

Module 3: State Administration

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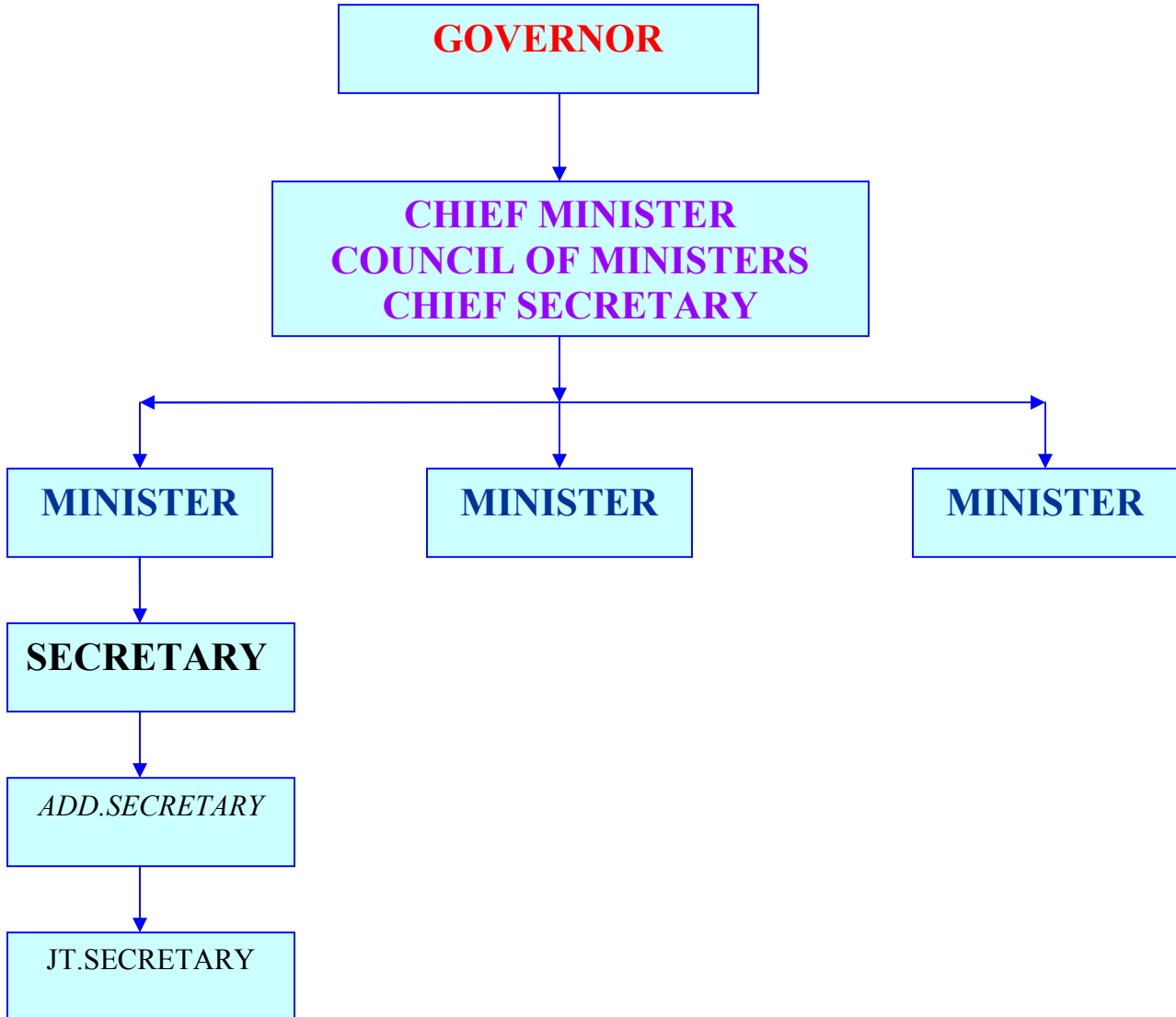
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Chapter I
The Governor

State Administrative Set Up



The Governor

In our Federal Structure, Parliamentary form of Government has been adopted for the Central as well as the State Governments. Like the President at the Centre, there is a Governor for every state or for a group of states. The real power is exercised by the Council of Ministers, headed by the Chief Minister, responsible to the state legislature.

A. Appointment of Governors

The Governor of a state is appointed by the President and holds office during his pleasure. Any person who is citizen of India and is not below 35 years of age can be appointed Governor of a State. There is no other qualification laid down for such appointment. Of course, the President takes into consideration the personal qualities and experience in public affairs of a person who is appointed to the high office of the Governor of a State. The manner of appointment of a Governor has, however, raised a lot of controversy. The question was discussed at length in the Constituent Assembly. Initially an elected Governor was proposed for every state. But, the proposal was not finally accepted as it was not found suitable for conditions prevailing in the country at that time.

While the question was being debated in the Constituent Assembly, the country was witnessing the holocaust of partition. It underscored the need for a strong centre to ensure coordinated action to meet any danger to the security and integrity of the country. The Constituted Assembly, therefore, opted for a nominated Governor, who would be able to ensure better control of Union Government over the State Governments whenever the need arose. In fact, the whole approach of the Constituent Assembly got tilted in favour of a strong centre. The provision for a nominated Governor was a part of this over all stand.

Selection and Appointment as a Governor

Apart from the principle of having a nominated Governor, a great deal of controversy has also raged over selection of persons for appointment as Governors. It has been said that the quality and standard of some of the persons, appointed as Governors, has not been befitting the dignity of the high office. Several State Governments

complained to the Sarkaria Commission that Ministers resigned on Court strictures have been appointed as Governors. Some of the Governors have returned to active politics. Discarded and disgruntled politicians from the party in power in the Union, who cannot be accommodated elsewhere, have got appointed Governors. Such persons cannot be expected to display the qualities of integrity, impartiality and statesmanship required of a person holding the high office of the Governor.

The Administrative Reforms Commission had also found that many Governors had fallen short of the standards expected. It recommended that a person to be appointed as Governor should be capable of rising above party prejudice and preferences. Although this recommendation was accepted by the Government of India, there has not been a noticeable improvement in the selection of persons to be appointed as Governors. The Sarkaria Commission has suggested the following criteria for selecting a person for the office of the Governor:

- (i) He should be eminent in some walk of life, not necessarily politics.
- (ii) He should be a person from outside the State.
- (iii) He should be a detached figure, not too intimately connected with the local politics of the state.
- (iv) He should be a person who has not taken too great a part in politics generally and particularly in the recent past.
- (v) Persons belonging to minorities and disadvantaged sections of the society, having the qualifications mentioned above, should be given a chance, as hitherto given.

