

## Prime Minister & Council of Ministers - Power & Function of Prime Minister SHANAKR SIR

Article 75 of the Indian Constitution mentions that a Prime Minister is one who is appointed by the President.

There is no specific procedure for his election or appointment.

Article 74(1) states that there shall be a Council of Ministers with a Prime Minister at the head to aid and advise the President.

Thus, the Indian Constitution itself recognizes a Council of Ministers.

### Is Prime Minister of India elected or appointed?

President of India appoints a person as the Prime Minister who is either the leader of the party which holds a majority of seats in the Lok Sabha or is a person who is able to win the confidence of the Lok Sabha by gaining the support of other political parties. All other ministers are appointed by the [President](#) on the advice of the Prime Minister.

**Note:** President can also appoint Prime Minister on his own discretion but only when no party has a clear majority in the Lok Sabha.

### Power and Function of Prime Minister

Prime Minister of India serves the country by following various functions. He performs his functions taking responsibilities as:

- **The leader of Country:** The Prime Minister of India is the Head of the Government of India.
- **Portfolio allocation:** The Prime Minister has the authority to assign portfolios to the Ministers.
- **Chairman of the Cabinet:** The Prime Minister is the chairman of the cabinet and presides the meetings of the Cabinet. He can impose his decision if there is a crucial opinion difference among the members.
- **Official Representative of the country:** Prime minister represents the country for high-level international meetings
- **The link between the President and the Cabinet:** The Prime Minister acts as the link between President and cabinet. He communicates all decisions of the Cabinet to the President which is related to the administration of the affairs of the Union and proposals for legislation.
- **Head:** The Prime Minister is the head of Nuclear Command Authority, NITI Aayog, Appointments Committee of the Cabinet, Department of Atomic Energy, Department of Space and Ministry of Personnel, Public Grievances and Pensions.
- **Chief Advisor:** He acts as the chief advisor to the President

Like Prime Minister is the head of Union Parliament, the Chief Minister is the head of state parliament.

### List of Prime Ministers of India - (1947-2019)

Prime Minister of India is the head of the government. He is appointed by the Indian President after the political party wins a general election and nominates a candidate for the post. The leader of that political party is thereafter appointed as the Prime Minister of India.

India's first [Prime Minister](#) was appointed in 1947 and till now 18 Prime Ministers have been appointed.

The next general elections for the appointment of a new Prime Minister are scheduled to be conducted in 2024.

### Prime Ministers of India List

In 72 years of independence, India has got its 19 Prime Ministers. The list of Prime Ministers of India along with the period they served in the office, is given in the table below:

S.No	Prime Minister	Period
1	Pandit Jawaharlal Nehru	15th Aug 1947- 27th May 1964
2	Gulzarilal Nanda (interim)	27th May 1964- 9th Jun 1964

3	Lal Bahadur Shastri	9th June 1964 -11th January 1966
4	Gulzarilal Nanda	11th January 1966- 24th January 1966
5	Indira Gandhi	24th January 1966- 24th March 1977
6	Morarji Desai	24th March 1977- 28th July 1979
7	Charan Singh	28th July 1979- 14th January 1980
8	Indira Gandhi	14th January 1980- 31st October 1984
9	Rajiv Gandhi	31st October 1984- 2nd December 1989
10	Vishwa Pratap Singh	2nd December 1989- 10th November 1990
11	Chandra Shekhar	10th November 1990-21st June 1991
12	P. V Narasimha Rao	21st June 1991- 16th May 1996
13	Atal Bihari Vajpayee	16th May 1996-1st June 1996
14	H. D Deve Gowda	1st June 1996- 21st April 1997
15	Inder Kumar Gujral	21st April 1997- 18th March 1998
16	Atal Bihari Vajpayee	18th March 1998- 22nd May 2004
17	Dr. Manmohan Singh	22nd May 2004 -17th May 2014
18	Narendra Modi	26th May 2014 -23rd May 2019
18	Narendra Modi	30th May 2019 -Incumbent

### Who is eligible to be a Prime Minister?

To become an Indian prime minister one has to be

- A citizen of India.
- A member of either Rajya Sabha or Lok Sabha
- He should have completed his 30 years if he is a member of the Rajya Sabha or can be 25 years of age if he is a member of the Lok Sabha

### Position of the Prime Minister

Right from the days of the first Prime Minister Pandit Jawaharlal Nehru, the Prime Minister is treated at a much higher pedestal. His pre-eminence rests on his commanding position in the Cabinet, coupled with fact that he is the leader of the majority party.

During the period of the Congress rule, the Prime Minister was usually the President of his party and the major campaigner in the elections. All these positions of power when combined in one person make him

rank much above an ordinary Minister. The death or resignation of the Prime Minister automatically brings about the dissolution of the Council of Ministers. It generates a vacuum. The demise, resignation or dismissal of a Minister creates only a vacancy which the Prime Minister may or may not like to fill. The Government cannot function without a Prime Minister but the absence of a Minister is easily tolerated and compensated.

### Relationship between the Prime Minister and the President of India

There are a few articles in the Indian Constitution that deal with the relationship both Prime Minister and the President share with each other. The articles are:

- Article 74
- Article 75
- Article 78

Articles	Relationship between Prime Minister and the President
74	Mentions how Prime Minister and President are both connected with council of ministers. The Council with PM as head advise President on various issues.
75	Mentions three things: <ul style="list-style-type: none"> <li>• President appoints PM and other ministers are appointed by the President on the advice of the PM.</li> <li>• Ministers hold their office during the pleasure of the President.</li> <li>• Council of Ministers is collectively responsible to the Lok Sabha.</li> </ul>
78	PM communicates all decisions made by the council of members to the President. President can also refer issues for the consideration of the council of members.

### Facts about Indian Prime Ministers for UPSC

**The facts are given in the table below:**

Longest-Serving Indian Prime Minister	Jawaharlal Nehru (1947 – 1964)
Second Longest-Serving Indian Prime Minister	Dr. Manmohan Singh
Acting Prime Minister Twice	Gulzari Lal Nanda
The first woman Prime Minister to receive the Bharat Ratna	Indira Gandhi
First Non-Congress Prime Minister of India	Morarji Desai
Indian Prime Minister received Pakistan’s highest civilian award	Morarji Desai
Youngest Indian Prime Minister	Rajiv Gandhi
First Prime Minister from South India	P.V. Narasimha Rao
First Prime Minister of India who was a member of the Rajya Sabha	H.D. Deve Gowda

## **COUNCIL OF MINISTERS**

Which articles in the Constitution deal with the Council of Ministers?

