

Introduction

The States, or the other half of Indian federalism, are addressed within Part VI of the Constitution. Articles 152-237 deal with various State-related provisions. It encompasses the State's executive, legislative, and judicial bodies. Articles spanning from 163 to 177 in Part VI broadly deals with State Council of Minister.

Article 163 deals with the status of the Council of Ministers while Article 164 deals with the appointment, tenure, responsibility, qualifications, oath and salaries and allowances of the Ministers Article 166 deals with the Conduct of Business of the Government of a State.

Qualifications

To be a Minister of a State Council, one should be a member of the State Legislature, if he is not a member of State Legislature while becoming a member of the State Legislature, he has to become one within the period of six months from the date of entering the office.

Further, the qualifications needed to be a member of the State Legislature are:

- (a) He must be a citizen of India.
- (b) He must bear true faith and allegiance to the Constitution of India.
- (c) He must be not less than 30 years of age in the case of the legislative Council.
- (d) He must not be less than 25 years of age in the case of the legislative assembly.

Appointment of Ministers

- The Chief Minister is appointed by the Governor.
- The other Ministers are appointed by the Governor on the advice of the Chief Minister, implies that the Governor can appoint only those persons as Ministers who are recommended by the Chief Minister.

Important articles regarding Council of Ministers**Article 163: Conduct of Business of the Government of a State**

- There shall be a Council of Ministers with the Chief Minister as the head to aid and advise the Governor in the exercise of his functions, except in so far as he is required to exercise his functions in his discretion.
- If any question arises whether a matter falls within

the Governor's discretion or not, decision of the Governor shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

- The advice tendered by Ministers to the Governor shall not be inquired into in any court.

Article 164: Other Provisions as to Ministers

- The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister.
- The Ministers shall hold office during the pleasure of the Governor.
- The Council of Ministers shall be collectively responsible to the State Legislative Assembly.
- A Minister who is not a member of the State Legislature for any period of six consecutive months shall cease to be a Minister.

In the States of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work. The State of Bihar was excluded from this provision by the 94th Amendment Act of 2006.

Article 166: Conduct of Business of the Government of a State

- All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.
- Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor.
- Moreover, 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 Governor.
- The Governor shall make rules for the more convenient transaction of the business of the government of the State, and for the allocation among Ministers of the said business.

Article 167: Duties of Chief Minister

It shall be the duty of the Chief Minister of each State-

- To communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation.
- To furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for.
- If the Governor 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.

Article 177: Rights of Ministers as Respects the Houses

Every Minister shall have the right to speak and take part in the proceedings of the Assembly (and also the Council where it exists) and any Committee of the State Legislature of which he may be named a member. But he shall not be entitled to vote.

91st Constitutional Amendment Act

- The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed 15 per cent of the total strength of the legislative assembly of that State.
- However, the number of Ministers, including the Chief Minister, in a State shall not be less than 12.
- A member of either House of State Legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a Minister.

Nature of advice tendered by the Council of Ministers

- The nature of advice tendered by Ministers to the Governor cannot be enquired by any court.
- This provision emphasises the intimate and the confidential relationship between the Governor and the Ministers.
- The Indian courts are barred from inquiring into the nature of advice rendered by the Ministers to the Governor.

Removal / Disqualifications

- A Minister hold office during the pleasure of Governor. Actually, this pleasure is the consent of Chief Minister.
- It is the Chief Minister who select the members of his team. This power is given to the Chief Minister to uphold the Collective Responsibility in the

legislature.

- No person shall be retained as a member of Council, if the Chief Minister want to dismiss a sitting member.
- If he loses elections.
- Cannot gets elected or nominated (in case of Legislative Council) within 6 months.

Functions of State Council of Ministers

Formulation of Policies

- Ministers are in charge of formulating the government's policies.
- The Cabinet makes decisions on all key issues, including public health, disability and unemployment benefits, plant disease control, water storage, land tenures and production, and the supply and distribution of goods.
- The appropriate department implements the policy when it has been developed.
- Administration and Maintenance of Public Order
- The executive power must be used in a way that ensures that State laws are followed.
- The Governor is empowered by the Constitution to create -rules for the more efficient conduct of government activities.
- The Council of Ministers advises on all such regulations.