B. Term of office and conditions of appointments

The Governor is appointed for a period of five years. His appointment may, however, be terminated due to the following:

- (i) By resignation – Under Article 156(2) of the Constitution.
- (ii) Dismissal by the President- The Governor holds office during the pleasure of the President. His appointment may, therefore, be terminated by the President at any time. The grounds on which the Governor can be removed by the President are not specified by the constitution. No procedure is prescribed for the

purpose. Clearly, the Governor can be removed by the President at any time without any notice and without assigning any reason for the same.

Reappointment:

On completion of his term of five years, the Governor may be reappointed to the same office. He may also be appointed as a Governor of a different state. On completion of his term, the Governor continues in office until his successor is appointed. Consequently, there have been several cases in which the Governors have continued their employment in conditions of uncertainty after the completion of their terms of five years.

Other conditions of Appointment:

A Governor is paid a fixed monthly salary and other allowances which are chargeable to the Consolidated Fund of India. He gets a free furnished residence along with servants. Power has been given to the Parliament to make laws relating to these matters, subject to the condition that the emoluments and allowances to the Governor cannot be diminished during his term of office.

Security of Tenure for Governors:

It may be interesting to note that as compared to the other constitutional functionaries like Comptroller and Auditor General of India or Supreme Court or High Court Judges the tenure of the office of the Governor is most uncertain and insecure. He can be removed from office without giving any notice or any reason of the withdrawal of the pleasure of the President.

Restrictions of further holding of office:

At present there are no restrictions on the Governors regarding holding any office after the completion of their tenure. This may make them vulnerable to the lure of future office thus impairing their integrity and impartiality.

C. Powers of the Governor

The Governor has no diplomatic or military powers like the President. His other powers can be classified under the following heads:

- (i) Executive powers;
- (ii) Legislative Powers;
- (iii) Judicial Powers;
- (iv) Emergency Powers.

Executive Powers

The Governor has the power to appoint his council of Ministers, Advocate General and the members of the State Public Service Commission. The Ministers as well as the Advocate General hold office during the pleasure of the Governor but the members of the State Public Service Commission cannot be removed by him. They can be removed only by the President on the report of the Supreme Court and in some cases on the happening of certain disqualifications. The Governor has no powers to appoint judges of the State High Court, but he is to be consulted by the President before such appointments are made [Article 217 (1)].

Like the President, the Governor also has the power to nominate one member of Anglo-Indian community to the Legislative Assembly of the State, if he is satisfied that they are not adequately represented in the Assembly. (Article.333). As regards the Legislative Council, the Governor has the power of nomination of members, corresponding to the powers of the President in case of the Council of States(Article 171/5).

Legislative Powers

The Governor is a part of the State Legislature (Article 164) just as the President is a part of the Parliament. Again he has a right of addressing and sending messages to and of summoning, proroguing the State Legislature and dissolving the lower House just as the President has in relation to the Parliament. He also has the power of getting laid before the State Legislature, the annual financial statement (Article 202) and of making demands for grants and recommending money bills (Article 207).

Veto Over State Legislation

The Governor has power to exercise a kind of veto in respect of the State Legislations presented to him for his assent.

The Governor may withhold his assent to the Bill passed by the Legislators and send it back to the Legislature for reconsideration. If the Bill is again passed by the Legislature with or without modifications, the Governor has to give his assent.

The power of veto given to the Governor is a real veto and can have the effect of thwarting the legislative power of the State Legislature. It has, however, been used in a very few cases like Kerala Education Bill where again the President sought the Advisory opinion of the Supreme Court.

Power to issue Ordinance

The Governor has the power to make laws by ordinance when the Legislature is not in session. The ordinance have to be placed before the Legislature within six weeks of its reassembly. If this is not done, the ordinance lapses.

Judicial Powers

The Governor has the power to –

- i) grant pardon, reprieve, respite, remission of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends (Article 161). This is a power similar to that enjoyed by the President subject to some minor difference.
- ii) Under Article 201, the Governor may reserve for the assent of the President, any Bill passed by the state legislature. The President then may or may not give his assent to the Bill. He is under no obligation to give his assent if the bill is again passed by the state legislature with or without some modifications.

Emergency Powers

The Governor has no emergency powers to meet the situation arising from internal or external aggression as the President has. However, he can report to the President whenever he is satisfied that situation has arisen in the State whereby the administration of the State Government cannot be carried out in accordance with the provisions of the Constitution (Article 156). On receipt of such a report, the President may assume to himself the functions as the Governor and may revert to the Parliament the powers of the State Legislature.

D. Exercise of Executive Powers

It has been said that the executive powers of the State Government vests in the Governor. However, in the exercise of his powers, he is constrained by the provisions of the Constitution. According to Article 163(1) of the Constitution, there is a Council of Ministers to aid and advise the Governor who is to act according to their advice except in matters in respect to which the Governor is empowered by the Constitution to act in his discretion. Thus under normal circumstances, the Governor has to act according to the advice of the Council of Ministers. However, unlike the President, the Constitution makes provisions for the exercise of discretionary power by the Governor. By the 42nd Amendment Act to the Constitution, a provision was made making it obligatory on the part of the President to act according to the advice of the Council of Ministers. Even in this amendment the provisions regarding the exercise of executive powers of the Governor have not been touched. Nor has it been made obligatory on the part of the Governor to always accept the advice of the Council of Ministers. The provisions for exercise of discretionary powers by the Governor have also not been amended. These discretionary functions of the Governor are discussed below:

Discretionary Functions:

There are certain provisions of the Constitution which specifically give certain discretionary functions to the Governor:

- (i) Para 9(2) of the Schedule VI gives powers to the Governor of Assam, in his discretion, to determine the amount of royalty to the district councils.

- (ii) Article 239(2) authorizes the President to appoint the Governor of a State as the Administrator of the adjoining Union Territory. When the Governor is so appointed he exercises his functions as such administrator independently of the Council of Ministers.

Special Responsibilities

Besides the above functions to be exercised by the Governor in his discretion, there are certain functions under the Constitution which are to be exercised by the Governor for his special responsibility which practically means in his discretion. He has to consult the Council of Ministers, but the final judgment is to be exercised by him. Such functions are:

- (i) Under Article 371(20) the President may direct that the Governor of Maharashtra or Gujarat shall have the Special responsibility to take steps for the development of certain areas in the State such as Vidarbha, Saurashtra, etc.
- (ii) The Governor of Nagaland shall under Article 371A (1) (b) have similar responsibility with respect to law and order in the State so long as internal disturbances caused by the hostile Nagas in the State continue.
- (iii) Similarly Article 371 (c) empowers the President to direct the Governor of Manipur shall have special responsibility to secure the proper functioning of the Committee of Legislative Assembly of State consisting of the members elected from the Hill Areas of that State.
- (iv) Article 371F (g) imposes a special responsibility on the Governor of Sikkim for peace and for equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim.

In discharging of such special responsibilities, the Government has to act according to the directions issued by the President from time to time and subject thereto he has to act in his discretion.