Two articles – Article 74 and Article 75 of the Indian Constitution deal with the Council of Ministers. Where article 74 mentions that the council will be headed by the Prime Minister of India and will aid and advise the President, article 75 mentions the following things:

- They are appointed by the President on the advice of Prime Minister
- They along with the Prime Minister of India form 15% of the total strength of the lower house i.e. Lok Sabha. (The number cannot exceed 15%)
- 91st Amendment Act provided for the disqualification of the minister when he stands disqualified as a member of Parliament.
- A Minister ceased to exist as one if he is not a member of either house of Parliament for six consecutive months.
- Parliament decides the salary and allowances of the council of ministers.

#### **Is the advice tendered by the Council of Ministers' binding on the President?**

Yes, the advice is binding on the President and this provision was introduced by the 42nd Amendment Act 1976 and 44th Amendment Act 1978. The acts also mentioned that the advice given by the council cannot be inquired into by any court.

#### **Collective Responsibility of the Council of Ministers**

In England, the Cabinet system is based on conventions.

The framers of our Constitution considered it fit to incorporate the system in the Constitution.

The principle of collective responsibility finds a place in Art. 75(3) where it is stated that the Council of Ministers shall be collectively responsible to the Lok Sabha.

In other words, this provision means that a Ministry which loses confidence in the Lok Sabha is obliged to resign.

The loss of confidence is expressed by rejecting a Money Bill or Finance Bill or any other important policy measure or by passing a motion of no-confidence or rejecting a motion expressing confidence in the Ministry.

When a Ministry loses the confidence of the Lok Sabha the whole of the Ministry has to resign including those Ministers who are from the Rajya Sabha.

The Ministers fall and stand together. In certain cases, the Ministry may advise the President to dissolve Lok Sabha and call for fresh elections.

#### **Types of Ministers**

The Indian Constitution does not categorize ministers into ranks; however, in practice seen in India, ministers are of four types:

1. **Cabinet Ministers**—He is present and he participates in every meeting of the Cabinet.
2. **Minister of State with independent charge**—He is a Minister of State who does not work under a Cabinet Minister. When any matter concerning his Department is on the agenda of the Cabinet, he is invited to attend the meeting.
3. **Minister of State**—He is a Minister who does not have independent charge of any Department and works under a Cabinet Minister. The work to such Minister is allotted by his Cabinet Minister.
4. **Deputy Minister**—He is a Minister who works under a Cabinet Minister or a Minister of State with independent charge. His work is allotted by the Minister under whom he is working.

#### **Council of Ministers**

##### **ARTICLE 74 : COUNCIL OF MINISTERS TO AID AND ADVISE PRESIDENT**

(1) 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.

(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court.

### **ARTICLE 75: OTHER PROVISIONS AS TO MINISTERS**

(1) 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.

(1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier.

(2) The Ministers shall hold office during the pleasure of the President.

(3) The Council of Ministers shall be collectively responsible to the House of the People.

(4) Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(5) A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determines, shall be as specified in the Second Schedule.

#### **The Attorney-General for India**

### **ARTICLE 76 : ATTORNEY-GENERAL FOR INDIA.**

(1) The President shall appoint a person who is qualified to be appointed a Judge of the Supreme Court to be Attorney- General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

#### **Conduct of Government Business**

77. Conduct of business of the Government of India.—(1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.

### **ARTICLE 78 : DUTIES OF PRIME MINISTER AS RESPECTS THE FURNISHING OF INFORMATION TO THE PRESIDENT, ETC.**

—It shall be the duty of the Prime Minister—

(a) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

**Info Bits Related with COM, PM and AG**

1. The prime minister is responsible for aiding and advising the president in distribution of work of the Government to various ministries and offices and in terms of the *Government of India (Allocation of Business) Rules, 1961*. The co-ordinating work is generally allocated to the Cabinet Secretariat.
2. By Article 75 of the constitution of India, remuneration of the prime minister as well as other ministers are to be decided by the Parliament. In 2010, the prime minister's office reported that he did not receive a formal salary, but was only entitled to monthly allowances.
3. The Attorney General, like an Advocate General of a State is not supposed to be a political appointee, in spirit, but this is not the case in practice. Every time a party comes to power in the general elections, all the law officers resign and law officers loyal to the new party are appointed.
4. The Attorney General has the right of audience in all Courts in India as well as the right to participate in the proceedings of the Parliament, though not to vote.
5. Unlike the Attorney General of the United States, the Attorney General of India does not have any executive authority, and is not a political appointee, those functions are performed by the Law Minister of India.
6. The Attorney General is assisted by a Solicitor General and four Additional Solicitors General. (Non-constitutional posts.)
7. The Cabinet is a smaller body than Council of Ministers which consists of a few important senior ministers who are in charge of separate departments. The Cabinet is described as "a wheel within a wheel". It is the nucleus of the Council of Ministers.
8. Cabinet exercises all powers on behalf of the Council of Ministers. The policy decisions are taken in the Cabinet.
9. There are three categories of ministers (COM), in descending order of rank:
  - o Union Cabinet Minister: senior minister in-charge of a ministry. A cabinet minister may also hold additional charges of other Ministries, where no other Cabinet minister is appointed.
  - o Minister of State (Independent Charges): with no overseeing Union cabinet minister for that portfolio.
  - o Minister of State (MoS): junior minister to overseeing cabinet minister, usually tasked with a specific responsibility in that ministry. For instance, an MoS in the Finance Ministry may only handle taxation.

## **MAINS:**

### PRIME MINISTER AND COUNCIL

#### **Prime Minister**

**He is the head of government or the real executive in the Indian system.** President appoints the prime minister however no system of appointment is given in the constitution. However by convention of a parliamentary democracy the leader of the largest party of parliament becomes the PM.

The president can exercise discretion when no party has clear majority. He appoints a person and asks him to prove his majority in the house. If the PM dies and no successor is in sight then again the president can appoint a suitable person at his discretion as caretaker for continuity. However if the winning party has a candidate then the president has no choice.

To be a PM a person need not be an MP but he has to become one within 6 months of being appointed or else his appointment become void.

Though the PM occupies his post during the pleasure of the president he can't be removed till he commands the majority in the house.

**As per the Govt of India (Allocation of business) Rules created by the president, different departments were created to handle governments business. Ministers and subject distribution was done to each ministry by the president on advice of the prime minister.**

#### **Powers of the PM:**

1. As head of the council of ministers he recommends people to be appointed as ministers to the president.
2. He allocates and reshuffles portfolios amongst them. He can ask the minister to resign or tell the president to dismiss him.

