

## EXECUTIVE:

Executive is the second most important organ of the government. The enforcement of law and bringing those who violate them, before the law court is the main function of executive. It also looks after the administrative activities. Though in any form of executive, the function of effective conduct of government lay on the shoulders of council of ministers, but ministers on their own cannot perform such a huge function, a huge web of permanent administrative officials is spread within the system. The high and low officials excelling in their functions and possessing special qualifications are known as Bureaucrats. Thus, executive consists of head of the state, council of ministers and entire high and low officials.

## FUNCTIONS OF EXECUTIVE:

The functions and powers of executive as second organ of government are:

- i) To implement policies of government, to execute laws made by parliament and other legislative bodies.
- ii) The executive has some share in the process of legislation as well. In parliamentary form of government, most bills are introduced and defended in parliament by ministers. Even in Presidential system, President performs many functions in relations to law-making.
- iii) Another important function is the conduct of relation with other states.
- iv) In all countries, the head of the state is also the supreme commander of state Armed forces. All important appointments, particularly those of Generals and commanders, are made by the Executive.

## PARLIAMENTARY GOVERNMENT:

Parliamentary form of government is also known as cabinet system of government or responsible government. It is that form of government in which not only the members of the cabinet are selected out of the members of parliament, but cabinet is also responsible to the parliament. The legislature has full control over cabinet and has authority to remove the cabinet. In parliamentary form of government, the executive works as a committee of the parliament. Garner says,

“Parliamentary government is that system in which real executive is directly responsible to the parliament or its popular house, and, ultimately to the electorate, for its political policies and work, where as nominal executive remains non-responsible.”

Thus, in parliamentary system, head of the state i.e., President is a nominal and cabinet is real executive.

## FEATURES OF PARLIAMENTARY GOVERNMENT:

The following are the important features of a parliamentary government:

- i) In this system of government, the head of the state whether a king based upon heredity like England or an elected President for a definite tenure as in India is a nominal head.
- ii) The second main feature of the parliamentary government is collective responsibility of the cabinet towards Parliament. The ministers are individually responsible to each other, but if vote of no-confidence is passed even against a single minister the whole of cabinet shall have to resign.
- iii) In parliamentary system, as head of the state is nominal, so responsibility lies with the cabinet. From the making of laws to the conduct of the entire administration of the nation is responsibility of the cabinet.
- iv) Prime Minister, being head of the government uses entire powers regarding the administration.
- v) All the members of cabinet are members of parliament also. The Prime Minister leads both, the cabinet as well as the parliament. The cabinet is Prime Minister's own creation and part of majority party thus, there is no question of dispute between the two.
- vi) If cabinet loses the confidence of parliament, the cabinet has to resign. In such circumstances, the head of the State may call leader of opposition to form the govt., but the outgoing cabinet has alternative of advising the President to dissolve lower house and go for

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fresh elections. In such a situation, head of the state is free to use his discretion finding out an alternative.

## REASONS FOR CHOOSING PARLIAMENTARY SYSTEM IN INDIA:

- i) The co-operation between executive and legislature in the parliamentary system.
- ii) The cabinet cannot become arbitrary because it is responsible to popularly elected house.
- iii) The ability to change in accordance with the changed circumstances is always present in parliamentary system.
- iv) This system is educative because people are specially educated by political parties.
- v) The parliament controls the cabinet in various ways. The members may ask questions from the minister and may introduce various types of motions.
- vi) President acts as an impartial head because he is not member of any political party.
- vii) The ministers have a chance to show their ability. They may utilize their ability in solving national problems.

## STATUS OF CONSTITUTIONAL /NOMINAL HEAD IN PARLIAMENTARY SYSTEM:

President acts as a constitutional or nominal in parliamentary system. He cannot enjoy his power himself, but there is Prime Minister and council of ministers who exercise his powers. The dignified position is enjoyed by President of India, lives in the President's house, has the privilege of maintaining body guards with golden turban and government transport. He is honoured by cannon blast and is the most honoured first citizen of India.