Discretion by Implication

Besides the above provisions, the Governor may be required to discharge some functions in his discretion where the tenor of constitutional provision, the nature of the function or the exigencies of the situation may so warrant. Some examples are given below:-

- (i) A Governor has to act in his discretion where the advice of the Council of Ministers is not available e.g. in the appointment of a Chief Minister soon after an election.
- (ii) A Governor may have to act against the advice of his Council of Ministers e.g. he may have to dismiss a Ministry which refuses to resign even when defeated on a vote of no-confidence in the Assembly.
- (iii) A Governor may have to send a report to the President under Article 356 that the administration of the state cannot be carried out in accordance with the provisions of the constitution. Obviously, this cannot be on the advice of the Council of Ministers against which the report is being sent.
- (iv) A Governor may have to decide in his discretion whether any decision taken by a Minister should be required to be sent for the consideration of the Council of Ministers.
- (v) A Governor has to exercise his discretion to judge whether an Act of legislature should be reserved for the assent of the President.

The list of such cases can by its very nature not be exhaustive. The above list may, therefore, be treated as illustrative.

E. Exercise of discretion in practice

Functioning of the Governors in normal circumstances, when a party with absolute majority in the Assembly forms the Government, has been normally a smooth affair. However, the conduct of the Governors in abnormal or exceptional circumstances e.g. when no party can claim absolute majority in the Assembly or when a Chief Minister has lot majority support, has caused a lot of friction in Centre-State relations. Below are some illustrative cases where the discretion of the Governor, in these circumstances, has been actually exercised.

Appointment of Chief Minister.

According to the constitution, the Governor appoints the Chief Minister and on his advice other Ministers. When a party gains absolute majority in the State Assembly its leader is automatically appointed the Chief Minister by Governor. However, in the past 1967 scenario many occasions arose when no party could claim absolute majority in the Assembly. In these situations, the Governors were required to exercise their discretion in choosing the Chief Ministers. For example, in 1970, Shri S. S. Dhawan, Governor of West Bengal invited Jyoti Basu, the leader of the largest single party to discuss formation of the Government. But, the Governor wanted him to prove his majority before being invited to form the Government. Mr. Jyoti Basu refused to do so and was not then invited. But, as early as in 1952, the Governor of Madras, Mr. Sri Prakash invited the single largest party (Congress) Mr. C. Rajagopalachari even though the other parties had formed a majority coalition under the leadership of Mr. T. Prakasham. At times, the Governors have insisted on a head count for deciding the question of appointing Chief Ministers. Different Governors have thus followed different course of action under similar circumstances.

Dismissal of a Ministry

According to the constitution a Minister holds office during the pleasure of the Governor. But, in the constitutional scheme, the pleasure of the Governor can be withdrawn from a Ministry only if it loses the confidence of the Assembly to whom it is responsible. It means that the Governor has to withdraw the pleasure as soon as the Ministry loses the confidence of the legislature. Normally, the Chief Ministers resign under these circumstances or face the Assembly. The Chief Minister of West Bengal (1967) did neither. The Governor gave a fortnights time and extended it by a week to the end of the November 1967. The Chief Minister refused to call the Assembly before 18th December 1967. In the case of U.P (1970) the Chief Minister was asked to resign though he was prepared to face the Assembly within two days. Thus, here again the Governors have tended to follow different courses in similar circumstances.

Dissolution of State Assemblies

Governors have not followed any uniform course of action in regard to the dissolution of Assemblies. It is of course clear that the advice of a Chief Minister enjoying majority support is binding on the Governor. But, when the Chief Minister appeared to have lost such support, some Governors refused to dissolve the Assembly on his advice while others in similar circumstances accepted the Chief Minister's advice to dissolve the Assembly. For example, when the Chief Minister of Kerala appeared to have lost majority support in 1970, the Governor dissolved the Assembly on his advice. The same thing happened in Punjab in 1971. But, a contrary course was followed by Governors in similar circumstances in Punjab (1967), U.P (1968), M.P (1969) and Orissa (1971). The Assembly was not dissolved and attempts were made to install alternative Ministries. It is obvious that no consistent policies have been followed in such cases by the Governors. It has very often led to the charges that the Governors have acted in a partisan manner, very often at the instance of the ruling party at the centre.

Recommending President's Rule

It has been alleged that the Governors have made an imprudent use of Article 356 of the Constitution to recommend imposition of President's rule in the State. They have often not given enough chance for the formation of alternative stable Ministries, nor have they dissolved the Assemblies to give a chance to the electorate to install an alternative Government. Very often, the Governors have used peculiar methods to ascertain the majority of the Government. The cases of Jammu and Kashmir and A.P (1984) were of this nature. There have been allegations that the Governors have not acted in their best judgment, but to further the interests of the ruling party at the centre at the behest of Central Government.

Summoning of the Assemblies

When a Government enjoys majority support in the Assembly, the Governor should summon the Assembly on the advice of the Chief Minister. There can be one exception to this rule. When the Chief Minister does not advise summoning of the Assembly within six months of its last sitting, the Governor may summon the Assembly

without his advice to ensure compliance with constitutional requirement. There may be some other situations where the Governor may be justified in summoning the Assembly without the advice or contrary to the advice of the Chief Minister. For example-

- (i) When a Chief Minister is installed who does not lead a party with a majority in the Assembly, he may be advised by the Governor to prove his majority in the Assembly within thirty days of his appointment. If the Chief Minister does not advise summoning the Assembly during this period, the Governor should himself summon the Assembly.
- (ii) When there is reason for Governor to believe that a Government has lost majority support in the Assembly, he may ask the Chief Minister to prove his majority within a reasonable period of 30 to 60 days. If the Chief Minister does not advise summoning of the Assembly within this period, the Governor should do so on his own.

Dissolution of the Assembly

When a Chief Minister enjoying majority support advises dissolution of the Assembly to seek a fresh mandate, the Governor must accept the advice. But, if the advice is tendered by a Chief Minister who appears to have lost majority support, it should not be accepted. Instead, the Chief Minister should be asked to prove his majority within a reasonable time of 30 to 60 days.

If a viable Government cannot be formed, the Governor may either dissolve the Assembly and order fresh election or recommend President's rule under Article 356. If elections are ordered, the outgoing Ministry may normally be continued. But, if the outgoing Ministry is unwilling to do so or is responsible for serious mal administration or corruption the Governor should recommend President's rule without dissolving the Assembly. This should also be done when for some reason elections cannot be held for a long time as a caretaker Ministry should not function for a long period.

F. General observations

It would be seen from the foregoing discussion that a Governor has to perform dual functions. On the one hand he is the constitutional head of the State Government whereby his role is that of a “friend, philosopher and guide” as long as the elected Government functions within the frame work of the constitution. On the other he is also the guardian of the constitution. He has to ensure that the State Government is run according to the Constitution. If it does not, he has to act in his discretion to dismiss the Government, dissolve the Assembly, or to recommend President’s rule. In his latter role, the Governor is often seen as acting as an agent of the Central Government. The fact that the Governors appear to have acted at the behest of the Central Government confirms the suspicion in public mind that the Governor is really an agent of the Central Government. The provisions of the constitution regarding the appointment and dismissal of the Governor and the way the Governor have been transferred, forced to resign or dismissed, provide further proof that the Governor has to carry out the wishes of the Central government and can hardly act according to the best of his judgment based on goods conscience. The temptation of using the office of the Governor for partisan political purpose is too great for the Central Government. No political party has been able to resist it.