3. He supervises activities of all ministers. His resignation or death leads to dissolution of the council of ministers.
4. He communicates to the president all matters related to administration of the union and proposed legislation's.
5. He furnishes information required by the president relating to administration of the union or proposed legislation's.
6. He submits to the consideration of the council of ministers any matter on which decision has been taken by an individual minister but the Council of Ministers hasn't considered it.
7. He is the leader of the lower house. He can advice president to summon or prorogue the house sessions. He can advice dissolution of Lok Sabha to the president anytime. He announces government policies on the floor of the house.
8. He is advisor of president regarding appointments to various regulators and constitutional bodies of the union.
9. He heads the national development council, national integration council, interstate council, Niti Aayog, national water resource council.

### Council of Ministers

The PM + Council of ministers are the real executives of the union.

They aid and advice the president in the exercise of his functions but such advice is binding on the president. No court shall inquire into the advice given by the Council of ministers to the President which means they are liable for official acts of the president done on their advice. Constitution however doesn't grant any immunity either for personal or official acts hence ministers can be treated like ordinary citizens.

The total strength of the PM + Council of ministers shall not exceed 15% of the strength of the Lok Sabha [91<sup>st</sup> amendment]. The person who has been disqualified on grounds of defection shall also be disqualified to be appointed as the PM [91<sup>st</sup> amendment].

**Council of ministers is collectively responsible to the Lok Sabha.** A minister who isn't a MP for six consecutive months shall cease to be the minister. A minister can take part in proceeding of both houses as he is member of the government but can vote only in the house of which he's a member.

**Collective responsibility: This means that entire Council of ministers is a team that sinks or swims together. So if the Lok Sabha passes a no confidence motion against the Council of ministers then all have to resign. Only the Lok Sabha can pass the motion of no confidence; it can't be against a single minister but the entire Council of ministers only.**

This is due to the provision in the constitution saying:

*"Council of ministers is collectively responsible to the Lok Sabha."*

### There are three categories of ministers in the council:

- Ø Cabinet: They attend cabinet meetings and play important role in central government.
- Ø Minister of state: They can be independent in charge of department that aren't attached to cabinet ministries or in charge of specific department part of a ministry /specific work in a ministry which is headed by a cabinet minister.
- Ø Deputy Minister: They are attached to cabinet ministers or ministers of state and assist them in their work. The last two categories don't form part of cabinet meetings. Cabinet isn't mentioned in the original text of the constitution but only in 44<sup>th</sup> amendment it was inserted in article 352. Cabinet ministers are also part of cabinet committees which are created to sort out issue or make policy recommendations to the cabinet.

### Collective responsibility and individual responsibility

- The 'collective responsibility' has two meanings : the first that all the members of a government are **unanimous in support of its policies and exhibit that unanimity on public occasions** although while formulating the policies, they might have differed in the cabinet meeting;
- The second that the Ministers, who had an opportunity to speak for or against the policies in the Cabinet, are **thereby personally and morally responsible for their success and failure.**

- The principle of individual responsibility to the head of the State is embodied in Art. 75(2)-"*The Ministers shall hold office during the pleasure of the the President.*"
- The result, is that though the Ministers are collectively responsible to the Legislature, they shall be individually responsible to the Executive head and shall be liable to dismissal even when they may have the confidence of the Legislature.
- But since the Prime Minister's advice will be available in the matter of dismissing other Ministers individually, it may be expected that this power of the President will virtually be, as in England, **a power of the Prime Minister against his colleagues**, -to get rid of an undesirable colleague even where that Minister may still possess the confidence of the majority in the House of the People.
- Usually, the Prime Minister exercises this power by asking an undesirable colleague to resign, which the latter readily complies with, **in order to avoid the odium of a dismissal.**
- But, as stated earlier, the English principle of legal responsibility has not been adopted in our Constitution.
- In England, the Crown cannot do any public act Without the counter-signature of a Minister who is liable in a Court of law if the act done violates the law of the land and gives rise to a cause of action in favour of an individual.
- But our Constitution does not expressly say that the President can act only through Ministers and leaves it to the President to make rules as to how his orders, etc., are to be authenticated; and on the other hand, provides that the Courts will not be entitled to enquire what advice was tendered by the Ministers to the executive head.
- Hence, if an act of the President is, according to the rules made by him, authenticated by a Secretary to the Government of india.
- There is no scope for a Minister being legally responsible for the act even though it may have been done on the advice at the Minister.

#### Prime Minister is the "keystone of the Cabinet arch"

- As in England, the Prime Minister is the "keystone of the Cabinet arch". Article 74(1) of our Constitution expressly States that the Prime Minister shall be "at the head" of the Council of Ministers.
- Hence, the other Ministers cannot function when the Prime Minister dies or resigns.
- In theory, all Ministers or members of the Cabinet have an equal position, all being advisers of the Crown, and all being responsible to Parliament in the same manner. Nevertheless, the Prime Minister has a pre-eminence, by conven- tion and usage.
- Even though any particular Minister has tendered any advice to the President without placing it before the Council of Ministers, the President has **(through the Prime Minister) the power to refer the matter to be considered by the Council of Ministers.** The unity of the Cabinet system will thus be enforced in India through the provisions of the written Constitution.

#### The President in relation to his Council of Ministers

- In a Parliamentary form of government, **the tenure of office of the virtual executive is dependent on the will of the Legislature;** in a Presidential Government the tenure of office of the executive is independent of the will of the Legislature
- Thus, in the Presidential form of which the model is the United States, the **President is the real head of the Executive** who Is elected by the people for a fixed term.
- **He is Independent of the Legislature as regards his tenure and is not responsible to the Legislature for his acts.** He may, of course, act with the advice of ministers, but they are appointed by him as his counsellors and are responsible to him and not to the Legislature.
- Under the Parliamentary system represented by England, on the other hand, the head of the Executive (the Crown) is a mere titular head, and the virtual executive power is wielded by the Cabinet, **a body formed of the members of the Legislature and responsible to the popular House of the Legislature** for their office and actions.
- **While the so-called Cabinet of the American President** is responsible to himself and not to Congress, the Council of Ministers of Indian President shall be responsible to Parliament.

- The reason why the framers of the Constitution discarded the American model after providing for the **election of the President of the Republic by an electoral college formed of members of the Legislatures** not only of the Union but also of the States, has thus been explained
- In combining stability with responsibility, they gave more importance to the latter and preferred the system of **'daily assessment of responsibility' to the theory of 'periodic assessment'** upon which the American system is founded.
- **Under the American system, conflicts are bound to occur between the Executive, Legislature and Judiciary**; and on the other hand, according to modern American writers the absence of co-ordination between the Legislature and the Executive is a source of weakness of the American political system.
- What is wanted in India on her attaining freedom from one and a half century of bondage is a form of Government which would be conducive to the manifold development of the country without the least friction, -and to this end, **the Cabinet or Parliamentary system of Government of which India has already had some experience, is better suited than the Presidential.**

## **GOVERNANCE:**

(Union Government and Administration)

### **THE INDIAN PRIME MINISTER: ROLE AND RESPONSIBILITIES**

Parliamentary democracy in India envisages the presence of a nominal and a real executive. They are the President and the Prime Minister respectively. This is an attempt to explain the role of the Prime Minister as the 'real chief executive' by examining his position vis-a-vis various other functionaries and institutions through whom he exercises power and fulfils his constitutional and political obligations. To begin with, a brief description of the process of his appointment and removal would be pertinent.

