



Removal of Governor

For Prelims: Constitutional Provisions Related to Removal of Governor

For Mains: Friction Points in Governor-State Relations, Removal of Governors and the Related Recommendations by Various Commissions.

Why in News?

Recently, a political party called for a **proposal to remove the Tamil Nadu Governor**.

- In recent years, **the bitterness between states and Governors has been largely about the selection of the party to form a government**, deadline for proving majority, sitting on Bills, and passing negative remarks on the state administration
- Due to this, Governor is referred to with negative terms like an **agent of the Centre, Puppet and rubber stamps**.

How can the Governor be Removed?

- Under **Article 155 and 156 of the Constitution**, a Governor is appointed by the President and holds office “during the pleasure of the President”.
 - **If this pleasure is withdrawn** before completion of the five-year term, the **Governor has to step down**.
- As the President works on the aid and advice of the Prime Minister and the council of ministers, in effect, the Governor **can be appointed and removed by the central government**.

What Happens in case of Disagreements between the States and Governor?

- **Constitutional Provisions:**
 - There are **no provisions laid down in the Constitution** for the manner in which the Governor and the state must engage publicly when there is a difference of opinion.
 - The management of differences has traditionally been **guided by respect for each other’s boundaries**.
- **Rulings by the Courts:**
 - **Surya Narain Choudhary vs Union of India (1981):** The Rajasthan High Court held that the **pleasure of the President was not justiciable** as the Governor had no security of tenure and can be removed at any time by the President withdrawing pleasure.
 - **BP Singhal vs Union of India (2010):** The Supreme Court elaborated on the **pleasure doctrine**. It upheld that “**no limitations or restrictions are placed on the ‘at pleasure’ doctrine**”, but that “**does not dispense with the need for a cause for withdrawal of the pleasure**”.
 - The Bench held that the court will presume that the **President had “compelling and valid” reasons for the removal** but if a sacked Governor comes to the court, **the Centre will have to justify its decision**.
- **Recommendations by Various Commissions:**

- Over the years, several panels and commissions have **recommended reforms in how Governors are appointed and how they function**. However, they were **never made into law by Parliament**.
 - **Sarkaria Commission (1988):**
 - It recommended that **Governors are not sacked before completing their five-year tenure, except in “rare and compelling” circumstances**.
 - The procedure of removal must allow the Governors **an opportunity to explain their conduct**, and the central government must give fair consideration to such explanation.
 - It was further recommended that Governors should be **informed of the grounds of their removal**.
 - **Venkatachaliah Commission (2002):**
 - It recommended that ordinarily **Governors should be allowed to complete their five-year term**.
 - If they have to be removed before completion of their term, the central government should do so only after consultation with the Chief Minister.
 - **The Punchhi Commission (2010):**
 - **It suggested the deletion of the phrase “during the pleasure of the President”** from the Constitution, because a Governor should not be removed at the will of the central government.
 - Instead, he or she should be removed **only by a resolution of the state legislature**.

Way Forward

- **Strengthening of Federalism:** In order to check misuse of the office of governor, there is a need to strengthen federal setup in India.
 - In this regard, the Inter-State council and the role of Rajya Sabha as the chamber of federalism must be strengthened.
- **Reform the Method of Appointment of Governor:** The appointment can be made from a panel prepared by the state legislature and actual appointing authority should be the Inter-state Council, not the central government.
- **Code of Conduct for Governor:** This 'Code of Conduct' should lay down certain 'norms and principles' which should guide the exercise of the governor's 'discretion' and his powers which he is entitled to use and exercise on his judgement.

UPSC Civil Services Examination, Previous Year Questions (PYQ)

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)

Exp:

- Article 163 of the Constitution says that the Governor shall exercise his functions with the aid and advice of the Council of Ministers except for functions which require his discretion.
- Under Article 356 of the Indian Constitution, the Governor of a State can send a report to the President of India recommending imposition of President Rule in the State. This is a discretionary power being conferred upon Governor. **Hence, 1 is correct.**
- He appoints the Chief Minister (CM) and other ministers. They also hold office during his pleasure. The appointment of ministers in State cabinet is not at the discretion of Governor. He only formally approves the appointment. The discretion comes under CM. **Hence, 2 is not correct.**
- Governor can reserve certain bills passed by the State legislature for the consideration of the President. In one case such reservation is obligatory, that is, where the bill passed by the State legislature endangers the position of the State High Court. In addition, the Governor can also reserve the bill if it is against the provisions of the Constitution, opposed to the Directive Principles of State Policy, against the larger interest of the country, of grave national importance, etc. **Hence, 3 is correct.**
- He makes rules for the more convenient transaction of the business of a State government and for the allocation among the ministers of the said business. But this power is not under Governor's discretion. He acts on the advice of Council of Ministers. Hence, 4 is not correct. **Therefore, option (b) is the correct answer.**

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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