Chapter II

The Chief Minister

While the Governor is the Constitutional head of the State, the real executive power vests in the Council of Ministers headed by the Chief Minister. The Office of the Chief Minister is one of great authority and prestige. The Chief Minister performs the same functions in respect of the State Government as the Prime Minister does in respect of the Union Government. Although the powers of the executive Government are really vested in the council of Ministers, the Chief Minister has a very important role in the exercise of this executive power. He is not the first among equals, but the prime mover of the executive Government in the State.

A. Appointment and term of office of the Chief Minister

The Chief Minister is appointed by the Governor of the State. No guidelines are given in the Constitution or in any law about the criteria to be used by the Governor in the selection of the Chief Minister. Legally speaking, the Governor can appoint any body as the Chief Minister of the State. However, according to the functions of the Parliamentary Government, the leader of the majority party in the State Assembly has to be invited by the Governor to form the Government. So long as any particular political party enjoys an absolute majority in the Assembly, the Governor does not have much of a choice. The leader of the majority party in the Assembly has to be invited by him to form the Government because the Chief Minister and the Council of Ministers have to be responsible to the Assembly. However, the situation becomes rather fluid when no political party holds an absolute majority in the Assembly. No clear convention has been established in this regard and the Governors have used their discretion to certain extent in appointing the Chief Ministers. This point has already been discussed while studying the discretionary powers of the Governor.

B. Term of Office.

There is no particular term of office prescribed for the Chief Minister under the Constitution. He continues to be the Chief Minister as long as he enjoys the pleasure of the Governor. As already mentioned the pleasure of the Governor obtains as long as the Chief Minister and the Council of Ministers enjoy the Confidence of the State Assembly. Of course, the term of the Assembly being only five years, the Chief Minister would naturally hold office only up to the end of the term of the Assembly. There is, however, nothing to prevent him from getting re-elected after the new Assembly is constituted as a result of fresh general election. There is, however, another contingency when the Chief Minister may have to quit the office even when the party which elected him continues to enjoy the absolute majority in the Assembly. This may happen when the majority party chooses to elect another leader and requests the Governor to appoint him as the Chief Minister. This contingency has arisen in a number of cases in the past. For example, in 1972, Mr. P.C. Sethi became the Chief Minister of Madhya Pradesh in place of Mr. S.C. Shukla, although both of them belonged to the Congress party and the party continued to enjoy an absolute majority in the Assembly. In 2001 Shri Narendra Modi became the Chief Minister of Gujarat in place of Shri Keshubhai Patel, although both of them belonged to the BJP and the party continued to enjoy an absolute majority in the Assembly.

C. Other Conditions

The Chief Minister is entitled to a free furnished residence in addition to fixed monthly salary and allowances, as laid down by a law, such laws have been amended from time to time.

D. Dismissal of the Chief Minister

An unseemly controversy has arisen on the question whether the Governor has the power to dismiss the Council of ministers headed by the Chief Minister. The question has already been discussed while studying the discretionary powers of the Governor. The legal positions that the Chief Minister and the Council of Ministers hold office during the pleasure of the Governor which is to be conditioned by the responsibility of the Chief Minister to the Assembly. Obviously, as

long as the Chief Minister and the Council of ministers enjoy the confidence of the Assembly, the Governor has no power to dismiss them. The general contention of the experts is that it is, the Assembly which should determine whether the Chief Minister enjoys the confidence of the House or not. The Governor should not take up on himself these powers of the Assembly as was done by Dharam Veera in West Bengal in 1967 and by Governor Gopala Reddy in U.P. in 1970.

E. Functions of the Chief Minister

Chief Minister as Head of the Council of Ministers

The Chief Minister is the leader of his legislature party and also that of the Council of Ministers. He is to distribute the executive function among the Ministers. He is responsible for coordinating their activities and making the Council of Ministers functions as a team. In other words, he is to ensure the collective responsibility of his Council of Ministers to the State Assembly. In the functioning of the Executive Government there are many subjects which are reserved for his concurrence before the individual Ministers an act on them even in respect of the portfolios allotted to the Ministers. Besides, it is the Chief Minister who decides the agenda of the Cabinet and largely influences its decisions. With the passage of time, the position of the Chief Minister has, therefore, strengthened vis-à-vis his council of Ministers. As long as a cohesive party is in power in the State, the Ministers are usually afraid of or at least respectful to the Chief Minister. The situation, however, changes when a Coalition Government is in power or the Chief Minister's Party is very much faction ridden. In that case, the Chief Minister is to try to carry together the various factions or parties.

Chief Minister and the Party

The Chief Minister apart from being the head of the Executive Government also belongs to a political party. He is to retain the support of his party in the Assembly as well as outside. For this purpose, he is to distribute a lot of patronage in the form of various political offices and other advantages to his party workers and

legislators. To stay in power, the Chief Minister has to maintain the balance between his duties to the party and to the State.

Chief Minister as Head of the Administration

Besides being the political head of the executive, the Chief Minister controls the entire bureaucracy of the State. Of course, he does it through the Secretariat headed by a Chief Secretary who is his main instrument in performing this function. As Head of the Government and consequently as Head of the Administration he has to take care of the interests of his employees and keep them working in a motivated state. He has to keep in direct touch with the senior civil servants and inspire them to perform their functions to the best of their capacities. On the other hand he has also to keep a watch on their performance usually through the administrative channels. But, the Chief Minister has many other channels to be informed about the functioning of his administrators. He may either observe their work during his extensive tours of the state, or may learn about their performance through party workers or some aggrieved persons who come to him for redressal of their grievances etc.

Chief Minister and the Legislature

The Chief Minister is also the leader of the House. Apart from this formal position he is also to provide legislative leadership to the Assembly through his Council of Ministers. The various legislative measures have to be initiated by the Council of Ministers under the guidance of the Chief Minister. It is well known that the proposals for legislation brought in by the non-official members hardly have a chance of success. Moreover, it is only the Chief Minister and his Council of Ministers who have the support of necessary administrative machinery to be able to frame the proposals in proper fashion after considering all the pros and cons of the situation. They are also in possession of more information than the members to be able to inform them about the various consequences. The Chief Minister has also to keep the Assembly informed of the major activities of the Government through answering the Assembly questions, special Statements and through various discussions during presidential address, Budget, etc. The Chief Minister has to assure that

the input required from the side of the Government for the proper conduct of legislative business is provided by all the Ministers.