#### **Appointment And Removal**

Article 75 (1) of the Indian Constitution provides that 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. Besides this, the Constitution does not say anything regarding his appointment. The Constitution permits a person to be appointed Prime Minister without his or her being a member of either House of Parliament at the time of appointment.' But such a person can be Prime Minister only for six months. Before the expiry of this time, he has to become a member of either the Council of States, the Rajya Sabha or the House of the People, the Lok Sabha? However, we have developed a convention which requires that the President should appoint the leader of a party or a group of parties who commands majority support in the House of the People as Prime Minister?

As regards the removal of the P.M. by the President, Article 75(2) which conditions his continuance in office dependent on "the pleasure of the President" has to be read with Article 75(3) which states that all the ministers are collectively responsible to the House of the People. This is taken to mean that so long as the P.M. is able to command majority support in the Lok Sabha, there is no threat to his continuance in office. We can now examine the powers and position of the P.M. within the structural framework in which he functions.

#### **Relations With The President**

Articles 74, 75 and 78 broadly govern the relationship between the Prime Minister and the President. The chief function of the P.M. going by Article 74, is that of rendering aid and tendering advice to the President. After the 42nd Amendment of the Constitution (1976), Article 74(1) reads: "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.” Amendment 44(1978) added the following to the same article, “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.”<sup>5</sup> The article authorises the President to ask the Council to reconsider its advice, but, after reconsideration, if the Council sticks to its earlier advice, the President can do nothing but accept it.

Article 75(2) governs another aspect of the relationship between the two. It says that “Ministers shall hold office during the pleasure of the President.”

Article 78 specifies certain duties of the P.M. in relation to the President. It places an obligation on the P.M. to convey to the President all decisions of the Council relating to the administration of affairs of the Union and proposals for legislation. He has to furnish the President with such information relating to the affairs of the Union and proposal for legislation as the President may call for. If the President so requires, the P.M. has to submit for the consideration of the council of ministers any matter on which a decision had been taken by a minister but which has not been considered by the Council.

Article 78, by imposing these duties on the P.M., “enables the President to exercise his rights to be consulted, to encourage and to warn.”<sup>6</sup>

These articles have given rise to heated controversies from time to time. In fact, as early as 1951, the first President of India had raised the question as to whether the President was always bound by the advice of the P.M. and his cabinet. However, the controversy took the form of a violent political storm during 1984-89 and the relationship between the President and the Prime Minister deteriorated steadily. Without going into the details of those turbulent times, let us briefly examine three issues that surfaced as a result of this controversy:

**(a) Is the President Always Bound by the Advice of the P.M.?**

The answer to this question is that he is bound by the advice except in a few exceptional circumstances. One such case, when the advice can be disregarded, is provided by Article 85(1). Under this article, the President must summon a meeting of each House of Parliament and more than six months should not elapse between two consecutive sessions. However, if the P.M. advises him not to convene a session even when the said term is about to expire, then by not convening the session on account of such advice, the President would be violating the Constitution, for which he could be impeached. Hence, he can disregard such advice.

**(b) Is the P.M. under an Obligation to Furnish to the President such Information as He may Require?**

It is the duty of the P.M. to keep the President duly informed and if both act in good faith, there may be no complaints. Yet, during his tenure, the President may for any reason shift his loyalties from the party that got him elected and start meeting leaders of the opposition with the intention of bringing about the fall of the government. In such cases, the P.M. would be justified in withholding information from the President. H.M. Seervai gives yet another ground for withholding information. He says, “the information that the President requires may not be limited to financial scandals. It may refer to matters which may gravely affect the national security or internal order.”<sup>7</sup>

**(c) Can the President Grant Sanction to Prosecute the P.M. on Charges of Corruption?**

The President cannot give sanction for the legal prosecution of the P.M., unless his guilt is established by a court of law.<sup>8</sup> However, if the guilt is established, the President can order his prosecution under the Anti-

Corruption Act. Article 6 of the statute also states that permission for such a trial can be given by an officer who is empowered to remove the concerned minister.

### **As Head of The Council of Ministers**

The concept of primus inter pares does not appear to be appropriate in the context of the Indian P.M. He is not only the first among equals but the keystone of the cabinet arch. “The P.M. represents the whole of the executive government in a way that no single member of the Council of Ministers or even the whole of the Council of Ministers can.”<sup>9</sup> The President appoints ministers on the advice of the P.M. who decides about the size of the cabinet. The P.M. has a free hand in the distribution of portfolios, can review such distribution, reshuffle the ministries and request any minister to resign if his services are not considered necessary.

Broadly speaking, the Indian Prime Ministers, with the exception of Lal Bahadur Shastri, have had a free hand in the appointment and dismissal of ministers. The P.M. can keep one or more portfolios to himself. If he keeps the Home, Finance or Defence portfolios to himself, it leads to a high degree of concentration of power in his hands. The Home Minister is the most important person in the calculus of power after the P.M. himself and when the two positions are amalgamated, this can catapult the P.M. to dizzy heights of power. The Prime Minister’s next important role, after the formation of the cabinet, is the coordination of the cabinet activities. As the chairman of the cabinet, the P.M. decides when the cabinet meetings are to be held. He controls the agenda and it is for him to accept or reject proposals for discussion submitted by the ministers. All decisions of the cabinet are generally unanimous but if, on a rare occasion, voting does take place, as chairman of the cabinet, the P.M. has the casting vote. After the allocation of portfolios, the P.M. also keeps an eye on what is going on in the various departments and he can intervene if he feels that things are not going on smoothly or in accordance with the goals and policies of the government. He has to coordinate and guide the working of the various ministers and ministries. He, more than anyone else, must endeavour to see the work of the government as a whole and bring the various governmental activities into reasonable relationship with one another. He is the manager-in chief of the government’s business. He should be genuinely familiar with the business of each department and should ensure their functioning in an effective manner.

