenure of five years shall only be sparingly cut short, Punchhi Commission went one step ahead and recommended that Governor shall have fixed tenure so that they wouldn't hold office under the intangible pleasure of the Central government. It proposed an amendment to Article 156 so that there would be a procedure to remove the Governor from office.

Conclusion

The office of Governor has a great significance in the context of Indian politics but there is need to reform

the position and role of the governor to make his position and role impartial and stick to the constitutional roles.

Answer 2

Approach:

- Start your answer by giving a brief about the abrogation of Article 370.
- Discuss the Changes in the UT of J&K after the Abrogation of Article 370.
- Conclude suitably.

Introduction

On 5 August 2019, the government of India revoked the special constitutional status of the erstwhile state of Jammu and Kashmir under Article 370 of the Constitution, and abrogated Article 35A.

Article 35A had allowed J&K to define who its 'permanent residents' are and what rights and privileges are attached to such residency.

The former state was bifurcated into the **Union Territories of Ladakh (without a legislature) and Jammu-Kashmir (with a legislature)**.

Body

Changes in the UT of J&K after the Abrogation of Article 370

- **The decline in Terrorists Activities:** After the abrogation of Article 370, there has been a marked decline in the number of terror-related incidents in the newly carved union territories. The central government in March 2021 said in the parliament that the terrorist violence in Jammu and Kashmir had reduced significantly in 2020 as compared to 2019. The Ministry of Home Affairs in April 2021 said there had been 60% fewer terror incidents post-abrogation of Article 370.
- **Local Politicians lost Political Capital:** The Muftis, the Abdullahs, the Hurriyat leaders, and other separatists once held sway in Jammu and Kashmir's fractious politics. They derived political mileage out of keeping the state perpetually on tenterhooks. They allowed Jammu and Kashmir to continue to remain a festering issue so that their political interests were served. But the abrogation of Article 370 threw spanner in the works for these leaders who had come to consider Jammu and Kashmir as their personal fiefdom.
- **Growth and development:** Earlier, some constraints discouraged industrialists and large organisations from investing in Jammu and Kashmir. But after the abolition of Article 370, all the obstacles that came into the path of development were removed as the government placed its focus on providing an impetus to business and the economy. The J&K Infrastructure Development Finance Corporation has been set up to provide financial support to various projects that were commissioned years ago but were yet to be completed.
- **Domicile rule and Central laws now extend to J&K:** Laws such as the Right to Education, Prevention of Child Marriage, Untouchability Act, and many others could not be applied to Jammu and Kashmir because of the existence of Article 370. But after its abrogation, all the central laws have been extended to Jammu and Kashmir, and Ladakh. A new Domicile rule was implemented, which allowed all those persons and their children who have resided in the former state for 15 years or studied here for seven years and completed their 10th or 12th examination in an educational institution in the J&K to apply for domicile.
- **Property Rights of Women Restored:** Women have been amongst the most disadvantaged sections of the former state. Not only were they constitutionally denied rights, but their existing rights were also gradually eroded. Women who married men from outside Jammu and Kashmir were deprived of property rights. But that changed, after the abrogation of Article 370. Women in Jammu and Kashmir are now able to buy real estate and transfer property to children, even if they get married to a non-resident.

Conclusion

The abrogation of Article 370 has totally reformed the Political-administrative system of India by giving due to the common people of India in the Governance of the state and has helped in hastened the process of development.

PDF Refernece URL: <https://www.drishtias.com/sambhav-daily-answer-writing-practice/papers/2023/gs-paper-2-polity-and-governance-discuss-discretionary-power-governor-state-mention-steps-taken-make-governor-office-more-effective-after-abrogation-article-370-there-have-been-many-significant-changes-union-territory-jammu-kashmir/print>