

## GOVERNANCE AT THE STATE LEVEL

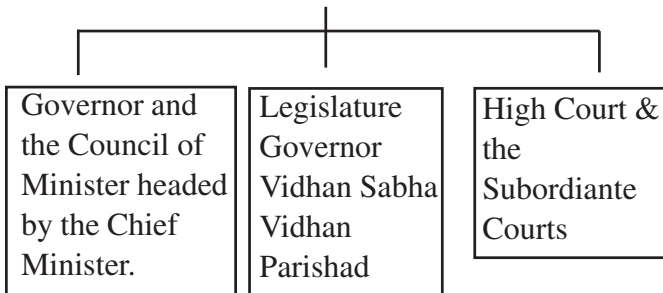
L.No	Title of Lesson	SKILLS	Activity
19	Governance at the State Level	Critical Thinking, Decision Making, Effective Communication	To Understand of the Composition and Functions of Legislature, Executive and Judiciary, and Found at the State Level

### Meaning

India is a Federation having governments at two levels i.e. State level and Union or Central level. The three branches of government- executive, legislature and judiciary exist and function at both the levels.

India has a parliamentary form of democracy both at the State as well at the Union level. In this system, the executive powers of the State are vested in the Governor by the Constitution. The head of the State is Governor but he/she acts as a nominal head. The real executive powers are exercised by the Council of Ministers headed by a Chief Minister.

### Governance at the State Level



### Appointment of the Governor

**Governor :** The Governor of a State is appointed by the President of India for a term of 5 years.

The Governor holds his/her office during pleasure of the President which means that the Governor may be removed by the President even before the expiry of his/her term. He/She may resign earlier.

### Powers of the Governor

The powers of the Governor are as under -

- (i) **Executive Power** - He/she appoints the chief Minister and other members of the council of ministers. He/she appoints the Advocate General, Chairman and members of the State Public Service Commission and also the judges of the subordinate courts.
- (ii) **Legislative Powers** - Governor is the part of the state legislature. He/she can address the session of the assembly and or joint session of both the houses. No bill can become law without his/her consent.
- (iii) **Financial Power:** No money bill can be introduced in the State Legislature Assembly without the prior permission of the Governor. The annual budget is introduced in his/her name.

- (iv) **Discretionary Powers:** If no political party wins majority, then Governor uses his discretionary power to invite a person to be the Chief Minister. He/she is a link between State and the Centre. He is the representative of the Union Government.

### Relationship between the Governor and the Council of Ministers

- The State executive consists of the Governor, the Chief Minister and the Council of Ministers. The Governor exercises all his/her powers on the advice of the Council of Ministers.
- The Chief Minister is appointed by him/her provided he/she is the leader of the majority party in the legislative Assembly.
- The Chief Minister communicates to the Governor all the decisions of the Council of Ministers.
- The real powers are exercised by the Council of Ministers headed by the Chief Minister. However, the Governor is not just a constitutional or nominal head. He/She can exercise his/her powers effectively under certain circumstances, especially when there is political instability in the State. Hence, the discretionary powers make the Governor to act as a real Executive in particular circumstances.

### The Chief Minister and the Council of Ministers

The Council of Ministers with the Chief Minister as its head functions as the real Executive. The Chief Minister and other members of the Council of Ministers are appointed by the Governor. Their term of office is for five years. They remain in office till they enjoy the support of the majority in the Assembly. If a person who is appointed as the Chief Minister or a Minister, is not a member of the State Legislature, he/she has to become member of any of the two houses within six months of his/her appointment.

### Functions of the Chief Minister and Council of Ministers

Chief Minister is the real Head of the Government in the State. The functions of the Chief Minister are:

- Presides over the meetings of the State Council of Ministers and coordinates the functioning of different ministers;
- Guides the framing of the policies and programmes for the State;
- Is the sole link of communication between the Council of Ministers and the Governor;
- Submits any matter on which decision has been taken by a Minister for consideration of the Council of Ministers.

### Position of the Chief Minister

He is the real executive head of the State. It is he/she who formulates the policies and guides the Council of Ministers. If his/her political party has an absolute majority in the legislative Assembly he/she becomes the most powerful functionary. However, while working with a coalition government his/her role gets restricted. The partners force her/him to fulfill their wishes.

### State Legislature

In India every State has its own legislature. They are of two kinds i.e. bicameral and unicameral. Bicameral legislature has two houses - lower house and the upper house. In a unicameral legislature the house is known as legislative assembly or Vidhan Sabha whereas in the bicameral legislature the two houses are known as legislative assembly and legislative council i.e. Vidhan Sabha and Vidhan Parishad. At present, only five States i.e. Bihar, Jammu & Kashmir, Karnataka, Maharashtra and Uttar Pradesh have *bicameral* legislatures and the remaining 23 States have *unicameral* legislatures.

