

# Governor in the Union System of India: An Overview

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## ABSTRACT

India is one of the largest democratic countries in the world. It is also a country that has adopted parliamentary democracy. India is a federal system consisting of both central and state governments. While the President is the constitutional highest office at the Centre, the governorship is the constitutional highest office in the states. Similarly, if the President becomes the first citizen of the country, the Governor becomes the first citizen of the state. But an important difference here is that the President is elected through indirect election. But the Governor is not elected by election but appointed by the President on the recommendation of the central Government. While appointing the Governor, the Central Government recommends persons to the President who will listen to them.

The Governor acts as the representative of the Centre. There is also the exception that when the Governor acts at the behest of the Central Government or in favor of the Centre; this is also true. Central governments have misused the post of Governor many times. No matter which party is in government at the centre, they have used the post of governor to their advantage. The office of governor has been and is being used to destabilize or depose the government of his opposition party in the state. This article tells how the post of Governor has been misused since the independence of India till now. The article is all about the democracy and constitutional aspirations of federal system.

**Keywords:** Democracy, Federal, Constitutional, Governor, Central, Government.

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## INTRODUCTION

The Constitution of India envisages the same pattern of government in the states as that for the centre, that is, a parliamentary system. Part VI of the Constitution deals with the government in the states. Article on 153 to 167 in part VI of the constitutional deal with the state executive. The state executive consists of the Governor, the Chief Minister, the council of ministers and the advocate general of the state. The Governor is the chief executive head of the state. But, like the president, he is a nominal executive head (titular or constitutional head). The Governor also act as an agent of the central government. Therefore, the office of governor has a dual role. Usually, there is a Governor for each state, but the seventh Constitutional Amendment Act of 1956 facilitated the appointment of the same person as a Governor for two or more states.

Article 154 of the Constitution vests all the executive powers of the state in the Governor. The Governor of a state is appointed by the President by warrant under his hand and seal and holds office during his pleasure. Any citizen of India who is over 35 years of age is eligible for the office of the Governor. The person who is appointed day Governor cannot remain member of either House of Parliament or of a House of the Legislature of any state. If any such is appointed as a Governor, he shall be deemed to have vacated the seat in Parliament or State Legislature. He must not hold any other office of profit.

The term of the office of the Governor is for five years, he can be given another term also after the completion of his term, he continues in office till his successor joins the office. He can be terminated earlier either by dismissal by the president or through resignation. Transfer of Governors from state to another state is a violation of Constitution because they have to take fresh oath of office meaning thereby a fresh term of five years, therefore, it implies that he/she should not be transferred. The Governor is entitled to such emoluments, allowances and privileges as may be determined by Parliament.

**Overview:**

One of the most debated issues since India became a democracy has been the Union-State relationship. The Constitution of India has emphasized the importance of parliamentary system of governance not only at the central level but also at the state level. However, there is a significant difference here. At the state level, there is a Cabinet headed by a Chief Minister who is answerable to the Legislative Assembly. The President is elected, but the Governor, who is the first citizen of the state, is not an elected person; He is an appointed person. No matter which party or alliance is in power at the Centre, the post of Governor is mired in controversy.

There are three dimensions to the problem here. First, there is a lack of clarity regarding the governor's responsibilities. Is the governor a representative of the center or a link between the center and the state? Is the real power at the state level vested in the Cabinet headed by the Chief Minister (which is answerable to the democratically elected Legislative Assembly) or does the Governor play an active role in the governance of the state? When the ruling parties are different in the state and the center, the conflict between the chief minister and the governor is also a major nuisance in the functioning of the republic.

The second dimension of the problem is that of who should be appointed as governor. The Constituent Assembly discussed this issue in detail. The Constitution mentions some general points regarding the eligibility to be appointed as Governor. Jawaharlal Nehru and Dr. B. R. Ambedkar had said that as far as possible politicians should not be appointed to the post of Governor. He said that elders from different sectors of the society should be appointed there. But since the Constitution was promulgated, it has been less followed. Studies show that eight out of every ten governors appointed are active politicians.

Article 356 is one of the most misused articles of the Constitution in the last 74 years. It makes it necessary for the central government to impose President's rule in a state, when the constitutional system 'breaks down'. It is the Governor who decides whether the constitutional system has 'collapsed'. After concluding that the government does not have a majority in the House, without waiting for the majority test in the Assembly, the Governor would send a letter to the Center recommending the President's administration. But after the Supreme Court verdict in the S. R. Bommai case, the misuse of this provision has reduced. However, conflicts between the governor and the chief minister are everywhere in the country. This is evident when the ruling parties at the center and the state are different.

