

# PRESIDENT OF INDIA

The Constitution declares India to be a Sovereign, Socialist, Secular, and Democratic Republic. For securing the objective of making India a Republic, the Constitution provides for an elected head of the state — the President of India.

Article 54 of the Constitution provides for an indirect method for the election of the President. He is elected by an electoral college consisting of elected members of both Houses of Union Parliament as well as of all State Legislative Assemblies.

## **Qualifications for the Office of President**

- 1) He should be a citizen of India,
- 2) He should be of 35 years or above of age,
- 3) He should be qualified for becoming a member of the Lok Sabha,
- 4) He should not hold any office of profit, and
- 5) He should not be a member of the Parliament or of a State Legislature.

## **The President is elected an Electoral College which consists of:**

- (a) The elected members of both the Houses of the Union Parliament (All elected MPs), and
- (b) The elected members of all State Legislative Assemblies (All elected MLAs).  
The nominated members of the Parliament and Legislative Assemblies have been denied a share in the Presidential election.

The Constitution lays down that President of India is to be elected indirectly by an electoral college in accordance with the system of proportional representation by means of a single transferable vote system and secret ballot. “It specifies two principles for ensuring uniformity and parity in the value of votes of MPs and MLAs.

## **There is uniformity in the scale of representation of all States:**

For securing this objective, the Constitution provides that the value of vote of an MLA of each state is to be in proportion to the population of that state.

**In order to determine this, the following formula is used:**

Value of vote of an MLA of a State = Total Population of State/Number of Elected MLAs of State ÷1000

By using the formula, the value of vote of each MLA of each state is calculated and then the total value of votes of all the MLAs of all the States is aggregated.

**(ii) There is parity in the value of votes of all MPs and all MLAs:**

For securing parity between the States and the Union, it has been laid down that the total value of votes of all the elected members of Parliament (MPs) shall be equal to the total value of votes of all the MLAs of all states.

**This is determined by the following formula:**

Value of Vote of an MP = Total value of votes of all MLAs of all States/Total Number of Elected MPs of Lok Sabha and Rajya Sabha

**(iii) A Fixed Quota of Votes for a Win:**

In order to win a Presidential election, a candidate has to secure a minimum fixed quota of votes which is calculated as follows

Winning Quota = Total number of valid votes Polled/ number of seats + 1 i.e.  $1 + \frac{1}{2}$

**(iv) Single Vote System:**

In a Presidential election, each voter casts only one vote. However, its value differs from voter to voter. The value of vote of an MP is uniformly the same while the value of vote of an MLA differs from state to state. As for example, the value of vote of an MP from Odisha, like every other MP is the same (around 708) but the value of vote of an MLA from Odisha is different.

In July 2007 Smt. Pratibha Patil scored a clear victory over Sh. Bhairon Singh Shekhawat. She got 6, 38,116 votes against Sh. Shekhawat who got only 3, 31,306 votes. On 25th July 2007 Smt. Pratibha Patil took over as the President of India from Sh. APJ Abdul Kalam. She got the honour of being the first woman President of India. Now a new presidential election will take place in July 2012.

**Stages in a Presidential Election:**

1. Notification of Election and Appointment of the Returning Officer
2. Filing of Nomination Papers, Scrutiny and Withdrawals

3. Election Campaign
4. Polling
5. Counting of Votes
6. Notification of the Result

#### **Oath-taking and Installation:**

The day the term of the previous President expires or on a fixed date, the oath-taking and installation of the new President takes place. The President-elect takes the oath of his office in the presence of the Chief Justice of India, and in his absence in the presence of the available senior-most judge of the Supreme Court.

#### **Method of settlement disputes regarding the Presidential Election:**

Any dispute arising out of the election of the President is enquired into and finally decided by the Supreme Court of India. An election petition can be filed only within 30 days of the declaration of the result. The Supreme Court then conducts the hearing and gives its verdict.

#### **Tenure of the President:**

The President is elected for a term of five years. His term commences from the date on which he enters the office. However, in case due to one reason or the other, the election of a new President cannot be completed before the expiry of his term, the existing President continues to hold the office till the election of a new President gets completed.

