

UPSC Civil Services Examination

Political Science & International Relations

Topic: Governor - Power, Tenure, Qualifications, Appointment Indian Polity Notes

The Governor of state, unlike the President of India, is conferred with power to act at his own discretion. There are two categories of discretion for the governor. One is Constitutional Discretion and the other is Situational Discretion. The topic, 'Constitutional Discretion of Governor' is important for IAS Exam and its three stages - Prelims, Mains and Interview.

Constitutional Discretion of Governor

The decisions can be taken by the governor's discretion which are categorized into two parts:

1. Constitutional
2. Situational

Constitutional Discretion of Governor

The Governors of states can act at their constitutional discretion in the following instances:

1. When they have to reserve the bill for the consideration of the President of India, Governors can decide on their own without the advice of the Council of Ministers
2. When he has to recommend for the President's rule in the state, he can act at his own discretion
3. When he is given an additional charge as the administrator of the Union Territory, he can take actions at his own discretion
4. When he has to determine the amount payable by the Government of Assam, Meghalaya, Tripura and Mizoram to an autonomous Tribal District Council as royalty accruing from licenses for mineral exploration
5. When he calls upon the Chief Minister to seek information regarding administrative and legislative affairs

Situational Discretion of the Governor

The Governors of states can act at their situational discretion in the following instances:

1. When he has to appoint a Chief Minister after no party has a clear majority in the election or when the incumbent dies in the office
2. When he dismisses the council of ministers on an inability to prove confidence in the state legislative assembly
3. When he dissolves the state legislative assembly on time when it loses its majority

The other situations where the governor, though has to consult the council of ministers but finally can act at his own discretion are:

1. When he has to establish separate development boards for Vidarbha and Marathwada in Maharashtra
2. When he has to establish separate development boards for Saurashtra and Kutch in Gujarat
3. With respect to law and order in the state for so long as the internal disturbance in the Naga Hills–Tuensang Area continues in Nagaland
4. With respect to the administration of tribal areas in Assam
5. Regarding the administration of the hill areas in Manipur
6. For peace and social and economic advancement of the different sections of the population in Sikkim
7. With respect to law and order in Arunachal Pradesh
8. When he has to establish separate development boards for the Hyderabad-Karnataka region in Karnataka

The key takeaway points from the above article are:

- Governor's discretion is constitutionally valid.
- Governor is not bound by the advice of a council of ministers when there is any action taken at his discretion
- There can be the same governor for two or more states as provided by 7th Constitutional Amendment Act, 1956.