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The Office of the Governor

What is the issue?

The role of the Governor has been a contentious one, right from the Constitutional Assembly debates to the Supreme Court cases around it.

What are the recent issues?

- **Jharkhand-** The prolonged silence of Jharkhand's Governor over Chief Minister Hemant Soren's possible disqualification as an MLA resulted in political uncertainty.
- **Delhi-** There was a power spat between the Delhi government and the Lieutenant Governor over the appointment of bureaucrats
- **Tamil Nadu-** The deadlock between the Tamil Nadu government and Governor R.N. Ravi over assenting to the National Eligibility cum Entrance Test (NEET) exemption Bill is another recent happening.
- **West Bengal-** There was a prolonged discord between former West Bengal Governor Jagdeep Dhankhar and Mamata Banerjee government.
- **Puducherry-** Discontent over Governors interfering with day-to-day administration was reported when Kiran Bedi was serving as the Governor of Puducherry.

How did the post of Governor come about?

- When India was administered by the British Crown, provincial Governors were agents of the Crown, functioning under the supervision of the Governor-General.
- With Government of India Act, 1935, the Governor was now to act in accordance with the advice of Ministers of a province's legislature, but retained special responsibilities and discretionary power.
- Under the parliamentary and cabinet systems of governance adopted by the independent India, the Governor was envisaged to be the Constitutional Head of a State.

What constitutional provisions talk about the Governor's role?

- **Articles 154 and 155-** The Governor is to be nominated by the President as the executive head of the State.
- **Article 164-** The Governor appoints the Chief Minister after an election and the Council of Ministers on the advice of the CM.
- **Article 163-** The Council of Ministers of a State with the Chief Minister as the head should aid and advise the Governor in carrying out his functions.

- **Article 167**-It empowers the Governor to ask the CM to furnish any information regarding the administration of the affairs of the State and proposals for legislation.
- It also empowers the Governor to ask the CM to submit for consideration to the Council of Ministers, a decision that was taken without the Council's consideration.
- **Article 174**- The Governor can also summon, prorogue, and dissolve the Legislative Assembly.
- By convention, he does this on the advice of the Council of Ministers while they enjoy the confidence of the Assembly.
- **Article 200**- Every Bill passed in an Assembly has to be sent to the Governor, after which he has four options — assent the Bill, withhold assent, reserve the Bill for President or return the Bill to the legislature for reconsideration.

What provisions are available regarding Lieutenant Governor?

- **Article 239**- Each Union Territory will be administered by the President through an administrator appointed by him.
- The administrators in some UTs are designated as Lieutenant Governors as for the National Capital Territory of Delhi (**Article 239AA**).
- The Lt. Governor of Delhi also acts on the advice of the Council of Ministers **except on the subjects of police, public order, and land**.
- In case of a difference of opinion with the Ministers, he would have to consult the President.

What about the Supreme Court's interpretation?

- **Shamsher Singh vs State of Punjab (1974)**- The Supreme Court said that President and Governor shall exercise their formal constitutional powers only upon and in accordance with the advice of their Ministers.
- **S.R. Bommai case (1994)**- The imposition of President's Rule shall be only in the event of a breakdown of constitutional machinery.
- The Supreme Court ruled that the floor of the Assembly should be the only forum that should test the majority of the government of the day, and not the subjective opinion of the Governor.
- **Political crisis in Arunachal Pradesh (2015)**- The Governor, acting without the advice of the Chief Minister, advanced the Assembly session and listed removal of the Speaker as the agenda.
- The Supreme Court held the Governor's move as violation of the Constitution.
- The Supreme Court highlighted that the area for the exercise of Governor's discretion is limited.

What about the Commission recommendations?

- **The Sarkaria Commission (1988)**- It would not be desirable to appoint a Governor who is a member of the ruling party at the Centre, in a State where an Opposition party is governing.
- It said that the Governor appointee should be a detached outsider and a person of eminence in some walks of life.
- **M.M Punchhi Commission (2007)**- Governors were expected to be independent,

and to act in a manner devoid of any political consideration.

References

1. <https://www.thehindu.com/news/national/federalism-the-office-of-the-governor-in-india/article65882166.ece?homepage=true>
2. <https://www.thehindu.com/news/national/other-states/explained-hemant-soren-and-the-jharkhand-political-crisis/article65833493.ece>

Quick facts

Jharkhand Political Crisis

- A complaint was given to Jharkhand Governor alleging that CM Hemant Soren misused his office by allocating a stone quarrying lease on government land to himself while he was the Minister-in-charge of mines.
- This act was in violation of Section 9(A) of the Representation of the People Act, 1951.
- The ECI wrote to the Governor, presenting its decision in a sealed envelope.
- However, the Governor has yet to come out with any decision over the reported notice of the commission.



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