#### **Provision for Resignation:**

Before the completion of his term, the President can resign his office by writing a resignation letter by hand and addressing it to the Vice-President of India.

#### **Method of Removal (Impeachment) of the President:**

The President can also be removed from office through a process of impeachment on grounds of violation of the Constitution. The impeachment proceedings can be initiated by either House of the Union Parliament. For initiating the impeachment proceedings, first one-fourth of the total members of a House have to give a signed written notice at least 14 days in advance. If the

House after deliberations passes this resolution by a majority of 2/3rd of its total membership; it goes to the other House. The other House investigates the charges. The President has the right to appear in person or through a lawyer, to defend himself.

If after investigation, the second House also passes the implement resolution by not less than 2/3rd majority of the total membership of the House, the President gets impeached and goes out of office. No President of India has, till today, faced an impeachment proceeding.

### **Re-eligibility:**

The Constitution does not place any restriction on the number of terms a person can get re-elected as President. Till now, no President except the first President Dr. Rajendra Prasad has remained in office for more than two terms.

### **(H) Presidential Succession:**

If the office of President falls vacant due to the death of the incumbent or due to any cause other than the expiry of his term of office, then the Vice-President of India becomes the acting-President. Then a new President is elected within six months of the occurring of the vacancy.

In case the office of the Vice-President is also vacant at the time of the occurrence of a vacancy in the office of President, the Chief Justice of India, and in his absence the senior-most judge of the Supreme Court, is sworn in as the acting-President till the election of a new President, which has to be essentially completed within six months.

### **(I) Emoluments:**

The President now gets salary of Rs-500000 per month. Besides salary the President gets several allowances and a free furnished accommodation. Rashtrapati Bhavan, the president's official residence, is the largest Presidential palace in the world.<sup>[46][47]</sup> The Rashtrapati Nilayam at Bolarum, Hyderabad and Retreat Building at Chharabra, Shimla are the official Retreat Residences of the president of India.<sup>[48]</sup> The official state car of the president is a custom-built heavily armoured Mercedes Benz S600 (W221) Pullman Guard. After retirement the President gets a monthly pension as well as an allowance for employing a personal secretary, free accommodation and medical aid.

### **(J) Immunities:**

For the exercise of his constitutional rights and powers, the President is not answerable to any court. During his tenure, he cannot be arrested or detained and no criminal proceedings can be launched against him. For suing him in a civil case involving his personal acts, an advance notice of two months has to be given.

# Powers and Functions of the President

The President of India is the Head of State and the Chief Executive. The executive powers of the Union are in the hands of the President. He exercises these either directly or through officers subordinate to him. However, being the head of a parliamentary system, he is only a constitutional/titular head and exercises nominal power.

The President always acts in accordance with the advice of the Council of Ministers and the Prime Minister. All his powers are really used by the Prime Minister and the Union Council of Ministers. The President holds the highest office in India, represents the sovereignty of India, enjoys the highest position and plays a valuable part in the working of the Indian Constitutional system.

## 1. Executive Powers

### (i) Administrative Powers:

The President is the head of executive and of the administration of India. All executive powers have been vested in him. All executive actions of the Government of India are taken in the name of the President. He gets the administration run by the Council of Ministers. In performing all his functions, the President follows the advice of the Prime Minister. He appoints the Prime Minister.

In case no party gets a majority, he ensures the installation of a ministry headed by a person who in his opinion can command a majority support in Lok Sabha. He can ask the Prime Minister to prove his majority in the Lok Sabha within a fixed period. It is the duty of the Prime Minister to inform the President about all matters concerning the administration. The President can call for any information from the Prime Minister.

### (ii) Appointment-making Powers:

All major appointments and promotions are made by the President. He appoints the Prime Minister and on his advice other ministers of the Union Government. He also appoints the Chief Justice of India, Judges of the Supreme Court and State High Courts, Governor of each State, Lt.