Appointments

- The Governor has the authority to appoint the Advocate-General and State Public Service Commission members.
- The Governor appoints the Vice-Chancellors of the State Universities, as well as members of numerous Boards and Commissions. These appointments cannot be made at the Governor's discretion. On the advice of his Ministers, he must carry out these duties.

Legislative duties

- The majority of the bills voted by the legislature are government bills drafted by ministries.
- The Ministers introduce, explain, and defend them before the State Legislature. Each year, before the start of the first session of the Legislature, the Cabinet prepares the Governor's Address, in which it lays out its legislative agenda.

Control over the State Exchequer

- The finance Minister presents the State Legislature

with the State budget, which includes estimates of revenue and expenditure for the coming year.

- ❑ In the case of a Money Bill, the Legislature cannot take the initiative.
- ❑ Only a Minister can introduce such a Bill, which must be recommended by the Governor. The Executive does have the initiative regarding financial matters.

Execution of Central Laws and Decisions of the Union Government

- ❑ In certain situations, the Union Government has the authority to issue directives to State governments.
- ❑ States should use their executive power to guarantee that the laws passed by Parliament are followed.
- ❑ They should not do anything that might jeopardize the Union's executive power.

Types of Responsibilities of Council of Ministers

There are two types of responsibilities:

- ❑ Collective responsibility
- ❑ Individual responsibility

Collective Responsibility:

Article 164 clearly States the Council of Ministers is collectively responsible to the legislative assembly of the State.

- ❑ This means that all Ministers have shared responsibility for all their actions of omission and commission before the legislative assembly.
- ❑ They operate together as a team and sink or swim as a unit.
- ❑ When the legislative assembly approves no-confidence motions against the Council of Ministers, all Ministers, including those on the legislative Council, are required to resign.
- ❑ The notion of collective responsibility also indicates that a cabinet decision binds all cabinet Ministers (and other Ministers), even if they deferred in cabinet.
- ❑ It is the responsibility of all Ministers to support cabinet decisions both inside and outside the State Legislature. A Minister must resign if he disagrees with a cabinet decision.

Individual responsibility

Individual accountability is likewise enshrined in Article 164. The Ministers serve at the Governor's pleasure, according to the law.

- ❑ This means that the Governor can dismiss a Minister if the Council of Ministers has the legislative

assembly's confidence.

- ❑ The Governor, on the other hand, can only remove a Minister on the advice of the Chief Minister.
- ❑ In the event of a disagreement or unhappiness with a Minister's performance, the Chief Minister may ask him to quit or advise the Governor to remove him.

Cabinet

Cabinet: A Smaller body called cabinet is the nucleus of the Council of Ministers. It consists of only the cabinet Ministers. It is the real centre of authority in the State government. It is steering wheel of the State government.

It is the Cabinet and not the Council of Ministers who advises the Governor of the State.

Advantage of Cabinet

- ❑ It is easier to build consensus among various stakeholders.
- ❑ More effective discussion and efficient time utilization
- ❑ Less burden on public exchequer – Economic efficiency
- ❑ More priority to secrecy
- ❑ More rational division of work – Large size Council of Ministers ties up too many tongues and less viewpoint is available.

Functions of the Cabinet

- ❑ It is the highest decision-making authority in the politico-administrative system of a State.
- ❑ It is the chief policy formulating body of the State
- ❑ It is the supreme executive authority of the State government.
- ❑ It is the chief coordinator of State administration.
- ❑ It is an advisory body to the Governor.
- ❑ It is the chief crisis manager and thus deals with all emergency situations.
- ❑ It deals with all major legislative and financial matters.
- ❑ It exercises control over higher appointments like constitutional authorities and senior secretariat administrators.

Cabinet Committees

The cabinet works through various committees called cabinet committees. They are of two types:

- ❑ Standing committees – permanent nature
- ❑ Ad Hoc – temporary nature.

They are set up by the Chief Minister according to the exigencies of the time and requirements of the situation.

Hence, their number, nomenclature and composition vary from time to time.

They not only sort out issues and formulate proposals for the consideration of the cabinet but also take decisions. However, the cabinet can review their decisions.

The Council of Ministers decides the State legislative agenda and takes the lead in introducing and passing government legislation. It's the strong State legislative

Council that makes the State progress on the path of development faster and safer. The Expansion of the government arm in the improvement of the lives of people of the State begins with the Council of Ministers. It goes down the history line of democratic India how the strong legislation and its implementation is responsible for changing lives. The State Council of Ministers can be treated as the backbone of the government.