Chief Minister as a Public Relations Man

The continuance in office of any Government depends upon the support of the people. The Government has therefore, to project a good image before the people. For this purpose it is necessary that the information about the various programmes initiated by the Government is given to the public. The people have also to be kept informed about the success or failure of different programmes and the steps taken by the government to improve the conditions of the people. The Chief Minister comes in daily contact with a large number of people including the persons representing various interests and members of the press with whom he has to maintain good relations and keep them supplied with the information necessary for projecting a proper image of the Government. Being in a very important position in the State, the Chief Minister gets a good media coverage if he is in a position to organize this work properly. Of course, in the performance of this function he is assisted by his staff in the public relations department as well as some of his political advisors.

Other Functions

Apart from the functions mentioned above, the Chief Minister is also to keep the Governor informed of all the important decisions of the Government. He is to furnish him such information relating to the administrative affairs of the State as may be called for. If the Governor so requires, the Chief Minister has to submit for the consideration of the Council of Ministers any matter which has not been considered by the Council.

Besides the Chief Minister has to maintain a liaison with the Prime Minister and other Central Ministers so that the problems relating to his Government at the Central level may be attended to promptly. In this respect he can also take the help of the Members of Parliament from his State. Obviously he has to maintain a good working relationship with the Members of Parliament, even with those belonging to the opposition parties.

Chapter III

The Council of Ministers

A. Appointment of the Ministers and terms of their office

The power to appoint the Council of Ministers including the Chief Minister vests in the Governor. As discussed earlier, the Governor can appoint any one as Chief Minister. Of course, he has to appoint the leader of the majority party as the Chief Minister. However, in the appointment of the Ministers, he has no choice. In this respect, he has to act only on the advice of the Chief Minister. There are no particular qualifications prescribed for a person to be appointed as a minister. Initially, he need not be even a member of the State legislature. But any person appointed as Minister ceases to be minister if he does not remain for a period of 6 consecutive months a member of the State Legislature. It means that if a non-legislator is appointed a Minister he has to get elected to the State Legislature within a period of 6 months. If he fails to do so, he would cease to be a minister.

Term of Office

There is no particular term of office prescribed for the Ministers. A Minister holds office during the pleasure of the Governor. As a member of the Council of Ministers, a Minister is collectively and individually responsible to the State Assembly. In addition, he is also responsible to the State Assembly. The Minister is additionally responsible to the Chief Minister. The Governor can at any time dismiss a Minister on the advice of the Chief Minister. There have been many cases where the Ministers have been dismissed by the Governor on the advice of the Chief Minister.

B. Functions of the Council of Ministers

All the Ministers comprising the Council of Minister are not of the same rank. Like the union Cabinet, the State Government also has a Cabinet. While the council of Ministers is a large body only a few of

these Ministers are Cabinet Ministers. The various categories of the Ministers are:

- (i) Cabinet Ministers
- (ii) Minister of State
- (iii) Deputy Ministers
- (iv) Parliamentary Secretaries

The Categories of the Ministers are similar to those in the Union Government. There is however one significant difference. At the Centre Level, the ministers of State, Deputy Ministers and Parliamentary Secretaries do not attend the meetings of the Cabinet. Usually, only Cabinet Ministers attend. However, such of the other Ministers are invited whose subjects are likely to be discussed in a particular meeting. In the States, usually all categories of Ministers' attend the Cabinet meetings. This results in unwieldy gathering of a large body of Ministers in which it is very difficult to discuss serious matters.

Cabinet Committees

Like the union Government, some of the State Governments have also adopted the system of Cabinet Committees for efficient and expeditious transaction of Government business. For example, Maharashtra Government in 1965 had the following Cabinet Committees:

- (i) Integration Committee of the Ministers
- (ii) Sub-committee for war
- (iii) Committee on Food matters
- (iv) High Power Committee of Ministers for development of Bombay
- (v) High Power committee of Agricultural Production

However, the numerical membership and composition of the Cabinet Committees differ from State to State and in the same State from time to time. While some of the committees may be Standing Committees, but most of them are ad hoc Cabinet Committees formed for certain specific purposes. These ad hoc Committees are dissolved as soon as the work allotted to them is completed. It may also be noted that the

system of Cabinet Committees is not as popular in the State Governments as in the Central Government. Many of the State governments have not set up any Cabinet Committees. Most of the important matters are placed before the Cabinet whose meetings are held frequently.

Transaction of Business in the Cabinet

The meetings of the Cabinet are called by the Chief Minister. The Chief Minister also decides as to the items which are to be placed before any meeting of the Cabinet. The Agenda Notes for individual items to be placed before the Committee are prepared by the concerned departmental secretaries with the approval of their Ministers. The agenda notes are circulated to the members of the Council of Ministers with the approval of the Chief Minister. The Cabinet considers these items and takes a decision on each one of them and defers some items for future meetings. The decisions in the Cabinet are arrived at by consensus. Whenever an agreement cannot reach on any subject, it is usually deferred for the next meeting.

Record of Decisions of Cabinet

Along with the agenda notes, the files of concerned departments are also sent to the Cabinet. The decision of the Cabinet is recorded by the Chief Secretary on each case. The Chief Secretary is the Secretary of the Cabinet and remains present in all meetings. The Departmental Secretaries usually remain in attendance and are called inside the meetings whenever the Chief Minister or the Chief Secretary desires them for any clarification. Unlike the Central Government, there is no separate Cabinet Secretariat in the State Government. The Chief Secretary acts as the Secretary of the Cabinet. The decision of the Cabinet in each case is recorded by the Chief Secretary. The real work regarding the preparation of agenda notes is done by the respective departments. The remaining secretarial work is done by the personal staff of the Chief Secretary.

C. Allocation of Business

While the Council of Ministers is collectively responsible to the State Assembly, it is impossible for it to take all the decisions collectively.

Most of the work relating to the portfolio allotted to a Minister is disposed of by him. Under our Constitution, the Governor has powers to make rules of more efficient conduct of business [Article 166(3)]. Most of the States have therefore framed allocation of Business Rules according to which the work is divided among different ministers. These rules can be changed from time to time. The different subjects are grouped differently at different times. Usually, the grouping of the subjects should be done either on the basis of the functions or on the basis of clientele or geographical areas etc. It is observed that even in the case of Union Government, the grouping of different subjects was not very rational. In State Government the position is much worse. Very diverse subjects are often grouped together and allocation of work among the Ministers is based more on personal considerations rather than for efficient conduct of business. Most of the work in respect of the department allotted to a particular Minister is dispersed of by the Minister. However, according to the rules of business, some matters are reserved for:

(i) Consideration of the Chief Minister

These are called the coordination cases in which the files are submitted by the Minister to the Chief Minister for his orders in coordination. These are usually the matters in which more than one department are involved and cannot reach agreement among themselves. Some of these cases are of importance to the Government as a whole. Sometimes the Chief Minister by special instructions reserves some cases for his order. For example, to check the unnecessary transfer in individual departments the Chief Minister reserves some categories of transfers for his orders.