Governors and Chief Commissioners of the Union Territories, Attorney General of India, Comptroller and Auditor General of India, Chairman and Members of UPSC, Chief Election Commissioner and two other Election Commissioners, members of other statutory commissions and India's Ambassadors, High

Commissioners, Consuls and Envoys to other countries. All these appointments are made by the President on the advice of the PM and his Council of Ministers.

**(iii) Role in Foreign Relations:**

As the Head of the State, the President sends India's ambassadors and envoys to foreign countries. He receives the foreign ambassadors in India. All diplomatic relations takes place in his name. All international treaties are negotiated and signed by the Government of India in the name of the President.

**(IV) Supreme Commander of the Armed Forces:**

The President is the supreme commander of the defence forces of India. He makes all higher appointments and promotions in of the defence forces. He grants all military honours and titles for acts of bravery and commendable service to the nation.

## **2. Legislative Powers**

The Constitution gives legislative powers of the Union to the Parliament. The President is not a member of either of the two Houses of Parliament. But all law making is done by the Parliament the name of the President. Without becoming its member, the President acts as an inseparable part of the Parliament. All bills passed by the Parliament become laws only when signed by the President.

- (1) The President has the power to summon and prorogue the sessions of the Parliament or either of its two Houses.
- (2) The President can dissolve the Lok Sabha before the expiry of its full term of five years.
- (3) In case of an unresolved deadlock over any ordinary bill between the two Houses of Parliament, the President can summon their joint sitting.
- (4) The President can address either or both the Houses of the Parliament at any time.
- (5) The President addresses both Houses of Parliament at the first session after each general election, and at the commencement of the first session of each year.
- (6) President nominates 12 members to the Rajya Sabha from amongst the eminent persons belonging to the fields of Art, Science, Literature or Social Service.

(7) The President has the power to send messages to either House of Parliament.

(8) Money Bills can be introduced only in the Lok Sabha and that too with the prior permission of the President.

(9) A bill relating to re-organisation of states or change of boundaries or name of a state can be introduced in the Parliament only with the prior consent of the President.

(10) The President can approve or disapprove all such state bills which the Governor of a state may reserve for his consent.

(11) A bill passed by the Parliament becomes a law only after it gets the signatures of the President. The President can keep the bill pending. He can also return the bill for reconsideration by the Parliament. However when the Parliament re-passes for a second time, the President has to sign the bill and it's becomes a laws.

(12) During the interval between the two sessions of the Parliament, the President can issue ordinances which have the same force and effect as a law of Parliament.

All these legislative powers are exercised by the President only in accordance with the advice of the Prime Minister and his Council of Ministers.

### **3. Financial Powers**

(i) No money bill can be introduced in the Parliament without the prior consent of the President.

(ii) At the commencement of each year, the President ensures the presentation of the Budget before the Parliament.

(iii) The President controls the Contingency Fund of India. He has the power to order expenditure out of it for meeting an unforeseen expenditure.

(iv) From time to time, the President appoints a Finance Commission which makes recommendations regarding the distribution of revenue between the Union and States.

## 4. Judicial Powers of the President:

As Head of State, the President has the power to grant pardon, reprieve, respite, suspension, commutation or remission of punishment of any criminal.

In considering all mercy petitions, the President depends upon his own discretion and in accordance with some accepted norms.

Further, the President can seek the advice of the Supreme Court of India over any legal matter or a bill of public importance. The Supreme Court is bound to give such an advice (Art 143). However, the President is not bound to accept the advice given by the Supreme Court.

## 5. Emergency Powers of the President:

The Constitution of India contains some provisions for dealing with emergencies.

**It gives to the President some powers to deal with three types of emergencies:**

(i) **National Emergency (Art.352)** emergency caused by war or external aggression or internal armed rebellion,

(ii) **State Emergency** in a state or states under Article 356 i.e. emergency arising out of the failure of constitutional machinery in any state,

(iii) **Financial Emergency** under Article 360 i.e. emergency arising out of a financial crisis in the country.

In respect of these three types of emergencies, the President has been given the power to proclaim the emergency and to take appropriate steps for meeting the emergency. These are called the emergency powers of the President.