A Prime Minister must be approachable, ready to listen, intellectually alert and capable of offering sagacious advice to his team members. All disagreements must, as far as possible, be resolved by personal contacts and discussions. Often, tactics of coercion do not work and, hence, he has to take recourse to effective persuasion. The view of Sir Ivor Jennings in relation to the British Prime Ministers also applies to their Indian counterparts. He says: “Their [the Prime Ministers’] power rests on free opinion, but they are not dictators. They can do unpopular things but retribution follows if popularity is irretrievably lost.” If a P.M. fails to proceed tactfully, he may shatter the government and leave his leadership condemned. This is what Herman Finer had to say about the style to be adopted by the British P.M. and this is what the Indian P.M. also ought to do. “The P.M. has to make the cabinet work, it is his; he must give it cohesion; he must arbitrate differences of view and personality; he must fit all the necessary talents together into a reputable team.” It would be interesting; in this context to know what Nehru had to say about his role vis-a-vis the cabinet. He remarked:

I have to deal with every ministry, not as head of one particular ministry but as a coordinator and a kind of supervisor. Naturally, this can only be done effectively with tact and goodwill and without in any way diminishing the prestige of other ministers. Other ministers must not normally be interfered with and should have the freedom to carry out their work without unnecessary interference.” The style of each Prime Minister may vary, but it would be best if he provided sound guidance at the policy-making stage and then let his ministerial colleagues function freely. Speaking of the present time, a Union minister’s views on the Prime Ministerial style lays stress on consensus and discussion. He observed:

From the time I took oath till today, he has never interfered with my ministry. We have discussed a number of times and he has expressed his views. He has also given guidance. But, it is not like him to bypass the minister or call papers.”

Although the work of coordination is also done by the various cabinet committees, it is the P.M. who decides how this coordination should be brought about. He decides what cabinet committees there will be, appoints their chairmen and presides over some committees himself.

The cabinet is thus a unity and collective responsibility is the method by which this unity is secured. The question of divided responsibility does not arise because the cabinet, though plural, has to function as a unit essentially under the leadership of the P.M. Teamwork is the sine qua non of the cabinet system and the P.M. must strive hard to maintain it at all costs. The doctrine of ministerial responsibility means two things: (1) each minister carries on the work of a particular ministry and, for that, he is individually responsible and (2) all the members of the cabinet accept responsibility for the decisions of the cabinet. They all must express and represent uniform political opinions under the leadership of the P.M. and must sink or swim together. They are all bound by the cabinet decisions and anyone who is not willing to do so, must resign. The term ‘collective responsibility’ stands for the responsibility of the cabinet before the nation as a whole and before the Parliament. In the Parliament, the government is held accountable continuously for its actions and a breakdown of cabinet solidarity would result in the loss of parliamentary support.

### **As Integral Part of Parliament**

The Prime Minister, by virtue of being the leader of the majority party in the Lok Sabha, is also expected to provide leadership in the House. After consultation with the cabinet, the P.M. advises the President to summon the Parliament and to prorogue the session. But, his advice to prorogue need not be accepted if it is given to save his ministry. Similarly if the P.M. is obliged to resign on account of losing the support of the majority in the Lok Sabha, the President may refuse his advice to dissolve the House, if, an alternative government can be formed. He also sees that the proceedings of the Parliament are conducted with dignity and decorum. Sometimes, members of Parliament may behave in an unruly manner and the mediation of the P.M. can save the House from much embarrassment.

The Prime Minister is also an integral part of the process of legislation in the Parliament. All important bills emanate from the cabinet. Hence, no important bill can be introduced in the Lok Sabha without his consent. He also guides the bills through the various stages in the House. He, together with the Speaker, prepares a tentative programme for the Lok Sabha for each week as well as for each day, schedules legislations in the daily programme, allocates priorities to the bills that are to be introduced and, for this purpose, also participates in the Business Advisory Committee of the House.

Though, he is the leader of the majority party, the P.M. must also try to win cooperation and support of the opposition. He must pay attention to the opinions, demands, grievances and reactions of the opposition. He comes face to face with the opposition in the Parliament during the question hour. The opposition members may question him and he must answer their queries satisfactorily. Much of his prestige depends on his performance during the question hour and, therefore, adequate preparation and groundwork has to be done beforehand by the P.M. Speaking of Mrs. Gandhi's performance in Parliament, her Principal Secretary, P.C. Alexander says that she was particularly at ease in her role in Parliament. He says:

She used to prepare well for answering questions and get herself thoroughly briefed by the officers of the concerned departments at least a day before the question came up in the Parliament.... She would go through each question with meticulous care. She would often revise the draft answers at these meetings.

The Prime Minister has some role to play in the context of the Rajya Sabha also. The twelve members that the President appoints to the Rajya Sabha are appointed on the advice of the P.M. He can also act as a mediator if the Rajya Sabha and the Lok Sabha have differences of opinion.

### **The Prime Minister and His Party**

The Prime Minister, who plays a crucial role in strengthening and keeping his party together, has to maintain an alert hold over all the party organizations at the central, regional and local levels. He should have the support of not the parliamentary party alone but also of its organizational wings. The strength of the party lies in its mass base. Therefore, efforts must be made to strengthen the party at the grassroots. He should also ensure that the party members carry out the policies and programmes of the government faithfully. He can use his office status and authority to keep the rank and file in discipline and in check. For these reasons, the P.M. can, and often does, keep the post of the party president to himself. Unchallenged leadership in the various committees of the party and its various boards helps in keeping his position intact.

However strong the hold of the P.M. over his party is, his own fate is also tied up with that of the party. A disgruntled party can soon break up and, therefore, often the P.M. has to toe the party line. He cannot always have his own way. Sincere and continuous efforts must be made by him because a weak party, sooner or later, brings about the collapse of the government.

Divisions, rebellions, dismissals, party splits, defections, desertions and violations of cabinet secrecy can lead to the dissolution of the Lok Sabha as it happened in 1991. Hence, it can be said that in the strength of the P.M. lies the strength of the party and vice-versa.

### **ECO-FINANCIAL MANAGEMENT**

The Finance Minister and the Prime Minister have to work in close collaboration, enjoying total mutual trust and adjustment. The budget and the important money bills are prepared under the close supervision and scrutiny of the P.M. He is the chairman of the Planning Commission which formulates Five Year Plans and other important economic programmes for the country. He himself can also design and guide the formulations of programmes for the economic development of the nation. The Twenty Point Programme of Indira Gandhi and the Jawahar Rozgar Yojna of Rajiv Gandhi can be cited as examples. He can help the states during natural calamities by providing relief from the P.M.'s Relief Fund.

The Prime Minister has an important role to play in the National Development Council (NDC) too. The NDC of which the P.M. is the chairman, functions as a high-power consultative body which coordinates the

policies and programmes of the states comprising the Indian Union. It is also a forum for discussion of economic plans, the problems facing the Indian economy, and the policies to be adopted for handling the urgent financial and economic problems.

