

State Executive: Governor, Chief Minister, Cabinet

Governor: Constitutional Head of State

Appointment of Governor: The Governor is appointed by the President of India. A governor is appointed for a period of five years, but can continue in office till his successor joins the office.

Healthy precedents on appointment of governor:

- Governor should not be a resident of the state where he is going to be appointed.
- Before appointing a governor the Central Government should consult the Chief Minister of the state where the government is going to be appointed.

Eligibility Criteria:

- The person should be a citizen of India.
- The person shall be at least 35 years old.
- The person cannot continue to be a member of parliament or of state legislature once he/she is appointed as governor.
- The person cannot hold an office of profit.

Salaries and Allowances: A governor gets a monthly salary of rupees one lakh ten thousand. Additionally, he gets free accomodation, allowances and other

allowances as specified by the laws of the Parliament.

Power and Functions of Governor

Executive Powers: The Governor uses these powers himself and through the officials under him. He appoints the Chief Minister, and appoints other ministers on Chief Minister's advice. He appoints the chairperson and members of State Public Service Commission. The President needs to take advice from the Governor of related state while appointing the judges of a High Court.

Legislative Powers: The Governor calls the session of legislature, can stall the session and can dissolve the lower house of legislature. He addresses the first session of legislature after the general election.

Governor's assent is required for bill which is passed by the legislative assembly. He can reject a bill, or can return the bill to legislative assembly for review. If the legislative assembly passes the bill for the second time then Governor has to give his assent. He can preserve some bills for assent by the President.

Financial Powers: Any money bill cannot be introduced in the legislative assembly without prior approval of Governor. The consolidated fund of the state is under the Governor.

Judicial Powers: The Governor can reduce, or stay, or change, or forgive a punishment to a person who has committed a crime against the laws which are related to subjects which come under the executive power of the Governor.

Based on his report the Central Cabinet can give its recommendation to impose president's Rule in the state as per Article 356.

Being the Chancellor of the state, the governor can appoint or remove the Vice Chancellors of universities in the state except those of the central universities.

Other Powers: Apart from above powers, the Governor holds many other powers.

Governor's Position

While the Governor has not been given discretionary powers by the Constitution and he is expected to work as the constitutional head, still many situations arise when he needs to use his discretionary powers. Such situations can be as follows:

- Selection of the Chief Minister under special situation.
- Removing the Chief Minister
- Calling the session or ending the session of Legislative Assembly.
- Dissolving the Legislative Assembly.
- Seeking information from Chief Minister.
- Sending report to the President regarding constitutional situation in the state.
- Sending any bill (passed by the state legislature) for approval from the President.
- Returning a bill (passed by the legislature) for review.
- Requesting the President for directives before issuing an ordinance.

Actual Executive: Cabinet



Formation of State Cabinet

Appointment of Chief Minister: Article 164 says that the Governor will appoint the Chief Minister and will appoint the ministers on advice of the Chief Minister.

The accepted precedence on this matter is to appoint the leader of the majority party in the legislative assembly as the Chief Minister.

Selection of Ministers: The Chief Minister selects other ministers and he sends a list of their names and departments to the Governor. Formation of Cabinet is the privilege of the Chief Minister.

Eligibility for Ministers: It is necessary that a minister is a member of any house of the state legislature. If someone is not a member of the legislature at the time of appointment as minister then he needs to become a member of the legislature within 6 months.

Allocation of Portfolios to Ministers: The Governor allocates portfolios to ministers on advice of the Chief Minister.

Oath of Office for Ministers: A minister has to take two oaths before assuming office, i.e. of duty and of secrecy.

Categories of Ministers: The state cabinet too has three categories of ministers: (a) Cabinet Minister or Member of Cabinet, (b) State Minister and (c) Deputy Minister.

Tenure of Cabinet: The tenure of the cabinet depends on confidence of legislative assembly. Generally, the tenure of a cabinet is of 5 years which is same as the tenure of legislative assembly.

Collective Responsibility: The Cabinet is collectively answerable to the legislative assembly,

Salary and Allowances: According to Article 164 (5) of the Constitution, the state legislature has the right to decide on salary and allowances of ministers.