### Composition of State Legislature

According to the Indian Constitution, no Legislative Assembly shall have more than 500 members and less than 60 members. However, very small States like Goa, Sikkim and Mizoram have been allowed to have less than 60 members. Seats are reserved for the Scheduled Castes and Scheduled Tribes in the Legislative Assembly. The members of Legislative Assembly are directly elected on the principle of universal adult franchise.

The tenure of the Vidhan Sabha is of five years. However, the Governor may dissolve the Assembly earlier on the advice of the Chief Minister. During emergency the term of legislative assemblies can be extended for a period not exceeding one year at a time.

The Legislative Council or Vidhan Parishad shall not have more than one third of the total membership of the State Legislative Assembly but not less than 40. The Legislative Council in Jammu & Kashmir has 36 members as an exception. The members of the Legislative Council are partly elected indirectly and partly nominated.

### Composition of the Legislative Council

- One-third members are elected by the members of local bodies such as municipalities;
- Another one-third members are elected by the members of the Legislative Assembly;
- One-twelfth members are elected by the electorate consisting of graduates of the State of not less than three years standing;
- Another one-twelfth are elected by the electorate consisting of teachers having three years experience not lower than secondary schools;
- The remaining one-sixth members are nominated by the Governor of the State.
- Members of legislative council are elected/nominated for 6 years. One third of its members retire after every two years.
- The Vidhan Parishad is a permanent house. Unlike Legislative Assembly, it cannot be dissolved.

### Function of the State Legislature

- **Legislative Function**
  - State legislature makes laws on the subjects mentioned in the state list.
  - Ordinary bills can be introduced in either of the house and money bills can be introduced only in Legislative Assembly.
- **Control over the Executive**

The state legislature keeps control over the executive by asking questions, supplementary questions, adjournment motions, calls attention motion and no confidence motion.
- **Electoral Functions**

The elected members of Vidhan Sabha elect the members of Rajya Sabha. Participate and vote for the election of President of India.
- **Functions related to Constitutional Amendment**

For amending some special provisions of the constitution, ratification by not less than half of the State Legislature is required.

### High Court and the Subordinate Courts

In India, there has to be a High Court for every State. However, if need be a High Court may have more than one State under its jurisdiction. As an exception we find that the Guwahati High court acts as a common High Court for the States of Assam, Meghalaya, Arunachal Pradesh, Nagaland, Manipur and Tripura. Similarly, the Union Territories come under the jurisdiction of the High Court of the neighbouring States.

### Organisation of the High Court

Each High Court has a Chief Justice and Judges. The Chief Justice and Judges of High Courts are appointed by the President. For appointment of the Chief Justice of the High Court, the President consults the Chief Justice of Supreme Court, whereas for the Judges, he/she consults the Chief Justice of the concerned High Court. and the Governor of the concerned State.

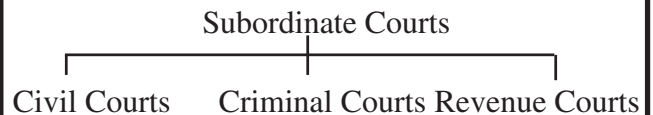
Judges can be transferred from one High Court to the other by the President on the advice of the Chief Justice of India. While appointing a Judge of a High Court, the person concerned should possess the following qualifications. He/She: should be a citizen of India; should have held a judicial office in the territory of India for at least 10 years; or should have been an advocate in one or more High Courts for at least ten years continuously without break.

The Judges of High Court hold office till they attain the age of 62 years. Judge can be removed from office through an impeachment process by parliament on grounds of proved misbehavior or incapacity.

### Jurisdiction of High Court

- The High Court has original and appellate jurisdictions.
- The High Court exercises original jurisdiction for the enforcement of Fundamental Rights and other legal rights.
- High Courts hear appeals against the judgments of the subordinate courts.
- In civil cases, an appeal may be filed before the High Court against the judgment of a District Judge.
- In criminal matters, appeal may be made before a High Court against the judgment of a Sessions Court, where the sentence of imprisonment exceeds seven years.
- The High Court is a Court of Record. All the subordinate courts follow the judgments of the High Court.
- High Courts may also punish for contempt or disrespect of the Court.

### Subordinate or Lower Courts



**Civil Cases:** These cases pertain to disputes between two or more persons regarding property, breach of agreement or contract, divorce or disputes between landlords and tenants.

**Criminal Cases:** These cases relate to theft, robbery, rape, pick-pocketing, physical assault, murder etc. These cases are filed in the criminal courts by the police, on behalf of the State.

**Revenue Courts** Board of Revenue exists at the State level, Under it are the Courts of Commissioner, Collectors, Tehsildars and Assistant Tehsildars. The Board of Revenue hears the final appeals against all the lower revenue courts under it.

### Evaluate Yourself

- Q. Highlight any two discretionary powers of the Governor.
- Q. “The Chief Minister and the Council of Minister sink and swim together.” Do you agree? Support your answer with any two suitable arguments.
- Q. Explain the organisation and jurisdiction of the High Court of a State.