Subject Name: Constitution Law
Topic Name: State Legislature

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Introduction

The State Legislature comprises the Governor and one or two Houses. When a State has only one House, it goes by the moniker Legislative Assembly ('Vidhan Sabha'). The other setup is the Legislative Council ('Vidhan Parishad') as per Article 168.

Presently, six States boast a bicameral legislature: Andhra Pradesh, Bihar, Jammu & Kashmir, Karnataka, Maharashtra, and Uttar Pradesh. Conversely, all other States possess a single House.

The establishment or abolition of Legislative Councils in a State falls under the purview of Parliament, based on the recommendation of the concerned State's Legislative Assembly.

Furthermore, the actual capacity of each house is determined by Parliament. Legislative Councils in Tamil Nadu, Punjab, and Bengal were revoked by Parliament. However, in 2007, the Andhra Pradesh Legislative Council, dormant since its abolition in 1985, was reinstated through parliamentary legislation. Notably, there is no Legislative Council in Madhya Pradesh as the requisite amendment to establish it has not been enforced.

Legislative Assembly

The Legislative Assembly, often referred to as the 'popular House' of the State Legislature, comprises directly elected representatives of the populace. Its size ranges from 60 to 500 members across different States, contingent upon population, as outlined in Article 170(1).

Additionally, the Governor holds the authority to nominate one member from the Anglo-Indian community to their State's Legislative Assembly, as per Article 333. Article 332 allows for the reservation of seats for SCs/STs in the Legislative Assemblies.

The Assembly operates on a five-year term but can be dissolved prematurely at the behest of the Chief Minister, sanctioned by the Governor. Moreover, during a national emergency, Parliament

can extend its tenure for up to one year at a time, though not beyond six months following the cessation of the emergency, as stipulated in Article 172.

Qualifications for M.L.A.

The eligibility criteria for becoming a Member of the Legislative Assembly (MLA), as per Article 173, stipulate that an individual must:

1. Be a citizen of India and solemnly make and subscribe, before a duly authorised person appointed by the Election Commission, an oath or affirmation in accordance with the prescribed form delineated in the Third Schedule.

2. Attain the age of 25 years or above.

3. Possess any additional qualifications as may be specified by or under the legislation enacted by Parliament.

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Legislative Council

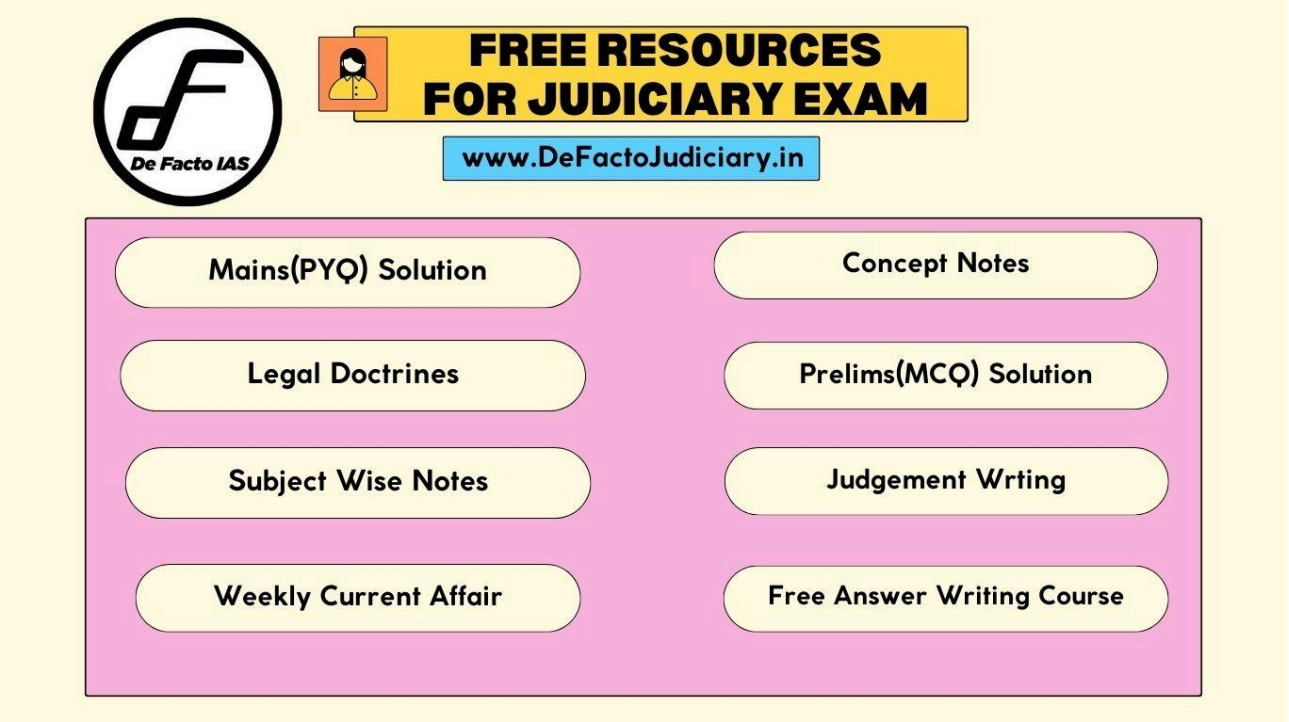
The Legislative Council, often regarded as the 'upper House' of the State Legislature, encompasses a diverse array of members. Its composition includes individuals elected by the Legislative Assembly (one-third), representatives chosen by local bodies (one-third), delegates elected by teachers (one-twelfth), university graduates (one-twelfth), and nominees of the Governor, selected from experts in various fields such as literature, science, art, cooperative movement, and social service (one-sixth), as per Article 171.

The maximum capacity of the Legislative Council is set at one-third of the total membership of the respective State's Legislative Assembly, with a minimum threshold of 40 members. Unlike the Legislative Assembly, the Legislative Council is a permanent institution and is not subject to

dissolution. It operates on a six-year term, with one-third of its members retiring every two years. The Council elects both a Chairman and a Vice-chairman from among its members.

To qualify for membership in the Legislative Council, an individual, according to Article 173, must meet the following criteria:

1. Hold Indian citizenship.
2. Attain the age of 30 years or above.
3. Possess any additional qualifications as may be specified by Parliament from time to time.



Disqualification for Membership of State Legislature

Article 191 delineates the conditions under which an individual shall be disqualified for candidacy or membership in the Legislative Assembly or Legislative Council of a State:

1. Holding any office of profit under the Government of India or any State government.
2. Being adjudged of unsound mind by a competent court.
3. Being an undischarged insolvent.
4. Lacking Indian citizenship, voluntarily acquiring foreign citizenship, or pledging allegiance to a foreign State.
5. Being disqualified by or under any law enacted by Parliament.

Explanation: Merely holding a ministerial position, whether at the Union or State level, shall not be construed as holding an office of profit under the respective government.

Additionally, Article 191(2) stipulates disqualification for Legislative Assembly or Legislative Council membership under the Tenth Schedule, concerning defection.

In case of any dispute regarding the applicability of disqualifications mentioned in Article 191(1), the matter shall be referred to the Governor for a final decision. The Governor, before rendering a decision, shall seek the opinion of the Election Commission and act accordingly (Article 192). Similarly, questions pertaining to disqualifications under the Tenth Schedule shall be referred to the Chairman or Speaker of the respective House, whose decision shall be conclusive.

It's essential to note that Article 192 applies exclusively to disqualifications arising after a member's election. Pre-existing disqualifications fall outside the jurisdiction of the Governor and the Election Commission under Article 192 and can only be addressed through an election petition filed before a court.