## PRESIDENT OF INDIA:

Article 52 in Indian constitution lays down that there shall be President of India, and article 53(1) vests all executive powers in hands of President, and he can exercise them directly or through officers subordinate to him. President is elected indirectly through single transferable vote system.

## QUALIFICATION:

- i) He should be citizen of India.
- ii) His age should not be below 35 years of age.
- iii) He should be qualified for election as a member of the house of people.
- iv) A person shall not be eligible for election of president, if he holds any office of profit, under the government of centre or state.
- v) If any such person gets elected to the office of President, who is member either of parliament or state legislatures, the day he assumes the office of President, his membership would lapse.

## ELECTIONS OF PRESIDENT:

Article 54 and 55 provides the method of electing the president. It is very complicated and following are the characteristics of his election:

- i) President of India instead of being directly elected by people, is indirectly elected by representatives of the parliament and legislative Assemblies.
- ii) President is elected through secret ballot system.
- iii) According to article 54, for the election of president an electoral college shall be constituted, consisting of members of state legislative assemblies and both houses of parliament.
- iv) Article 55(1) provides for the uniformity in the scale of representation of different states.
- v) Article 55(2) (a) lays down the method to establish the number of votes to be polled by each member of legislative assembly, in order to give equal importance to all states. The definite formula, which decides that how many votes each member of state legislative assemblies will cast in presidential election is,

The weightage of vote of one member

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$$= \frac{\text{Total population of state to which member belongs}}{\text{Total number of elected members in state Assembly}} \times \frac{1}{1000}$$

vi) The weightage of votes of elected members of parliaments;

$$= \frac{\text{Total number of votes of all elected members of all legislative assemblies}}{\text{Total number of elected members of both the house of parliament.}}$$

vii) Single transferable vote system through secret ballot is adopted in the election of president. To win elections candidate needs to fulfil a quota, and, quota is determined by the formula;

$$= \frac{\text{Total number of valid votes} + 1}{2}$$

## TENURE OF THE PRESIDENT

Article 56(1) provides that the president of India shall be elected for tenure of 5 years, and a president can be re-elected for any number of times. By the close of his term, if new president is not elected, then earlier can continue, but within 6 months new president should be elected. If in any case president resigns then Vice President acts as Acting president. If in any situation office of president and vice President is vacant, then chief justice of India succeeds to office of President and he will be followed by next senior most judge of supreme court.

## MEHTOD OF REMOVAL OF PRESIDENT

Article 61 of the Indian constitution provides impeachment process of president and by this process president can be removed before expiry of five years.

## POWERS AND FUNCTIONS OF PRESIDENT

Article 74(1) lays down the powers attached to post of president in India, and these powers are exercised by Prime Minister and cabinet.

The position of President of India can be explained as:

- i) The president is bound to act according to the decision of council of Ministers.
- ii) President has limited powers to return an advice of council once, if he is of opinion that the advice is against the constitution.
- iii) President is bound to act according to the advice given for the second time by council of ministers.
- iv) Real powers of the executive is vested in council of ministers. The powers and functions of president has been divided into two:
  - a) Peace-time powers.
  - b) Emergency powers.

## PEACE – TIME POWERS:

The peace – time powers of the president are divided into following categories:

### a) *Executive Powers:*

- i) The powers of president regarding functions of government are performed by cabinet in the name of president and all decisions of government are considered as the decisions of President.
- ii) After general elections, president administers oath of Prime Minister to leader of majority party, on whose advice he appoints the other Ministers of the Council.
- iii) President has the right to be informed about the day to day decisions of Council, and for this purpose Prime Minister remains in constant touch with President.
- iv) President can return a decision /advice for reconsideration to the council of Ministers, but he shall act according to the decision taken for the second time by council.
- v) President appoints high officials like attorney General (chief legal advisor to president), members of union public service commission, finance commission etc. he also has power to remove them.
- vi) President is commander-in-chief of armed forces, appoints high military officials, assumes enormous powers during wars, declares war as well as concludes peace.

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vii) President has power to establish diplomatic relationship with other countries and appoints ambassadors to other countries.

viii) President has special power in regard to Union territories and States. He appoints chief commissioner to look after union territories and appoints Governor for States.