This draws attention to the third dimension. In other words, the Constitution says that the President should appoint the Governor. That is, in practice, this appointment should be made based on the advice of the Union Cabinet. The leaders in the Constituent Assembly were confident that the Chief Minister would be consulted before appointing the Governor. Although this was followed in the early years, later this practice was abandoned. Instead of consulting with the Chief Minister, the Chief Minister is being informed about the appointment of the Governor. In many cases, the Chief Minister is also informed in the same way that the public is informed about the appointment of the Governor of a state. This happens more when the ruling party at the center and the ruling party in the states are different.

Its purpose is clear. The governor represents the center and waits for an opportunity to dismiss the state government as soon as it comes and uses it. The saying is more applicable to the first four decades of the country's republic. But after the verdict in the Bommai case, the governor found new ways to disrupt the state governments. This point becomes more clear when two main things are observed. Dismissal process of state governments which happened mostly during Congress rule at the Centre; A controversial move by the Governor in recent days in states where anti-BJP parties are in power. The state governments have from time to time proposed that more powers should be devolved from the central government to the states in financial and administrative matters. However, it has not received much attention.

The Congress party was the dominant political force at the center for decades. From the late 1980s onwards, it became weaker. Until then, the party had not hesitated to dismiss the government in states where its opposition party was in power. Even the Janata Party government that came to power at the Center in 1977 did not hesitate to do the dirty work of the Congress. It dismissed seven Congress-ruled state governments. In 1994, the Supreme Court said in the S. R. Bommai case that the Central Government's discretionary power under Article 356 of the Constitution was 'not beyond question'. Only after that the situation changed. In 1987, the Congress, which was in power at the Centre, dismissed the Janata Party government led by Bommai. Bommai had approached the court questioning this. In this case, a historic judgment came from the Supreme Court and after 1996, the government of the coalition government at the center started, which put an end to this process of dirty display of power by those at the helm of the government. Until then, the Congress used to dismiss the state governments as if it were very natural. The process began in 1959 with the sacking of Kerala's government led by E.M.S. Namboodiripad, one of the world's first elected communist governments. That government was sacked within two years of coming to power.

Over the past few years, especially in the last two decades, the role of the Governor and the power he and the state governments wield has drawn attention. Interestingly, there has been no proper discussion or serious action on the part of the Central Government regarding the half-hearted proposals of the State Governments to provide financial grants to the States. However, only the controversial role handled by the Governor has come to the center of the debate.

If we look at some of the steps taken by some governors in the past few years, it is clear that they were steps to create chaos in the relationship between the state and the centre. No state ruled by a political party opposed to the BJP has gone unchallenged against its governor. Tamil Nadu, Kerala, Telangana, Delhi, Jharkhand, Rajasthan and West Bengal and Maharashtra had their own complaints. All this started when Kiran Bedi was the Lieutenant Governor of Puducherry. Kiran Bedi was involved in a long fight with the Chief Minister V. Narayanaswamy. After the Aam Aadmi Party came to power in Delhi, not a single day goes by without a fight with the Lieutenant Governor of Delhi.

Here is an interesting thing. There is a common phenomenon seen in the tug of war between governors and state governments. That is the appointment of chancellors of universities. Governors are Chancellors of Universities Yes. The states of Kerala, West Bengal and Telangana have come forward to take away the power of the Governor in the matter of appointing Chancellors. This has also been opposed by the governor there. The Trinamool Congress-led government in West Bengal appointed chancellors to 24 universities. But then Jagdeep Dhankar who was the governor there (he was constantly clashing with the government there). He said that this appointment has no legal validity. The Left government in Kerala was surprised to accept the re-appointment of the chancellor of the Abdul Kalam Technical University by Governor Arif Mohammad Khan. But in the end the order of the Governor was obeyed. The Governor issued an order removing 10 chancellors who were appointed by the state government.

Tamil Nadu Governor R. N. Ravi walked out of the assembly session there and it became news recently. It is customary for the Governor to address the first session of the New Year. Governor Ravi added a few words of his own in his speech. He left out some words in the speech which was prepared and approved by the state cabinet. As the head of the state government, it is customary for the governor to read the policy statement in the manner desired by the government. It is a rare instance of Ravi leaving out the words in his speech. Due to Ravi's action, the ruling DMK party met President Draupadi Murmu and requested him to recall Ravi. Thus, such situations have happened and continue to happen in the country.

## **CONCLUSION**

Even after 75 years since the country became a republic, political leaders must come to a consensus to ensure the smooth functioning of key political institutions. These institutions should not be used for political enmity. As the republic completes 75 years and moves beyond, this will be a very important reform to ensure that the rules of the republic are obeyed as per their wish. Also, the office of the governor should function smoothly and as per the wish of the constitution. The post of Governor also has its own dignity; it is the duty of every citizen to uphold its dignity. In that regard, it is the responsibility of everyone to be conscious and make the union system strong, maintain honesty and lead democracy successfully. It should not undermine any constitutional institutions or functions. If constitutional institutions and positions are weakened, democracy will be weakened.

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