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President

Lesson 1

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Election of President

1. Electoral college

- Elected members of both the Houses
- Elected members of LA of the states
- Elected members of LA of Delhi & Puducherry

1. Who does not take part ?

2. If an assembly gets dissolved/suspended?

Introduction

1. Articles in Constitution 52- 78 (Part -5)

2. Prez is a part of Union Executive

3.Position of Prez

Election of President

1. Value of vote of 1 MLA = (Total Population of a state / total no of elected members) * 1/1000

2. Value of vote of 1 MP = (Total value of all the MLAs / total no of elected MPs)

3. Inference

Election of President contd.

1. **Method** – Single Transferrable vote
2. **Minimum no of votes**=(Total votes polled/2)+1
3. **Settling the dispute**

Single Transferrable vote

	Candidate A	Candidate B	Candidate C	Candidate D
Iteration 1	2	4	3	1
Iteration 2	1	3	2	-----

Why indirect election for Prez ??

Is it justiciable for the Head of the State to get indirectly elected?

1. Prez is only a nominal Head
2. Direct election is costly & time consuming

Qualifications

1. Citizen of India
2. 35 yrs
3. Qualified for the election as a member of LS
4. He should not hold any other office of profit
 - Exception

Criteria for Office of Profit:

1. Control of Govt over **appointment/removal** or over the functions
2. whether the holder draws **any remuneration other than the 'compensatory allowance'** as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959;
3. whether the body in which an office is held, exercises executive, legislative or judicial powers or **confers powers of disbursement of funds, allotment of lands,** issue of licences, etc. or gives powers of appointment, grant of scholarships, etc.; and
4. whether the body in which an office is held enables the holder **to wield influence or power by way of patronage.**

Oath or Affirmation

1. I (name), do swear in the name of God (or solemnly affirm) that I will faithfully execute the office of President (or discharge the functions of the President) of the Republic of India, and will to the best of my ability preserve, protect and defend the Constitution and the law, and that I will devote myself to the service and well-being of the people of the Republic of India.

— [Article 60](#), Constitution of India

2. Administered by : CJI

Condition of Prez's office

1. He **should not be a member of either House of Parliament**
2. No other office of Profit
3. **Emoluments & Allowances** cannot be diminished during his term
4. Enjoys a variety of **privileges & immunities**
 - Immune from Criminal proceedings
 - Civil proceedings can be instituted after a notice of 2 months

Term of Prez's Office

1. In General

2. Resignation

3. Re election?


4. No of Times?

Impeachment

1. Reason

2. Procedure :

- Initiate
- Participating members
- Majority
- Approval



No Prez so
far has been
impeached!!!!

Vacancy

1. Reasons

- Expiry of Tenure
- Resignation
- Removal by Impeachment
- By his death
- Disqualification

2.New Prez

3.Who serves in case of vacancy?

Powers & Functions :

1. Executive :

- a. All executive actions
- b. Appointment---- Union Level posts, Inter state council , commission for SC&ST
- c. Rules for more convenient TOB
- d. Admn of U&T
- e. Declaration of schedule area
- f. Info on admn of affairs of Union & proposals for legislation from PM

Powers & Functions :

2. Legislative

He is an integral part of the Parliament.

- a. Summon or Prorogue
- b. Address
- c. Appointment
- d. Nomination
- e. Decision on disqualification
- f. Prior consent for imp bills

g. Reports

Options with Prez when a bill is presented to him

Type of Bill	From Parliament	From State Legislature
Ordinary/Financial	Assent/withhold/return	Assent/withhold/return
Money	Assent / Withhold	Assent / Withhold
Constitution	Assent	Cannot be introduced

Powers & Functions :

3. Financial Powers

1. Prior recommendation for money bills
2. Causes to be laid the annual financial statement
3. Demand for grant
4. Advances out of Contingency fund
5. Constitution of Finance Commission

Powers & Functions :

4. Judicial Powers

1. Appointment of CJI/ Judges of SC & HC
2. Can seek advice from SC
3. Pardoning power of Prez :Pardon,Reprieve,Respite,Remission,Commute

Convicted in Offence :

Court martial , Against Union law , Sentence is of death

Can SC intervene?

Powers & Functions :

5. Diplomatic Powers

1. Negotiation & Conclusion of International Treaties
2. Represents India
3. Receives Diplomats

Powers & Functions :

6. Military Powers

1. Supreme Commando of Defence Forces
2. Appointment of chiefs of Navy , Army & Air Force
3. Declare war, conclude peace

7. Emergency Powers

1. National Emergency
2. Prez's rule
3. Financial Emergency

Veto Power

Types of Veto	Applicable on	Examples
Absolute	Ordinary, Money bill, Financial	1954 : On PEPSU Appropriation Bill
Suspensive	Ordinary, Financial	2006 : On Office of Profit Bill
Pocket	Ordinary, Financial	1986: Indian Post Office (Amendment Bill)

Discretionary Power

Article 53 : The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution

Article 74: There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice: Provided that the President may require the council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration

Article 75: The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister

The Minister shall hold office during the pleasure of the President

Situational Discretion:

1. Appointment of PM when no Party is in clear majority
2. Dismissal of COM if they fail to prove confidence in LS
3. Dissolution of LS
4. Suspensive Veto
5. Pocket Veto
6. Summons Parliament (Article 85)
7. Can ask for info (Article 78)
8. Reconsideration of any advice given by COM

Ordinance making Power

1. Article 123
2. Condition
3. Effect
4. Can SC intervene ?
5. Limitations
6. Approval of Ordinance by Parliament
7. Max duration of Ordinance

SC judgements & Constitutional Amendments related to Prez

1. 24th Constitutional Amendment

2. 44th Constitutional Amendment (2)

3. SC on Ordinance making power of Prez :

- DC Wadhwa Case
- Krishna Kumar Singh vs State of Bihar

“The placement of an Ordinance before the legislature is a constitutional necessity; the underlying object and rationale being to enable the legislature to determine the need for and expediency of an Ordinance; whether a law should be enacted ; or whether the Ordinance should be disapproved”.