## **b) Legislative Powers:**

i) President acts not only as head of the executive as well as component part of parliament.

ii) The president summons, prorogues, addresses, and dissolves parliament. The first sitting of ever new parliament and every annual session starts with address of president.

iii) The president nominates two representatives of Anglo-Indian community in the House of the people. The 12 members of Rajya Sabha are nominated by president, having knowledge or practical experience of art, science, literature and social science.

iv) The bills passed by both the houses of parliament, cannot become an act until president gives assent to it.

v) The president has partial veto power in case of non-money bills. When parliament presents bill before the president for assent, he can pass or withhold bill if there is something wrong in bill. He then sends it back to parliament for reconsideration, and, if parliament resubmits bill with changes or in original form, president is bound to give assent.

vi) The money bill, bill for changing boundaries of state or creation of state are introduced in parliament with prior permission of president.

vii) For amending constitution, prior permission of president is necessarily to be taken by upper house.

viii) When the parliament is not in session and the necessity to make a law over certain subject arises, then president can promulgate ordinance to meet emergency. The maximum period for an ordinance is 6 months till the next session of parliament. During the next session, parliament examines the ordinance, and if necessary converts it into law or rejects it.

ix) Almost all bills in state legislature are sent to President for his assent. So, he controls state legislature also.

## **JUDICIAL POWERS:**

i) President appoints the judges of the High Courts and Supreme Court.

ii) President has power to grant pardons, reduce punishment or to suspend or remit the sentence of any person convicted of any offence;

a) By a Court martial

b) An offence against any law.

c) In all death sentences.

iii) The judicial department of the country cannot impeach the president. No warrant can be issued in order to arrest him or if a civil proceeding is to be held against president, an advance notice must necessarily be given to him.

## **FINANCIAL POWERS:**

i) Prior permission to money bills:

No money bill can be presented before parliament without approval of the president.

ii) President of India through Finance Minister presents the details of the income and expenditure of country in form of budget.

iii) If for some reasons money is immediately required, then president has right to spend from the contingent fund and without approval of parliament.

iv) The president appoints finance commission, and this commission divides revenue between Union and States.

v) President appoints comptroller and Auditor General, who gives report on accounts of government.

## MISCELLANEOUS POWERS:

- i) He decides the number of members of Election commission and their conditions of working.
- ii) He appoints commission to find out the details of the progress done towards welfare of scheduled castes and scheduled tribes.
- iii) The president appoints 'Language Commission' to look after languages connected with central government, and, in like manner appoints 'Minority Commission' for minorities.
- iv) He decides the number of members of Union Public Service commission and their service conditions.
- v) The President has right to seek advice from supreme court regarding any matter, but he is not bound by such advice.
- vi) The procedural rules made by supreme court also need the approval of the president.

## EMERGENCY POWERS OF PRESIDENT (IN INDIA):

Part – 18 (Articles 352 - 360) of the Indian constitution arms the president with enormous emergency powers. The power to declare emergency has been entrusted to the president. President being a constitutional head, can declare emergency only under written advice which is signed by all the members of the cabinet. The provisions dealing with the emergency powers of president are:

- a) ***Emergency arising out of war, external aggression and armed rebellion.(Article - 352):***  
44<sup>th</sup> constitutional amendment has amended article 352, in order to avoid misuse of power. So, president can declare emergency only with due advice of council, and, approval of parliament is also needed.
- b) ***Failure of constitutional Machinery in the state: (Article -356)***  
If on report from Governor, the president is satisfied that the Government is not able to function in accordance with the constitution, then he is empowered to Proclaim Emergency in that State and take over the Government of that State in his own hands.
- c) ***Financial Emergency (Article - 360):***  
If president is satisfied that the financial stability of India or any part of India has been badly shaken, he may proclaim a financial emergency.

## III) VICE-PRESIDENT:

In the Indian constitution, there is provision for a Vice-President, who may officiate as a president if it becomes necessary.

### QUALIFICATION:

- i) He should be a citizen of India.
- ii) He must have attained the age of 35.
- iii) He should be qualified to be a member of the council of states.
- iv) He must not be holding any office of profit under the Union Government, State Government or any local self institution.
- v) He must not be member of any house of the parliament or the state Legislature. Even if he had been a member in House, the membership will fall vacant as soon as he is elected as Vice-President.

