

Powers and Position of President of India

In Indian Parliamentary practice, the President is the nominal executive or a Constitutional ruler. He is the head of the nation, but does not govern the nation. Our Union Council of Ministers headed by the Prime Minister is the real executive. And the President rules the country on the advice of the Prime Minister and his colleagues.

Powers: We shall now discuss in details, the powers and functions of the President of India in the light of the above discussion. The powers and the functions of the President of India may be classified under five heads, viz., and executive, legislative, financial, judicial and emergency.

1. Executive Power: The President of India is the head of the executive of the Union Government. Therefore, all executive powers are vested in the hands of the President. He can exercise these powers either directly or through the subordinate officers.

- According to the Constitution of India, all executive action is also taken in his name. The President appoints the Governors of the States, the Judges of the Supreme Court and High Courts of the States. The Prime Minister of India is appointed by the President. The President also appoints other Ministers in consultation with the Prime Minister.
- The Constitution of India empowers the President to appoint the important officers of the Union Government including the Attorney-General for India, the Comptroller and Auditor-General of India, the Chairman of the Finance Commission, the Election Commissioners etc.
- The President is responsible for the administration of the Union Territories. For this reason, he appoints Chief Commissioners and Lieutenant Governors of the centrally administered areas.
- The President has been empowered to set up a Commission for the settlement of disputes relating to the supply of water between two or more States.
- Moreover, the Constitution has authorized the President to establish an Inter-State Council to enquire into disputes that may arise between, the States as well as to discuss the matters of the common interests between the Union and the States.
- The President alone can remove the Council of Ministers, the Governors of States and the Attorney-General for India.
- The President of India is Supreme Commander-in-Chief of the Army, Navy and the Air Force of the Union. He has the power to declare war.
- The President also enjoys the diplomatic power. He appoints the diplomatic representatives of India to the foreign States. He also receives the credential letters of the diplomatic representatives of other States.
- The President represents India in international affairs. He has the power to conclude treaties with foreign States.

2. Legislative Powers: The President of India also enjoys legislative powers. He is an integral part of Indian Parliament. Parliament consists of the President and two Houses—the House of the people (Lok Sabha) and the Council of States (Rajya Sabha).

- The President has the power of to summon and prorogue both the House of Parliament. He can also dissolve the House of the People before the expiry of its term.
- The Constitution of India empowers the President to deliver an address to the Parliament at the commencement of the first session every year. He may also send messages to Parliament.
- The President nominates two members to the Lok Sabha from the Anglo-Indian Community

and twelve members to the Rajya Sabha from among the persons who have acquired special knowledge in art, science, literature and social service.

- In India, a public bill cannot become an act without the assent of the President. A bill passed by the Union Parliament is sent to the President for his assent. The President may give his assent to the bill or may withhold his assent from the bill or he may return the bill to Parliament for its reconsideration. If the bill is again passed by both Houses of Parliament, the President shall have to give his assent.
- When the Parliament is not in session, the President may issue an ordinance. It has the same force as the law or Parliament. But it must be placed before the Parliament when it again assembles. If it is then approved by both the Houses of Parliament, it will cease to operate after six weeks of the date of meeting of Parliament. And the President can call a joint session of both Houses of Parliament to resolve a constitutional deadlock over a public bill.

3. Financial Powers: The President of India also exercises financial powers. No money bill can be introduced in Parliament without the recommendations of the President.

- According to the Constitution of India, the Annual Financial Statement is placed by the President before both the Houses of Parliament. This statement shows the estimates of revenue and expenditure of the central Government for the next year.
- It may be pointed out that the proposal for taxation and expenditure cannot be made without the approval of the President.

4. Judicial Powers: The President of India grants, pardons, reprieves or remissions of punishment to any person who has been convicted by a Court of Law.

5. Emergency Powers: The President of India exercises extra-ordinary powers in times of emergency.

The three kind of Emergency situations are:

1. Emergency due to armed rebellion or external aggression;
2. Emergency arising from the breakdown of constitutional machinery in a State;
3. Financial Emergency.

Proclamation of National Emergency by the President of India: The President of India may issue a Proclamation of National Emergency when the security of India or any part thereof is threatened by war, armed rebellion or external aggression. Such a Proclamation of Emergency may remain in force for an indefinite period. During a Proclamation of National Emergency, the executive power of the States is to be exercised in accordance with the directions given by the Central Government. Parliament has the power to make laws on the subjects enumerated in the State List. The right to freedom of speech and expression, freedom to form association, freedom to practice and profession, etc., embodied in Article 19 shall remain suspended.

Failure of State Constitutional Machinery: In Case of failure of Constitutional machinery in a State, the President of India is authorized to make a Proclamation to that effect. The maximum duration of this type of emergency is three (3) years. During such an emergency, the President may assume to himself the executive powers of the State. The powers of the legislatures of the State are to be exercised by the Union Parliament.

Proclamation of Financial Emergency by the President: The President may also issue a

Proclamation of Financial Emergency if he is satisfied that the financial stability of India is threatened. This type of emergency may continue to remain in force for an indefinite period. The Central Government may give directions to the States for canons of financial propriety. All money-bills passed by the State Legislatures are to be reserved for the consideration of the President.

Position: Thus the President of India has been given wide and far-reaching powers which he enjoys both during normal and emergency times. But after the passing of the Constitution Forty-Second (1976) and Forty-Fourth (1978) Amendment Acts, the President of our Republic has become a Constitutional figurehead and nothing beyond that.

Today, President's position is one of great authority and dignity, but at the same time strictly constitutional. Thus the President is bound in every case to act on the advice of his Prime Minister and other Ministers who are responsible to the Lok Sabha and responsive to the public opinion.

In short, the powers really reside in the Ministry and the Parliament and not in the President as such. He has no discretion in our Parliamentary system of government.

The Supreme Court through various decisions has upheld the position that the President is a constitutional head and as such he is as much bound by the advice of his Ministers during emergency as during normal times.

For example, the President can declare a proclamation of the National Emergency (Article 352) only after receiving a written communication of the decision of the Union Cabinet. If the President abuses his powers, he can be removed from office by a process of impeachment.

It does not, however, mean that the President of India is a magnificent cipher or a mere rubber stamp. Unlike the British Monarchy which is hereditary, the President of our Republic is an elected Head of the State. In our coalition politics, there are some grey areas where the President may still have to use his own judgment and wisdom. These are:

- Appointment of the Prime Minister,
- Dismissal of the Union Ministry,
- Dissolution of the Lok Sabha, and,
- Seeking information on all matters of administration and legislation from the Prime Minister etc.

In some such situations, the role of our President may become most crucial and decisive. However, the President has to be free from all political affiliations. He is expected to act with complete constitutional rectitude and impartiality. The nation is expected to be benefitted by his wise leadership and constructive role.

In short, the President of India is the symbol of national unity, magnet of loyalty and apparatus of ceremony.