(ii) Presentation before Cabinet

These are cases which are required to be placed before the Cabinet for final decisions. These are important matters requiring overall policy divisions. The Allocation of Business Rules gives details of such cases which have to be placed before the cabinet. A sample of such categories is given below:

- (a) Proposals for the appointment or removal of Advocate General and relating to his remuneration;

- (b) Proposals to summon, prorogue or dissolve the assembly;
- (c) Proposals for legislation, including issue of an ordinance;
- (d) Cases in which the attitude of the Government to any resolution or the bill be moved in the legislature is to be determined ;
- (e) Proposals relating to recruitment and conditions of service of Government servants including judicial officers ;
- (f) Proposals for making or amending regulations relating to the conditions of service of the members of State Public Service Commission and execution of specified matters from the purview of the State Public Service Commission. The proposals of appointment inconsistent with the recommendations of the State Public Service Commission are also to be put up before the Cabinet:
- (g) Annual financial statements to be laid before the legislature and demands for supplementary, additional or excess grants ;
- (h) Action to be taken on the report of the State Public Service Commission ;
- (i) Proposals for imposition of new taxation or changes in taxation, including land and irrigation rates and for raising loans or giving guarantees by the State Government;
- (j) Proposals affecting the State Finance which are not approved by the Finance Minister;
- (k) Proposals for withdrawal of prosecution against the advice of law and justice department ;
- (l) Proposals of re-appropriation of funds to which the Finance Minister has withheld his assent;
- (m) Proposals for creation of certain high level posts ;
- (n) Reports of Committees of enquiry;
- (o) Proposals involving important changes in the policy of practices in the administrative system.

This is only an illustrative list of the cases to be placed before the Cabinet. There are many more, which can be seen in the Allocation of business Rules of the concerned State Government.

D. Size of the Cabinet

During the British period, the Governor had a small council which could function collectively on all matters. When the work expanded different members were allotted different portfolios. With the increase

in work the number of portfolios went on increasing necessitating the appointment of a large number of ministers to look after the new functions. Moreover, in a democratic Government there is a great deal of pressure on the Chief Minister to increase the patronage by increasing the number of Ministers. The size of the Council of Ministers has, therefore, been increasing.

However, The Constitution (91st Amendment) Act, 2003, which limits the size of all ministries in India, came into force on July 7, 2003. This Act stipulates that the strength of a council of ministers should not exceed 15 percent of the total number of members in the Lok Sabha (in case of the central government) or the relevant state assembly. An exception has been made only for smaller states such as Sikkim, Mizoram and Goa where the strength of the assembly is 40 or less. There, the state government can have a maximum of 12 ministers.

Chapter IV

The Chief Secretary

A. Functions of the Chief Secretary

Every state has a Chief Secretary who is more or less the head of the Civil Services. He is the King-pin of the Secretariat. His control extends to all the departments of the Secretariat, although he is in the direct charge of only the General Administration Department (GAD). He is more than *primus inter pares among the* secretaries. He is in fact the chief of the Secretaries. He is the mentor and the conscience keeper of the civil servants of the state. The civil servants look to him to deal with all their problems concerning their conditions of service and work. He provides the leadership to the administrative system of the state. The office of the Chief Secretary is considered so important that it has been excluded from the operation of tenure system. The Chief Secretary is supposed to retire as a Chief Secretary or moves to the Central Government to take up a more important position. There are, however, some exceptions to this rule.

Since 1973, the post of Chief Secretary has been made equivalent to the Secretary to the Government of India. At present, he is usually the senior most civil servant of the state except when the senior most officer cannot be appointed for reason of unsuitability or for political unacceptability. In that situation, the unwanted senior most officer is shifted to some innocuous position. The Chief Secretary then is the next senior most officer and wields all the authority that the position commands.

Chief Secretary as an Advisor of Chief Minister

The Chief Secretary of the State is the principal advisor of the Chief Minister in all administrative matters. It is customary for the Chief Minister to consult the Chief Secretary in all matters concerning appointments to senior positions like those to Secretaries, Special Secretaries, Deputy Secretaries, Heads of the Departments, etc.

Besides, the Chief Minister also consults the Chief Secretary on all important matters concerning the policy matters.

Chief Secretary as the Secretary of the Cabinet

The Chief Secretary is the Secretary to the Cabinet. He gets the agenda for the meetings of the Cabinet prepared by the department secretaries. He obtains the approval of the Chief Minister regarding the inclusion of the agenda items in the Cabinet meetings. He also makes arrangements for the Cabinet meeting with the approval of the Chief Minister. After the meeting of the Cabinet, it is the Chief Secretary who records the minutes and the decisions of the Cabinet.

Chief Secretary as the Head of the Civil Service

The Chief Secretary is the head of the entire civil service in the State. He is consulted by the Chief Minister in the matters of all the important appointments. Besides he is in charge of the General Administration Department which controls the transfers and posting of all the Indian Administrative Service and State Civil Service Officers. The department is also responsible for the general control over the service conditions of the employees of different departments in the State. All the recruitment, rules and disciplinary matters are decided in consultation with the General Administration Department only. The General Administration department also controls the Secretariat Services and arranges the maintenance and upkeep of the Secretariat. In this way the entire staff attached to the different Ministers is also under the control of the Chief Secretary.

Chief Secretary as the main coordinator

The Chief Secretary in fact is the Chief of all the Secretaries. He is to resolve the differences between the different secretaries to the State Government. He is the Chairman of so many committees of the Secretaries and in that way he is in a position to coordinate the activities of the entire Secretariat.

Chief Secretary during emergency

In times of emergency or crisis, the Chief Secretary constitutes the nerve centre of the State. During these times his role as the Chief Coordinator comes into full play. During this period he is able to utilize his multifarious contacts in the Central Government as well as with his counterparts in other States.

Chief Secretary as the Secretary of the Zonal Council

The States Reorganization Act, 1956 provides for setting up a number of Zonal Councils in the Country. These Zonal Councils are headed by the Union Home Minister. The other members of Zonal Councils are the Chief Minister and a couple of other Ministers from each state in the Zone. The Chief Secretaries of the different states act as Secretaries to this Zonal Council by rotation.

General Superintendence

The Chief Secretary exercises general superintendence and control over the entire Secretariat and through the Secretariat over the entire field administration. He is to keep himself generally informed about the happenings in the State. He does this by keeping contact with his secretaries, heads of departments, commissioners, collectors, legislators and other members of the public. In this process, he comes in contact with various interests and maintains liaison between the administration and the people.

Liaison with the Centre and the other States

The Chief Secretary is also to maintain a close liaison with the Central Government and the other State Governments. He is able to perform this function for two very special advantages which his service permits him. Due to the tenure system he normally has worked in various positions in the Central Government. For this reason he would have come in contact with many officers of the other states who may now be holding senior positions in Government of India or the other State Governments. Besides he attends the Chief Secretaries conferences called by the Cabinet Secretary. In these conferences various matters connected with the State Governments and the Central Government may be sorted out.

