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NAAC ACCREDITED 'A' GRADE

Topic: Powers and Functions of the President of India

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POWERS AND FUNCTIONS OF THE PRESIDENT OF INDIA

Part V of the Constitution entitled 'The Union' with its Chapter One titled 'The Executive', opens with Article 52, providing for the President of India. It says: 'The executive power of the Union shall be vested in the President, and shall be exercised by him either directly or through officers subordinate to him, in accordance with this Constitution.' Thus, formally, the President is the Head of the State and the executive. Since in India, we follow the British system of government, we have one formal executive and real executive. The President is the *de jure* Head of Indian Government but still, he enjoys and exercises a number of powers and functions which can be conveniently discussed under six categories – executive, legislative, financial, judicial, emergency and others.

Executive: Formally, as per Article 52, the President of India is the 'generalissimo' of the Indian administration. The supreme executive authority of the Union is vested in him that he can exercise directly, or through officers subordinate to him. It includes several important functions that may be enumerated as under:

- i. The entire administration of the Union government is carried out in his name and all important decisions of the Government of India are, formally speaking, his.
- ii. All important appointments are made by the President. The Prime Minister, all Union Ministers and Deputy Ministers, Attorney General of India, Comptroller and Auditor General of India, Chairman and other Members of the Union Public Service Commission, Chief Justices of the Supreme Court and High Courts, ambassadors and envoys and Governors are all appointed by the President. He also appoints the Chairman and members of several commissions and statutory bodies like the Election Commission and Finance Commission.
- iii. The President must be kept informed by the Prime Minister of all the decisions of the Cabinet; he must be supplied with such other information about the administration of the country as he might call for. He can ask the Prime Minister to submit a decision of any minister for the consideration of the Council of Ministers in order to have the opinion of the latter as a whole on that subject (Article 78).
- iv. The President is the Supreme Commander of the Defence Forces. He appoints the Chiefs of the Army, Navy and Air Force. He may confer the title of Field Marshal. He is also the head of the National Defence Committee.
- v. The President, as the Head of the State, may declare war or conclude peace. Of course, he has to do so only after the decision is taken by the Cabinet in consultation with the Defence Committee and with the confirmation of the Parliament.
- vi. As the Head of the State, the President maintains foreign relations. For this, he accredits his ambassadors and envoys to foreign states. He accepts the letters of credence of foreign diplomatic representatives.
- vii. The President is the administrator of all the Union Territories and tribal areas of India. Every Union Territory is administered by him through an administrator appointed by him with such designation as he may specify. The President may make regulations for the peace, progress and good governance of the Union

Territories of Andaman and Nicobar Islands and also has the power to make regulations for the administration of the Tribal Areas as given in Schedule VI of the Constitution.

- viii. The President has the power to issue directions to the State Governments whereby their administration should be carried on. He may issue instructions to ensure due compliance with Union Laws, maintenance and construction of the means of communication of national or military importance and for the protection of the Railways.

Legislative: Like the English King, the President, as per Article 79, is an integral part of the Parliament. Our Constitutional arrangement, like that of its English counterpart, should be described in this connection as the 'President in Parliament'.

- i. The President has the power to summon and prorogue the sessions of the Parliament. It is required that the President shall summon the sessions of the Parliament in a way that the intervening gap is not more than six months. In case of a deadlock due to disagreement over a non-money Bill between the two Houses, the President may summon a joint session of the Parliament.
- ii. The President nominates twelve members to the Rajya Sabha from among persons having special knowledge or practical experience of literature, science, arts and social service. He may nominate two members of the Anglo-Indian community to the Lok Sabha in case he finds that this community has not been able to have an adequate representation in the popular Chamber.
- iii. The President has the power to address and send messages to the Parliament. At the commencement of the first session after the Lok Sabha elections and at the beginning of the first session of every year, the President compulsorily addresses a joint sitting of both Houses of Parliament. It corresponds to the 'Speech from the Throne' as we find in Britain. On this occasion, the President reads out a speech prepared by the Council of Ministers that throws light on the activities of the government in the past year and its new policies for the upcoming one. The President may even send his message to either House of Parliament with respect to a Bill then pending.
- iv. A Bill duly passed by both Houses of Parliament cannot become an Act unless it receives the assent of the President. The President may withhold his assent from any Bill except a money bill or a Constitutional Amendment Bill. Again, without giving his assent to a Bill, the President may send it back to the Parliament for reconsideration. However, it is provided that in case the same Bill is again passed by the Parliament, with or without accommodating his recommendations, he cannot withhold his assent further.
- v. There are certain types of Bills that cannot be introduced in the Parliament without the prior recommendation of the President. Money Bills or a Bill relating to the formation of a new State, reorganisation of the area and boundary of an existing state, or changing the name of any state cannot be introduced in the Parliament without the prior recommendation of the President.