Powers and Functions of the Council of Ministers

- Policy making on governance
- Suggestion to the Governor for appointments at higher posts
- Representing the government in legislature
- To decide on legislation

- Preparation of Budget

Chief Minister

Chief Minister is the actual head of state executive. Thus, he enjoys the same status in administrative system of the state as the Prime Minister does at Centre.

Appointment of Chief Minister: Article 164 of the Constitution says that the Governor will appoint the Chief Minister. In practice, the governor appoints the leader of the majority party in legislative assembly as Chief Minister.

Powers and Functions of Chief Minister

- Formation of Cabinet
- Allocation and change of portfolios of Ministers
- Operation of the Cabinet
- Coordination among different departments
- Establishing Connection between the Cabinet and Governor
- Leader of Legislative Assembly

High Court

A High Court is the topmost judiciary body in a state. Article 214 says that each state shall have a High Court. In some cases, a High Court is shared by two or more states.

Composition of High Court: Article 216 says that each High Court comprises a Chief Justice and judges who will be appointed by the President as and when required.

Appointment of Judges: The President appoints the Chief Justice of a High Court on advice of Chief Justice of the Supreme Court and the Governor of the related state. He appoints other judges on advice from the Chief Justices of the Supreme Court & High Court and Governor.

Eligibility for Judges: Article 217 (2) says following eligibility criteria for judges:

- The person should be a citizen of India.
- The person should have worked on a judiciary post in that state for at least 10 years.
- The person should have worked as advocate for at least 10 years in the High Court or in two or more courts in the state.

Tenure: Article 217 (1) says following rules about tenure of judges:

- A judge will continue in office till 62 years of age.
- A judge can submit his resignation to the President of India.
- A judge can be removed by the President by passing the proposal by two-thirds majority of both houses of Parliament.

Administration of Oath: According to Article 219, the judge of a High Court will take oath of office in front of the Governor of that state or in front of a person who is appointed by the Governor for that purpose.

Transfer of Judges: Article 222 says that the President can transfer a High Court judge on the advice of the Chief Justice of the Supreme Court.

Salaries of Judges: Article 221 says that salary of judges shall be fixed by the Parliament. At present, the Chief Justice gets rupees 90,000 per month and judges get Rs. 80,000 per month.

Independence of High Court: Following provisions have been made to ensure independence of High Court:

- Special procedure for appointments
- Fixed tenure
- Parliament cannot discuss conduct of judges except impeachment.
- After retiring a judge cannot practice as lawyer in those courts where he had served as judge.

- Separate from executive

Power and Functions of High Court: Following are the powers and functions of High Court: Original Jurisdiction: This jurisdiction primarily means hearing of cases by the High Court. The cases can be from the following aspects:

- Dispute regarding election of members of Parliament or of state legislature.
- Dispute regarding revenue collection.
- Cases related to admiralty, probate, marriage, company law, divorce, etc.

Writ Jurisdiction: Article 226 says that High Court can issue habeas corpus, writ, embargo, quo warranto and certiorari. While the Supreme Court can only issue writ for fundamental rights, the High Court can issue writs for fundamental rights as well as for other rights.

Appellate Jurisdiction: The appellate jurisdiction of High Court can be of three categories:

- Civil: An appeal can be filed in the High Court against district courts in cases of income tax, patent, design, inheritance, etc.
- Criminal: If a criminal has been given the sentence of four or more years or death sentence by a session court, he can appeal in the High Court.
- Constitutional: If interpretation of Constitution is involved then the case can be appealed in the High Court.

Court of Records: Article 215 says that each High Court is a court of record, and High Court has to issue punishment against Contempt of Court. Judgments of High Court shall be preserved as record and will serve as law for subordinate courts.



Administrative Powers: Following are the administrative jurisdiction of High Court:

Administrative Powers: Following are the administrative jurisdiction of High Court:

- High Court can demand letters/decisions from any subordinate court and investigate them.
- High Court has to ensure that a subordinate court is doing its duty as per the protocol and is not transgressing its power.
- It can transfer any case from one court to another for hearing and decision.

Judicial Review: High Court can declare a work by state legislature and executive as void. In fact, state government is composed of legislature, executive and judiciary of that state