### ELECTION:

The Vice-President is elected by both the houses of Parliament, through single-transferable vote system.

### TERM :

The Vice- President is elected for a period of five years, but continues till the election of his successor. He can be removed from his post, but 14-days notice is to be given. If both the houses of parliament pass the impeachment motion, with clear majority, then Vice-President is removed from his post.



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## OFFICE:

Vice-President also acts as the chairman of Rajya Sabha/Council of States. He presides over the meetings of upper house

## PRIME MINISTER:

In the Parliamentary form of government, Prime Minister is more powerful. According to article 74(1) of the Indian constitution, there shall be council of Ministers presided by the prime Minister in order to aid and advice the president in his functions. The central nucleus is the Prime Minister and members of council revolve round him. Thus, Prime Minister is real ruler of the State. He is maker as well as destroyer of nation. He acts as head of nation as well as leader of the government.

## APPOINTMENT:

According to Indian constitution, President has to appoint Prime Minister. But in this appointment he is not independent. After general elections, the political party that emerges as winner with absolute majority, the leader of that party is appointed as prime Minister.

## TERM:

Generally, Prime Minister is appointed for five years. But in practice, term is not fixed. He continues to be Prime Minister till he enjoys the majority in Lower house of Parliament.

## FUNCTIONS AND POWERS OF PRIME MINISTER:

- i) The most important function of Prime Minister is to form cabinet, so that government can be run appropriately. He is fully independent in the formation of cabinet.
- ii) Prime Minister distributes portfolios among the cabinet ministers. While distributing portfolios, he deeply thinks of the talent and the position of the members in the party.
- iii) The ministers are in their posts till they enjoy the confidence of Prime Minister. If a particular minister does not accept the leadership of the Prime Minister, or does not agree with the decision of the cabinet, then he cannot remain as the minister.
- iv) Prime Minister acts as the leader of cabinet and whole cabinet works under his supervision. He calls the meetings and presides over them. Prime Minister coordinates the work of the various departments examines their working and resolves disputes between them.
- v) The Prime Minister acts as a link between President and council of Ministers. Whatever suggestion the President tenders, Prime Ministers conveys that to cabinet. In turn, if council seeks any help from President, they get it through medium of Prime Minister.
- vi) Prime Minister acts as the chief legal advisor of President. All information regarding the various matters going on in administration is conveyed to President by Prime Minister.
- vii) All appointments like governors of states, ambassadors to other countries, chief justice of India, judges of supreme court are appointed by president on due consultation of Prime Minister.
- viii) Prime Minister as leader of Parliament provides his/her guidance to meet the difficult situations and crisis in house. He also conveys information to parliament regarding the decisions of cabinet.
- ix) Prime Minister as the leader of ruling party needs to maintain control over party and its discipline in parliament.

## CHIEF MINISTER:

The government at state level is run by the council of ministers and, leader of council is chief Minister of the state. Chief Minister occupies the same position in the state as does the Prime Minister at the centre. He acts as the real ruler of the state.

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## APPOINTMENT:

According to constitution, the chief Minister is appointed by Governor, but not independently. The leader of the majority party in legislative assembly is appointed as chief Minister.

## TERM:

According to constitution, chief Minister remains in power as long as the Governor desires to continue. But in actual practice, chief Minister occupies his post as long as he enjoys the majority in the legislative assembly.

## POWERS AND FUNCTIONS:

- i) Chief Minister forms the cabinet and distributes port folio among the ministers.
- ii) Chief minister has authority to reorganize the council, if he is not satisfied with their performance.
- iii) Chief Minister calls the meeting of Council, presides over it, examines the work of cabinet, solves disputes between cabinet and brings unity among them.
- iv) Chief Minister acts as a link between Governor and Council of Ministers. He conveys decision of Council to governor, and, in turn governor's reaction to council.
- v) Chief Minister being chief Advisor of Governor, advises him on every matter regarding the Government.
- vi) All the activities in state legislative assembly are carried in presence of chief Minister.
- vii) On consultation of Chief Minister, Governor appoints the auditor general, president of state public service commission etc.

