



Governor's Powers in Dismissing a Minister

For Prelims: [Governor](#)'s Powers in Dismissing a Minister, Article 164, Section 51(1) and 51(5) of the Government of India Act, 1935, Pleasure Doctrine.

For Mains: Governor's Powers in Dismissing a Minister.

Why in News?

The recent decision of dismissal and suspension of a Minister in Tamil Nadu by the [Governor](#) has sparked a **Constitutional Controversy**. The Governor reversed his decision later and suspended the dismissal order.

What are the Governor's Powers to Dismiss Ministers?

- **Article 164:**
 - **Under Article 164 of the Constitution**, the Chief Minister is **appointed by the Governor without any advice** from anyone. But he appoints the individual Ministers only **on the advice of the Chief Minister**.
 - The Article implies that the Governor **cannot appoint an individual Minister according to his discretion**. Therefore, the Governor can dismiss a Minister only **on the advice of the Chief Minister**.
- **Reference to the Government of India Act, 1935:**
 - From **Section 51(1) and 51(5) of the Government of India Act, 1935**, which governed the colonial rule, the Governor had absolute discretion to choose and dismiss Ministers.
 - However, after India gained independence, the Governor's role transformed into that of a constitutional head, **acting solely on the aid and advice of the Council** of Ministers headed by the Chief Minister.
- **Constitutional Limitations on Governor's Discretion:**
 - The power to choose or dismiss a **Minister lies with the Chief Minister**, who represents the will of the people.
 - B.R. Ambedkar, during the Constituent Assembly debates, unequivocally stated that the Governor has no independent executive functions under the Constitution.
 - The inclusion of the **"pleasure of the Governor" in Article 164** of the Constitution refers only to the **formal act of issuing dismissal orders** upon the advice of the Chief Minister.

Note: The pleasure doctrine has been brought into the Constitution of India from the **Government of India Act, 1935**. Section 51 of the Government of India Act, 1935 confers on the Governor the discretion to choose as well as dismiss the Ministers. But when Article 164 of the Constitution was drafted, the words **"chosen", "dismissal" and "discretion" were omitted**. It was a significant omission which makes it abundantly clear that the **Constitution did not confer any discretion on the Governor** to either choose or dismiss an individual Minister.

What are the Judicial Clarification on Governors Powers?

- **In Shamsher Singh and Anr vs State Of Punjab (1974):**
 - The SC declared that the President and Governor, who hold executive powers under the Constitution, **should exercise their formal constitutional powers only with the advice of their Ministers**, except in a few exceptional situations.
- **Nabam Rebia vs Deputy Speaker (2015):**
 - The SC has ruled that **Governors cannot cause the downfall** of elected governments. It reaffirmed the previous ruling in Shamsher Singh and emphasized that the Governor's **discretionary powers are limited to the provisions of Article 163(1)**.
 - Article 163(1) states that there shall be **a council of Ministers with the Chief Minister at the head to aid and advise the Governor** in the exercise of his functions, except in so far as he is by or under this constitution required to exercise his functions or any of them in his discretion.

What are the Concerns Related to the Issue of Dismissal of Minister?

- **Constitutional Misadventure:**
 - Removing a Minister is a **matter of moral judgment, not a legal requirement**. The Governor's decision to dismiss a Minister without the Chief Minister's recommendation is a **constitutional misadventure**.
- **Sets Wrong Precedent:**
 - This unprecedented and deliberately provocative act of dismissing a Minister of a government without the recommendation of the Chief Minister of the State, may set a precedent and has the **potential to destabilise State governments** putting the **federal system in Jeopardy**.
- **Collapse of Constitutional System:**
 - If Governors are allowed to exercise the power of dismissal of individual Ministers **without the knowledge and recommendation of the Chief Minister**, the whole constitutional system will collapse.

Conclusion

- A legislature should establish clear guidelines for the exercise of powers by the Governor.
- In India, as a parliamentary democracy, the authority of Parliament should be respected, just as the democratically elected State Legislature should have a similar role and importance.

UPSC Civil Services Examination, Previous Year Question

Prelims

Q. Which of the following are the discretionary powers given to the Governor of a State? (2014)

1. Sending a report to the President of India for imposing the President's rule
2. Appointing the Ministers
3. Reserving certain bills passed by the State Legislature for consideration of the President of India
4. Making the rules to conduct the business of the State Government

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 1 and 3 only
- (c) 2, 3 and 4 only
- (d) 1, 2, 3 and 4

Ans: (b)

Mains

Q. Whether the Supreme Court Judgment (July 2018) can settle the political tussle between the Lt.Governor and elected government of Delhi? Examine. **(2018)**

Q. Discuss the essential conditions for exercise of the legislative powers by the Governor. Discuss the legality of re-promulgation of ordinances by the Governor without placing them before the Legislature. **(2022)**

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