During President's Rule

During the President's Rule the position of the Chief Secretary gets affected in two different ways. If no advisors are appointed, the Chief Secretary becomes very powerful. He becomes the direct advisor of the Governor and performs more or less all the functions of the Ministry. In case the Governor appoints a number of advisors, to that extent the Chief Secretary's position is undermined. However, even during President's rule, the Chief Secretary is to perform the all important functions of coordinating the functioning of the entire Government. Any failure of the Government of that time would be considered a direct failure of the administrative machinery as there is no popular Government in the State.

Residuary Functions

According to the rules of business, the Chief Secretary has to look after all matters which are not falling within the responsibilities of any other secretary. Usually, such instances are few and far between, but, they do occur as the functions of the Government are becoming more and more varied and complex.

B. Undermining the position of the Chief Secretary

The political process have worked in such a fashion that the position of the Chief Secretary has been greatly undermined. The Chief Minister has so many political advisors that he very often does not seek the advice from the Chief Secretary in many administrative matters. He is rather guided by his political contacts or sometimes even by junior officers who happen to get the ear of the Chief Minister through some politicians. This has severely undermined the position of the Chief Secretary and reduced his control over the bureaucracy. The avoidable result has been the breakdown of the hierarchical system of the bureaucracy all along the line. This has adversely affected the morale of the civil services and their discipline.

C. Tenure of the Chief Secretary

It was stated earlier that the usual practice was to continue the Chief Secretary until he retires or move to a higher position in Government of India. Unfortunately, this is no longer the case. The Chief Secretary does not enjoy the security of tenure now. Often the Chief Secretary is removed from his position unceremoniously and sent to unimportant job. The unfortunate position is that it happens for reasons not connected with any administrative failure on his part. This again is undermining the position of the Chief Secretary with detrimental effect on the morale of administration.

Chapter V

The Secretariat

The expression Secretariat is used to refer to the complex of departments whose administrative heads are Secretaries and political heads the Ministers.

A. Organization of the Secretariat

As already seen, the functions of the Government are organised in different departments. Each department is headed at the political level by the Minister and at the Administrative level by the Secretary. The Secretary is in turn assisted by a group of officers and an office.

Officers

The Officers in the Secretariat are grouped into various categories mentioned below:

- (i) Secretary to the Government
- (ii) Special Secretary/Additional Secretary
- (iii) Joint Secretary
- (iv) Deputy Secretary
- (v) Under Secretary

We shall be discussing here the functions of these officers briefly:

Secretary

The Secretary is an overall charge of the department. He is the Chief Advisor to the Minister regarding the matters in his department. He allocates work among the different officers of his department. He represents his department before the committees of the Assembly.

Additional Secretary/Special Secretary

When the work in a particular department becomes too heavy, some posts of Special Secretaries/Additional Secretaries may be created to

relieve the Secretary of some of the burden of his work. These officers can directly perform some of the functions of the Secretary and may submit files directly to the Minister in respect of the delegated functions performed by them.

Deputy Secretary

The real operating level below the Secretary is the Deputy Secretary. In some of the States the post of Joint Secretaries has been created to distinguish between the officers of different seniorities. Sometimes, the officers coming from the State Civil Services are designated as Deputy Secretaries while those coming from the Indian Administrative Services are known as Joint Secretaries. However, they perform the same functions. The Deputy Secretaries/Joint Secretaries are placed in charge of definite wing of the Department. This requires the supervision of the work of a number of Under Secretaries. A Deputy Secretary is also delegated some powers to dispose of certain routine cases at his level. He sends important cases to the Additional Secretary or the Secretary depending upon the scheme of delegation of work. The Deputy Secretaries are supposed to have a thorough knowledge of the wing controlled by them. They are supposed to analyze the various policy alternatives before sending the files upwards.

Under Secretary

These are the lowest level officers who perform the vital function of providing a link between the office and the officers. They are placed in charge of a number of sections each headed by a Section Officer. Section is the lowest unit of work. In some states, the Section is headed by an Assistant Secretary while in others by a Section Officer. In some places, he is also included in the class of officers while in others he is included in the office. The Section Officer is responsible for the distribution of work among the various functionaries of the Section and to ensure the timely submission of files to the officers. He supervises the work of the Assistant/UDCs working in his section and makes them present the cases suitably docketed and referenced. Precedents of similar cases have also to be cited while presenting the files.

Office

While the officers analyze the case and suggest alternative courses of action, the function of the officer is to present cases in the proper form before the officers. The office has the following categories of functionaries:

- (i) Assistant Secretary/Section Officer
- (ii) Assistant
- (iii) Upper Division Clerk
- (iv) Lower Division Clerk/Typist

B. Functions of the Secretariat

Secretariat may be regarded as the extended personality of the Council of Ministers. Its main functions are:

- (i) to assist and advice the Minister in the formulation of Government policies and programmes;
- (ii) To frame the policies, it is necessary to collect a great deal of data from the field agencies and several other sources. The Secretariat performs the function of collecting the necessary data from different sources and analyzing it with a view to suggest various courses of action necessary in the formulation of policies.
- (iii) The Secretariat gives general direction and guidance to the Directorates and other field agencies for the efficient implementation of the Government policies and the decisions. It may be noted that these are only broad policy guidelines and are not supposed to be in the nature of detailed instructions which are to be issued by the respective head of the executive departments.
- (iv) The Secretariat monitors the programmes regarding the implementation of various programmes and evaluates the performance of different field agencies. Finally, it suggests the corrective action whenever it becomes necessary in view of the evaluation conducted by it.

- (v) The Secretariat acts as the spokesman of the Government. It maintains contact with the Central Government and other State Governments and outside agencies.

The functions of the Secretariat have to be distinguished from the functions of the executive departments. The Secretariat is supposed to give only general policy guidelines while the actual execution of the policy is the work of the executive head of the departments.

Chapter VI

The Departments

Whereas the Secretariat is concerned mainly with the formulation of policies, the responsibility of their execution falls on the heads of the departments and their field formations. Usually there is a separate department for every important activity of the State. These departments provide the executive direction required in the implementation of the policies laid down by the Secretariat. The head of the departments from the Government and their officers draw their powers either from any statute or by delegation from the Government or both. For example, the Registrar of the Cooperative Societies derives his powers from the Cooperative Societies Act, whereas the Director of Agriculture derives his powers mainly by delegation from the State Government.