### **INTERNATIONAL RELATIONS**

The Prime Minister is the chief representative of the nation in the international sphere. He participates in international conferences, pays official visits to foreign countries, maintains relations with the UN and other international organizations, negotiates with heads of states, signs treaties and agreements, advises the President to declare war and conclude peace, and advises the President to grant or withhold recognition to nations. Throughout, he has to maintain a very close collaboration with the Ministry of Defence and the Ministry of External Affairs. If he is heard, known and respected outside India, it helps him gain greater prestige even within the country. Nehru, for instance, was a person much adored in some segments of international community and had carved a special niche for himself in the Third World because of his principle of Panchasheel. This helped him a great deal on the home-front.

### **STATUS DURING EMERGENCY**

The emergency powers of the Indian President are, in fact, the powers of the P.M. A decision regarding the imposition of emergency, under Articles 352, 356 or 360, is taken by the P.M., while the President, who has to abide by the advice of the P.M., makes a proclamation to that effect. Under Article 352(1), emergency can be imposed in the whole of India or part of it, if the President is satisfied that a grave emergency exists whereby the security of India or a part thereof is threatened by war or external aggression or armed rebellion. Under Article 356(1), emergency can be declared if the President, on receipt of a report from the Governor of a state, or otherwise, is satisfied that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the Constitution. Emergency under Article 360(1) can be declared if the President is satisfied that a situation has arisen whereby the financial stability or credit of India is threatened. The last kind of emergency under Article 360(1) has never been imposed in India so far. Articles 352 and 356 are more known for their misuse rather than correct use. This does not mean that situations of genuine necessity were never there. It was necessary in 1962 during the Chinese aggression and during the Pakistani aggression of 1971. Till then, there had been no public protest. The emergency was no doubt, kept in force long after the need was over but the Parliament, judiciary and the press were free. However, the possibility of misuse of Article 352 came into sharp focus during the emergency of 1975-77. A briefcase study of this is given to highlight the authoritarian powers the P.M. can assume during such an emergency.

The seeds of the infamous emergency of 1975 can be traced back to the well known decision of Judge J. Sinha of the Allahabad High Court on 12 June, 1975. The judge held Mrs. Gandhi guilty of corrupt electoral practices and debarred her from holding any public office for six years. The court granted her only a conditional stay. In order to forestall a public demand for her removal, without consulting her cabinet colleagues, she advised the President to declare emergency and he did so on 26 June, 1975. Proper grounds for such a declaration were not present. "There was no alarm on the economic front, law and order situation was under control, the Home Ministry had no adverse reports indicating deterioration of law and order, the Home Ministry had not submitted-such a report and the Intelligence Bureau had also not submitted any such

report.”” But the declaration of emergency gave her time she needed. The consequences were highly detrimental to democracy. Severe censorship was imposed on the press, the Maintenance of Internal Security Act was brought into active use, there were indiscriminate arrests and all important opposition leaders were imprisoned. In 1975 itself, the 39th Amendment Act was passed according to which the election disputes involving dignitaries such as the President, the Vice President, the P.M. and the Speaker of the Lok Sabha were placed outside the jurisdiction of the courts. Special provisions had to be made for decision by another authority. In 1976, the 42nd Amendment Act was passed according to which it was absolutely imperative for the President to abide by the advice of the P.M. The emergency continued up to the first quarter of 1977 and elections were held in March.”

As regards Article 356, it is one which has truly been blatantly misused. Time and again, it has been imposed by the President on the states on the reports of the Governors. While making such declarations, the President is clearly dictated by the P.M. who obviously uses the article to bring about the downfall of opposition-run state governments for a variety of reasons, not all of them always convincing.

To help the Prime Minister discharge his varied responsibilities, there is a Prime Minister’s Office to provide him aid and advice. Mrs Gandhi’s style of functioning and some political compulsions led not only to a phenomenal increase in the powers of the Prime Minister but also a sharp rise in the authority and influence exercised by the P.M.O., headed by the Principal Secretary. A discussion on the office therefore would be pertinent at this point.

### **THE PRIME MINISTER’S OFFICE**

The Prime Minister’s Secretariat came into being on August 15, 1947 when India gained independence. Since June 1977, it is known as the Prime Minister’s Office. The Secretariat was created for the immediate purpose of taking over the functions performed till then by the Secretary to the Governor-General (G.G), as the P.M. took over almost all the functions which the G. G., prior to independence, performed as the executive head of the government. It is an extra-constitutional institution that has no mention in the Indian Constitution.” However, it was given the status of a Department under the Government of India Allocation of Business Rules, 1961.

The PMO is headed by the Secretary to the P.M., who is now designated as the Principal Secretary to the P.M. The organisational hierarchy of the office is as follows:

- 1. Principal Secretary :** He heads the bureaucratic pyramid at the PMO and deals with all governmental files in the office. He also looks after the affairs of the various ministries that the P.M. may ask him to handle.
- 2. Additional Secretary :** He looks after the personnel and policy matters of the ministries that the P.M. may ask him to look after.
- 3. Joint Secretary (I) :** He looks after Home Affairs, Law and justice.
- 4. Joint Secretary (II) :** He handles the administration of the PMO and the Ministries of Surface Transport, Communications, Railways and Civil Aviation.
- 5. Joint Secretary (III) :** He looks after the Ministries of External Affairs, Defence and the Department of Atomic Energy.
- 6. Director (I) :** This is an Officer on Special Duty who looks after rural development and civil supplies.

**7. Director (II) :** He is incharge of Home Affairs.

**8. Director (III) :** He is the odd job-man in the PMO. He has no fixed responsibilities, and hence acts as a trouble-shooter.

**9. Director (IV) :** He has been assigned the task of looking after matters connected with the various state governments, especially those in the North-East”

This distribution of work is not a permanent one and the P.M. may modify it according to changing needs. Below the above officers are several functionaries belonging to class I, II, III and IV services. Generally the status of the officers of the PMO can be taken to be the same as that of officers of corresponding ranks in the ministries of the government, Yet, in the late 1980s, it was realised that there were several advantages of being posted in the PMO. It has been remarked that to the traditional list of advantages, -power, perquisites and patronage-must now be added a fourth ‘P’-promotions.” When the government announced three promotions of senior officials to the rank of Secretary in March 1987, two of them turned out to be in the PMO. However, this may not be a consistent phenomenon,

### **Functions**

Broadly, the jurisdiction of the PMO extends over all such subjects and activities as are not specially allotted to any individual department. The functions, in brief, are:

- (a) to deal with all references which under the Rules of Business come to the P.M.;
- (b) to help the P.M. in the discharge of his overall responsibilities as the chief executive; it includes keeping liaison with the Union ministries and state governments on matters in which the P.M. may be interested;
- (c) to help the P.M. in the discharge of his responsibilities as the chairman of the Planning Commission;
- (d) to deal with the public relations side of the PMO; and
- (e) to provide the P.M. assistance in the examination of cases submitted to him for orders under prescribed rules.

