Subject Name: Constitution Law
Topic Name: Appointment and Removal of Governor

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The State's executive authority is entrusted to both the Governor, who serves as the Constitutional Head of the State, and the State Council of Ministers. Article 153 of the Constitution mandates the presence of a Governor for each State. However, it allows for the possibility of appointing the same individual as Governor for two or more States, thereby providing flexibility in governance arrangements.

Appointment and Term of Office

The Governor is appointed by the President through a warrant under their hand and seal, as outlined in Article 155. This appointment is made based on the advice of the Prime Minister of India, establishing the Governor as a representative of the Centre within the State.

However, it's crucial to note that the Governor does not serve as an employee under the Government of India.

The Governor's position is considered independent, not subject to the control or subordination of the Government of India. In the case of **Hargovind v Raghukul Tilak (AIR 1979 SC 1113)**, the Court emphasised this independence, asserting that the Governor is not answerable to or directed by the Government of India in the execution of their functions and responsibilities.

Furthermore, the Governor holds a significant constitutional office, being the head of the State, and is entrusted with vital constitutional duties and functions. Consequently, the Governor cannot be classified as an employee or servant of the Government of India.

The Governor serves a term of five years from the date of assuming office, and continues until the arrival of their successor, according to Article 156(3)-(4). Reappointment is permissible after completion of a term, either in the same State or another.

Qualifications for the Governor's appointment include being an Indian citizen and reaching the age of 35, as specified in Article 157. While there's no restriction on selecting a Governor from among Members of Parliament or State Legislatures, such appointees immediately cease their membership upon assuming the Governor's role. Additionally, the Governor cannot hold any other office of profit, as stated in Article 158(1)-(2).

The Governor is entitled to official residences, without paying rent, and receives emoluments, allowances, and privileges determined by Parliament, which cannot be reduced during their tenure (Article 158(3)-(4)).

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The Governor's oath or affirmation is administered in the presence of the Chief Justice of the High Court or the most senior judge of that State's High Court (Article 159). In the event of the Governor's demise, the Chief Justice assumes the role of 'acting Governor' as per Article 160.

Furthermore, Article 160 empowers the President to make suitable arrangements for the discharge of the Governor's functions in unforeseen circumstances not addressed in this Chapter.

Removal of Governor

The termination of a Governor's normal term can occur through dismissal by the President or by resignation. According to Article 156(2), a Governor may resign by submitting a written resignation addressed to the President. However, the Constitution does not specify the grounds for the removal of a Governor by the President. Article 156(1) states that the Governor holds office at the pleasure of the President, and the expression of displeasure by the President is not subject to judicial review.

During the deliberations of the Constituent Assembly, there was intense debate over the authority that Governors should possess. The resulting Constitution established the Governor as a Presidential appointee serving at the President's pleasure. The Governor was envisioned to act akin to a constitutional sovereign, guided by the advice of the Chief Minister and Council of Ministers, with discretionary powers. However, this discretion provided the Central Government ample opportunity to influence State affairs, leading to confusion and resentment.

The issue of the Governor's tenure gained significance on a federal level, with concerns that the Central Government could use the uncertainty of tenure, including transfers to other States, to sway the Governor's decisions. Scholars like H.M. Seervai and L.P. Singh expressed apprehension about Governors' ability to function impartially under the constant threat of dismissal or transfer.



In the landmark case of **B.P. Singhal v Union of India [(2010) 6 SCC 331],** the Supreme Court unanimously ruled that Governors cannot be dismissed arbitrarily based on the Central Government's loss of confidence or disagreement with its policies.

The Court acknowledged the high constitutional office held by Governors and emphasised the need for safeguards to limit the power of removal under Article 156(1). Limited judicial review is available if the removal is arbitrary or mala fide, although reasons for removal need not be disclosed.

The Supreme Court stressed that in a democratic country like India, governed by the rule of law, the doctrine of pleasure must be exercised for valid reasons and not at the whim of the authority. The withdrawal of pleasure should not be arbitrary but based on justifiable grounds.