A. Organization for the Departments

It would be worthwhile to distinguish between the departments in the Secretariat and the Executive Departments. While the Secretariat Department works under a generalized Secretary and perform the functions of laying down the policies, the executive departments are organised for the performance of the field functions. Generally the executive departments are headed by a technical officer called by different names such as, Registrar of Cooperative Societies, Director General of Police, Engineer-in-Charge, etc. There is thus no common nomenclature of the head of Department in the different departments of the State. As an illustration some of the departments and the designation of their heads are shown below:

Departments	Heads
Police Department	Director General of Police
Cooperation	Registrar of Cooperative Societies
Education	Director of Education
Forest	Conservator – in- Chief
Irrigation	Engineer – in – Chief (irrigation) etc.

B. Functioning of the Departments

The Executive departments of the Government are their executive arm meant for the performance of specific functions. The Organizations of different departments is different, depending upon the nature of the functions to be performed by them. However, certain common features are mentioned here. Work in all the departments is usually divided between the headquarters, divisional and district levels. Some of the departments have their organization even below the district level. Sometimes, their organization extends to blocks and even village level. For example, The Panchayat Department, Agriculture Department and Revenue Department have their organizations extending right up to the village levels.

Functions of the Department

In accordance with the principle of the distinction between the policy making and executive functions, the head of the department is supposed to perform the following functions:

- (i) Proposing at the beginning of the budget period the departmental activities for the ensuing year;
- (ii) Formulating a first draft of the department's budget'
- (iii) Acting as technical adviser to the Ministry;
- (iv) Carrying out the research and experiment programme and improving the department's techniques of work;
- (v) Training the department's officers in these techniques;

- (vi) Inspecting the execution of work in these departmental district staff;
- (vii) Allocating grants according to rules, making budget re-appropriation within prescribed limits;
- (viii) Making within approved rules all appointments, confirmations, including also sanctioning leave and making acting arrangements.
- (ix) Exercising disciplinary powers over all subordinate officers according to rules;
- (x) Advising the Public Commission concerning promotions;
- (xi) Advising the Minister on nominations to be made by Government to out side institutions;
- (xii) Sanctioning the attendance of officers in conferences.

Chapter VII

The State Services and Commissions

A. The State Services

The State Services consist of such services as the State Government may, from time to time, declare by notification in the official, Gazette to be included in that category. The number of such services varies from State to State. A State has, generally speaking State Civil Service, Medical Service, Police Service, Judicial Service, Public Health Service, Forest Service, Education Service, Veterinary Service, Cooperative Service, Engineering Service, Accounts Service etc. Generally the State services are divided into four categories viz. Class I, Class II, Class III and Class IV services. Class I and Class II belong to the officers' class. Class III is related to ministerial staff and Class IV comprises unskilled staff.

B. State Public Service Commission

The Constitution makes it obligatory for the State Government to constitute a Public Service Commission to assist it in the recruitment, promotion and maintenance of discipline amongst the State Services. The exact strength of the Commission is not specified in the Constitution. The Governor of the State is empowered to determine the strength. However, the Constitution permits for constituting a Joint State Public Service Commission for two or more States. If a resolution to this effect is passed by the Legislature; Parliament may, by law, provide for constituting such a Joint State Public Service Commission. In such a case the strength of a Joint State Public Service Commission is determined by the President of India.

The Governor appoints the Chairman and other members of the State Public Service Commission, while the Chairman and other members of a Joint State Commission are appointed by the President of India. The Constitution provides that, as nearly as may be, on behalf of the members must be persons who have held office for at least ten years either under the Government of India or under the Government of a

State. If the office of the Chairman of the Commission falls vacant for any reason, the President, in case of Joint State Public Service Commission and the Governor in case of a State Public Service Commission, appoints a person from amongst the members to take charge until a new Chairman is appointed.

A member of the Joint State Public Service Commission/State Public Service Commission holds office for a period of six years from the date he assumes his office or until he attains the age of sixty-two years, whichever is earlier. A member of the Commission may resign by addressing a letter to the President in case of Joint State Public Service Commission or to the Governor of the State in case of State Public Service Commission.

The Chairman or any other member of the Commission can be removed from his office by the order of President only on the ground of misbehavior. The President may also, by order, remove from office the Chairman or any other member, as the case may be, if he is adjudged insolvent or engages during his term of office in any paid employment outside the duties of his office or is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

On ceasing to hold office, the Chairman of a State Public Service Commission, shall be eligible for appointment as the Chairman or a member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission. He cannot take up any other employment either under the Government of India or under the Government of a State.

Functions of the Commission:

It shall be the duty of the Commission to conduct examinations for appointments to the services of the State Government. The Commission shall be consulted on all matters relating to the methods of recruitment to civil services and for civil posts and the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers. The Commission is also consulted on all disciplinary

matters affecting a person serving under the Government of India or the Government of a State, in civil capacity including memorials or petitions relating to such matters and on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State, in a civil capacity, and any question as to the amount of any such awards.

It shall be the duty of the State Public Service Commission to present annually to the Governor a report as to the work done by the Commission. The Governor shall cause it to lay its copy together with a memorandum explaining as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance, before the Legislature of the State.

C. Advocate-General

The Constitution provides for the office of an Advocate-General. He is appointed by the Governor on the advice of the State Ministry. He holds office during the pleasure of the Governor, but, in actual practice, he holds office during the tenure of the ministry appointing him. The only qualification laid down is that he should be qualified to be a judge of a High Court.

Though he is not a member of the State Legislature, he is empowered to attend its meetings when called upon to explain certain legal technicalities. He has the right to speak and take part in the proceedings of the legislature but he cannot vote.

He performs all such functions as are enjoined on him by law. He is the highest legal adviser to the State Government and appears on its behalf in almost all courts. He is also the public prosecutor in all case coming up before the High Court in exercise of its original criminal jurisdiction. He examines all the Bills drafted by different departments.

D. State Finance Commission

The Constitution (Seventy-third Amendment) Act of 1992 and the Constitution (Seventy-fourth Amendment) Act of 1992 have added Part IX and Part X respectively, to the Constitution of India regarding the constitution and empowerment of Panchayats and Municipalities

respectively. These amendments have provided for constituting and empowering Finance Commission in each of the States of India.

The Governor of a State shall constitute a Finance Commission for the State every five years. The Legislature of the State may (by law) provide for the composition of the Commission, the qualifications that shall be requisite for the appointment of its members, and the manner in which they shall be selected. The Commission is empowered to review the financial position of the Panchayats and the Municipalities and to make recommendations to the Governor as to — (i) the principles which should govern the determination, the distribution and allocation between the State and Panchayats as well as the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State; besides the decision about the grants-in-aid to the Panchayats/Municipalities from the consolidated fund of the State, (ii) the measures needed to improve the financial position of the Panchayats /Municipalities, and (iii) any other matter referred to the Commission by the Governor in the interests of the Panchayats/Municipalities.

The Governor shall cause it to lay every recommendation made by the commission together with an explanatory memorandum as to the action taken on it before the Legislature of the State.

To sum up, we can say that the real administration of the state is carried on by the Secretariat and the Executive Departments. The policies of the Government are framed by the ministers on the advice of the Secretariat and the Executive Departments implement them.