The above-mentioned functions should not be taken to mean that they contain the entire spectrum of functions performed by the PMO. It also helps the P.M. in preparing answers to questions which cannot be answered by any particular ministry, handles the correspondence of the P.M. and prepares the drafts of important speeches and declarations of the P.M. In contemporary times, it has virtually become the “think tank” of the P.M. The idea behind its creation was to leave the P.M. with enough time to concentrate on major policy decisions by processing all the proposals that are sent to him. Its importance increases because the P.M. is the coordinator of the cabinet. Due to its proximity to the P.M., it plays an influential role in the cabinet activity as well. Since the P.M. is the chairman of the Planning Commission, the PMO exercises considerable influence during the deliberations and formulation of the plans. Although the External Affairs Ministry is a regular and large ministry, in reality, it is the P.M., in consultation with his office and the ministry who designs and guides the foreign policy of the nation.”

### **The Principal Secretary**

The role of the PMO since independence has depended on the individual style of functioning of the P.M. However, with the exception of the Nehru era and the Janata regime of 1977-79, the office has witnessed a steep rise in terms of power and prestige. Nehru never relied on it or banked upon it much and during his time, the P.M.’s office was placed under the Cabinet Secretariat. The Shastri period in the mid-sixties gave a

tremendous boost to this office. Shastri appointed L. K. Jha as the Secretary to the P.M. Jha's role has been unparalleled in the history of the PMO. Michael Brecher then rightly commented:

There is ample evidence to indicate that the P.M.'s Secretariat, through the forceful personality of L. K. Jha, has become a major power centre in all India politics and an interest group in its own right. He [L. K. Jha] has exerted pressure on many issues, notably in the vital spheres of economic policy and foreign affairs. After Shastri, Mrs. Gandhi assumed office and she too relied heavily on the services of Jha. It was during her reign that the office of the Secretary reached "dizzy heights of power and authority and, during the internal emergency, it emerged as the real decision-making organisation verily functioning as the Government of India." Jha also accompanied Mrs. Gandhi on her trips abroad. In 1967, he was sent by Mrs. Gandhi to Moscow, London, Paris, Washington and Berne to participate in the deliberations regarding the Nuclear Non-Proliferation Treaty." The significance of such trips can be gauged by the fact that a civil servant was deliberating with leaders such as

Johnson and Kosygin. In 1967, P. N. Haksar, who became the new Secretary, also became the closest confidante of the P.M. He advised her on all political and party matters. Their successors too exercised a similar influence. In the mid-sixties, the Research and Analysis Wing (RAW) was also added to the P.M.'s Secretariat. This soon came to be known as the personal intelligence network of the P.M. The emergency of 1975-77, with its bureaucratic excesses, dimmed the image of the Secretariat. During the Janata regime of 1977-79, efforts were made to reduce its excessive importance, the number of personnel was reduced and it was designated as the PMO.

When Mrs. Gandhi again resumed office, P. C. Alexander took over as the new Secretary (1981-84). His book, My Years with Indira Gandhi gives a detailed account of his role as the Principal Secretary. Alexander says that he was associated closely with all governmental affairs. Talking of one specific role, he says that his most important responsibility as Principal Secretary was assisting the P.M. in preparing replies to parliamentary questions and collecting information for answering possible supplementary questions. This implies that the Principal Secretary must have constantly been on his toes during parliamentary sessions. Another important highlight of his role was his inclusion in quite a few foreign visits of Mrs. Gandhi and the influence that he might have exerted on decision-making in foreign affairs. Alexander was a regular component of every delegation abroad. It becomes significant in the light of the fact that on quite a few occasions, even Narasimha Rao, the then Foreign Affairs Minister was not included in these delegations, but Alexander was. Interestingly, Alexander also points out that he was taken into confidence whenever Mrs. Gandhi reshuffled her cabinet."

During Rajiv Gandhi's tenure as P.M. (1984-89), the office of the Principal Secretary to P.M. grew further in importance. The scope and significance of the office was growing so rapidly during the last two years of Rajiv Gandhi's rule that it occupied an extra 12,000 sq. feet of office space occupied earlier by the neighbouring Ministry of External Affairs and forced the ministry to move out partially to a former hotel.<sup>27</sup> Even during 1989-91, a period of severe political instability, the office and its occupants were heavily relied upon and, even today, it is growing from strength to strength.

#### **Narashimha Rao's Period**

Some observers feel that most Prime Ministers have regarded the PMO as a parallel government. As already mentioned, the trend of centralization in political parties and in the seats of political executive has catapulted the position of PMO at the acme of the governance system. Under Prime Minister Narasimha Rao, political assistance to him in the PMO has been provided mostly by Bhuvanesh Chaturvedi, Minister of State in the PMO. In late 1995, another Minister of State, Aslam Sher Khan, was inducted into the PMO, though in the initial phase of his entry, there was considerable ambiguity about his specific role.”

At the administrative level, A.N. Verma has been working as the Principal Secretary to the Prime Minister vis-a-vis the Cabinet Secretary, he continued to hold a stronger position in the decision-making system until the appointment of Surinder Singh as the Cabinet Secretary. Observers see a kind of ‘balance of influence’ emerging between these two supreme administrative positions in the central government. Much, however, depends upon the way the incumbents to these positions perceive their respective roles. And, the determining factor in developing a harmonious equation between the formal authority of the Cabinet Secretary and the informal influence of the Principal Secretary to the Prime Minister continues to be the Prime Minister himself. Notwithstanding the vicissitudes in the real influence of the PMO, one can visualize its continuing ascendancy in the foreseeable future.

### **Conclusion**

The Indian Prime Minister occupies a position of exceptional and overwhelming authority and is for all purposes, the real chief executive. The powers listed are, by far, a modest appreciation of the P.M.’s position. As the working head of the state, he is endowed with such a plenitude of power as no other constitutional ruler in the world possesses. However, finally, it is up to him to make the best of the office because the office is necessarily what the holder chooses to make of it.

Whatever the party in power and whosoever has filled the post of the Prime Minister, it has been observed that there has been a growing tendency towards centralization in decision-making. Not only does a P.M., sometimes, keep with himself an unduly large number of portfolios but also informally exerts his real influence beyond those formally held portfolios. In case the P.M. should be politically unchallenged in his party, his control over other ministries and departments, through the mechanism of monitoring, can be highly penetrating. As India gains greater maturity in its democratic functioning, the need is to let a culture of decentralization and autonomy coupled with a deep sense of accountability to various levels percolate. The Prime Minister’s role, as the chief executive of the nation, can be strengthened only if he is supported by a team of self-motivated and responsible ministers and other functionaries.