## COUNCIL OF MINISTERS:

The council of Ministers is that body in parliamentary system of government, which assists Prime Minister in centre and chief Minister in States respectively, in order to govern the people, and, run the administration.

## FORMATION:

After the general elections, the leader of the majority party at centre as well as at state respectively are appointed as Prime Minister and Chief Minister respectively. Then council of Minister is formed by Prime Minister at centre and chief Minister at State level. Both take some selected members from their party and form the council.

## TERM:

The term of ministry is not fixed. They remain in power as long as they enjoy the support of Lok Sabha.

## MINISTERS CATEGORIES:

Council of Ministers has three categories;

- i) **Cabinet Ministers:** The group of special ministers or minister with important port folio in council.
- ii) **Minister of States:** That group which are given an independent port folio.
- iii) **Deputy Ministers:** Those who do not enjoy any independent portfolio, but assist cabinet in its work.

## POWERS AND FUNCTIONS OF COUNCIL OF MINISTERS:

- i) The most important function of cabinet is to formulate policies regarding administration, in order to run the government efficiently.
- ii) Council Ministers collectively run the administration. They play an important role in law-making process.
- iii) Council exercises full control over the finance of the state and also presents the Budget.
- iv) The Governor of State exercises all his judicial functions in consultation with Council. They also advise Governor in appointment of various State officials.

## GOVERNOR:

The post of the Governor has been in India since British times, during British Rule he was an autocratic ruler, but after independence, Governor has been made nominal or constitutional head.

## APPOINTMENT:

The appointment of Governor is made by President, with consultation or consent of Chief Minister of state.

## QUALIFICATION:

- i) He should be citizen of India.
- ii) He must not be less than 35 years of age.
- iii) He should not be working in State or centre on some government post.
- iv) He must not be member of state legislative assembly or parliament.
- v) He should not be charged as criminal.

## TERM:

Governor remains in post as per the will of President. Generally, Governor is appointed for 5 years, but he can be transferred from one state to another. He can be removed from post as well as he can resign himself also.

## IMMUNITIES:

- i) Governor is not responsible to any court for exercising his powers.
- ii) During term, no criminal case can be lodged against him.
- iii) No court can imprison him or hold him as hostage during the term.
- iv) A civil case can be filed against him in his personal life, but he must be informed before two months.

## POWERS:

The powers of Governor are categorized into two;

- a) Powers as constitutional head.
- b) Discretionary powers.

## POWERS AS CONSTITUTIONAL HEAD:

- i) In Governor's executive set of powers, he appoints chief minister and other ministers on his recommendation, and distributes portfolios among them. He also appoints chief officials like chairman and members of state public service commission and judicial officers of district and subordinate courts.
- ii) Governor summons the session of state legislature, and declares the closure of session. He addresses the joint session of both chambers, addresses the inaugural speech and nominates 1/6<sup>th</sup> members of legislative Council. He signs the bills passed by legislative assembly and lays down ordinance in absence of assembly.
- iii) Governor presents Budget of state through Finance Minister of State and enjoys right to spend contingent Fund.
- iv) Governor accompanies President in appointment of chief justice and other judges of High Court. He can reduce or suspend punishment as well as can grant pardon to those who have been punished for violation of laws in state.

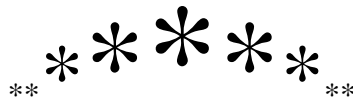
## DISCRETIONARY POWER:

It is that set of powers, which governor exercises as representative of President and, he is not bound to consult Chief Minister and his council. These include:

- i) Generally, Governor appoints leader of majority party as Chief Minister, but if chief Minister resigns, Governor can appoint a person of his choice, but he has to prove his majority in state legislative assembly.
- ii) If no political party gets clear majority, in such a case Governor calls for coalition.
- iii) In case of failure of constitutional machinery in a state, Governor on his own dissolves legislative assembly and calls for president's rule.
- iv) Governor has authority to appoint ministers for welfare of tribals. He also has right to get informed about any matter in government. (End....!)



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G.V.E.I.