- vi. Under Article 113 of the Constitution, the President may promulgate an Ordinance that shall have the force of law. This he does when he is satisfied that some special necessity has arisen to promulgate such an Ordinance as neither of the two Houses of Parliament is in session. The President may withdraw his Ordinance at any time or it shall cease to have effect after six weeks from the date the Parliament reassembles. The Ordinance promulgated by the President may be laid before the Parliament in the form of a Bill and get its approval to become a law.
- vii. The President is required to lay before the Parliament the Reports and recommendations of several important bodies like the Union Public Service Commission, Finance Commission, Comptroller and Auditor-General of India, National Commission for Scheduled Castes, Scheduled Tribes and Backward Classes.
- viii. The President has absolute veto power over Bills passed by the state legislature. In case of state Bills dealing with the compulsory acquisition of private property or being derogatory to the powers of the High Court or likely to be in conflict with Union legislation already in force, or with any matters considered essential by the Governor of the State, the Governor shall reserve such a Bill and send it for the consideration of the President. If the President does not give his assent to such a Bill, it cannot become an Act.

Financial: The financial powers of the President are also very important. These are enumerated as under:

- i. No money Bill and particularly no Bill imposing or varying any tax or duty in which the states are interested by reason of the whole or any share of it being assigned to them, can be introduced in the Lok Sabha without the prior recommendation of the President of India.
- ii. The Contingency Fund of India is at his disposal and he can make advances out of it to meet unforeseen expenditure pending its authorisation by the Parliament.
- iii. The President shall cause to be laid before the Parliament, the Budget and supplementary budget, if any, for its approval. The annual financial statement of the Union Government shows an estimate of the revenues and expenditures of the Union in the coming Financial Year.
- iv. The President can also appoint from time to time, the Finance Commission to make recommendations regarding the distribution of the proceeds of certain taxes between the Union and the States. He causes the report of the Finance Commission and actions taken on it to be laid before the Parliament.
- v. In case the financial stability of India or any part thereof is endangered, the President may declare Financial Emergency under Article 360.

Judicial: Finally, the judicial powers of the President constitute his prerogative of mercy. Under Article 72, he has the power to grant pardon, reprieves, respites or remissions of punishment in three cases:

- a) In case the punishment is by a Court Marshal

- b) In case where the punishment is for an offence involving violation of a Union law, and
- c) In case where capital punishment has been given.

Emergency: Once in a while, a contingency may come up in the life of a nation, which it appears impossible to combat with ordinary legal instruments or with the aid of constitutional provisions of normal times. That is why Part XVIII of the Indian Constitution has provided for emergency provisions. The Constitution stipulates three kinds of emergencies –

- National emergency caused by war or external aggression or armed rebellion,
- State emergency caused by the breakdown of Constitutional machinery in a state and
- Financial emergency when the financial stability or credit of India or any part thereof is in danger.

All these kinds of emergencies are declared by the President of India. The President may modify or revoke his proclamation. He may extend the period of emergencies. However, in doing so, he acts on the written advice of the Council of Ministers and with the approval of both the Houses of the Parliament. During emergencies, the President's powers to issue directive to various state governments, statutory bodies and institutions increases immensely. These extraordinary powers which the President exercises during an emergency make him more than just a formal Head of the State.

Miscellaneous:

- The President has the power to make rules and regulations governing matters like appointments of the officers of the Supreme Court, administrative powers of the Comptroller and Auditor General, recruitment to important Union services.
- The President has the power to make rules and regulations fixing the strength of the working of the Central Universities, appointment of the ad-hoc judges of the Supreme Court etc.
- He may make regulations determining the number of members of the Union Public Service Commission, their tenure and conditions of service etc. He may also make regulations specifying the matters in which it shall not be necessary to consult the UPSC in respect of services of the Government of India.
- The President may refer any question of public importance involving a question of law as well as of fact to the Supreme Court for having its opinion.
- In the matter of official language, the President may authorise the use of Hindi in addition to English for such official purposes as he thinks fit.

The President of India, in our parliamentary form of government, occupies the position of the Constitutional Head of the Union Government as well as the Head of the Indian Republic. Although the President usually acts on the advice of the Union Council of Ministers, it will be wrong to assume that he acts as a mere 'rubber stamp'. In the Indian political system, various Presidents have been found to play the role of an active and critical President, guiding the country with his intellect and knowledge whenever needed.