### **Chief Minister and Council of Ministers - Indian Polity Notes**

As a real executive authority, the Chief Minister is called the head of the government.

He is assisted by his council of ministers who are a part of state executive along with Governor and Advocate-General of State. Similar to Prime Minister who is the head of the government at the centre, the Chief Minister is the head of the government at the state level.

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[Who are State Council of Ministers?](#)

- [How are the Council of Ministers appointed?](#)
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[Who is called a Chief Minister?](#)

He is the head of the state government. While the [governor](#) is the nominal executive of the state government, the person who becomes the chief minister is the real executive of the government. The real executive is called 'de facto' executive that means, 'in fact, whether by right or not.'

[How is a Chief Minister appointed?](#)

Just like the [Prime Minister](#), provisions of whose appointment are not mentioned in the Indian Constitution, Chief Minister's appointment particulars are not mentioned in the Constitution.

According to [Article 164](#) in the Indian Constitution, Governor appoints Chief Minister. However, the Governor cannot appoint any random person as the Chief Minister but has to follow a provision.

A leader of the party that has got the majority share of votes in the assembly elections, is appointed as the Chief Minister of the state.

**Note:**

- When no party gets a majority in the elections, governor exercises his own discretion and appoint a Chief Minister accordingly.
- In a case where no party has won the majority votes, Governor appoints the member of the largest party or one from the coalition (if occurs) as the Chief Minister and then he is given 1 month time to prove confidence in the house.
- If the incumbent dies in the office, Governor at his own discretion can appoint a Chief Minister however, the ruling party nominates a member and Governor usually appoints that person as the Chief Minister. This person then has to prove confidence within a specified time.
- A person not belonging to either house (Legislative Assembly & Council) can also be appointed as the Chief Minister, however, within six months of his tenure as a CM he should be elected to either house without which he ceases to be a CM.
- Chief Minister can belong to any house in the State Legislature.

[What is the term of Chief Minister's office?](#)

Aspirants should clearly understand that the **term of Chief Minister is not fixed** and he holds his office during the pleasure of the governor.

**Note:**

- Governor cannot remove him any time.
- Governor cannot even dismiss him till the time he enjoys the support of the majority of the house.
- When CM loses his majority support, he has to resign and Governor dismisses him then.

[What is the main function of the Chief Minister?](#)

The CM of the state performs functions in relation to the different categories of people:

1. In relation to the Council of Ministers
  2. In relation to the Governor
  3. In relation to the State Legislature
- Other than that, he also performs the following functions:
1. He chairs the State Planning Board
  2. He is a vice-chairperson of the concerned zonal council by rotation, holding that office for a period of one year at a time
  3. He is a member of Inter-State Council and National Development Council which are headed by the Prime Minister.

[In Relation to the Council of Ministers](#)

The Chief Minister is the head of state council of ministers. He performs the following functions:

1. He recommends to the governor on who to appoint as ministers
2. He designates or reshuffles the portfolios of the ministers
3. He can ask a minister to resign
4. Meeting of the council of ministers is headed by him
5. All activities of the ministers are guided and controlled by the Chief Minister
6. If he resigns, the entire council of ministers collapses.

**Note: If the CM dies (or resigns), the council automatically dissolves.**

#### In Relation to the Governor

In relation to the governor, the Chief Minister performs the following functions:

1. All the activities, decisions that are taken up by the council of ministers are communicated to the governor by the chief minister
2. To report to the governor, information about the administrative affairs if and when asked by the governor
3. If any minister has decided on any issue, the same has to be reported to the Governor by the Chief Minister when the same has not been considered by the council.
4. He gives his advice to the governor for the appointment of the following persons:
  1. Advocate-General
  2. Chairman of state public service commission
  3. The state election commission, etc.

#### In Relation to the State Legislature

He is the leader of the house and holding this position, he performs the following functions:

1. Before a governor prorogues and summons the sessions of the state legislature, the Chief Minister's advice is a must
2. Legislative Assembly can be dissolved at any time on his recommendation to the governor
3. All government policies are announced by him on the floor of the house.

#### Chief Minister and the Governor

The relationship between the Chief Minister of the state and the state's governor has always been in the news. The debate on the authority of the respective posts has made the rounds throughout. IAS aspirants will understand the dynamics shared by the CM and the Governor by following the details given below:

<b>Article 163</b>	The governor is advised by the council of ministers which is headed by the Chief Minister. Note: When the governor acts at his own discretion, no advice is needed by the council
<b>Article 164</b>	Governor appoints Chief Minister and later Chief Minister recommends Governor on the appointment of ministers
<b>Article 167</b>	Chief Minister has to communicate all administrative decisions that are taken up by him and the council of ministers to the governor

#### Who are State Council of Ministers

State Council of Ministers are similar to Central Council of Ministers. The state council is headed by the Chief Minister. The council comprises ministers appointed by the governor on the recommendation of the CM.

#### How are the Council of Ministers appointed?

They are appointed by the governor on the advice of the CM. Governor also appoints a tribal affairs minister for the following states:

1. Chhattisgarh
2. Jharkhand
3. Madhya Pradesh
4. Odisha

**Note: Bihar was also one of the states to have tribal affairs minister, however, 94th Amendment Act 2006 freed Bihar from this obligation**

**Composition of Council of Ministers**

The size of the council is not mentioned in the Indian Constitution. Chief Minister decides the size and the rank of the ministers as per the requirement in the State Legislature.

There are three categories of Council of Ministers:

1. Cabinet Ministers
2. Ministers of State
3. Deputy Ministers

**Collective Responsibility**

The provision of collective responsibility is dealt with by Article 164. The Article mentions that the council of ministers are collectively responsible to the state legislature. This means that all the ministers own joint responsibility to the legislative assembly for all their acts of omission and commission.

**Note:**

- When the legislative assembly passed a no-confidence motion against the council, all the ministers of the council have to resign including those belonging to Legislative Council too.
- The council of ministers can advise the governor to dissolve the legislative assembly on the ground that the House does not represent the views of the electorate faithfully and call for fresh elections. The governor may not oblige the council of ministers which has lost the confidence of the legislative assembly.

**Articles related to State Council of Ministers**

These articles are attached to the council of ministers. Refer to these in the table given below:

Articles	Provision
163	Council of Ministers to aid and advise Governor
164	Other provisions as to Ministers
166	Conduct of business of the

	Government of a State
167	Duties of Chief Minister as respects the furnishing of information to Governor, etc.