

4. NOTES OF WORKING OF INSTITUTIONS

How is a Major Policy Decision Taken?

A Government Order

On August 13, 1990, the Government of India issued an Order which was called an Office Memorandum. The order says that other than SC and ST the 27% job reservation benefit will be given to a new third category called Socially and Educationally Backward Classes (SEBC). Only persons who belong to backward classes were eligible for this quota.

The Decision Makers

Who decided to issue this Memorandum? Such a major decision would have involved other major functionaries in India, which involves the following points:

The President is the head of the state and is the highest formal authority in India.

The Prime Minister is the head of the government and takes most of the decisions in the Cabinet meetings.

Parliament consists of the President and two Houses, Lok Sabha and Rajya Sabha. The Prime Minister must have the support of a majority of Lok Sabha members to pass a memorandum.

When the Office Memorandum was passed in India, it was a hot debate issue. Some felt that this was unfair as it would deny equality of opportunity to those who did not belong to backward communities. While others felt that this would give a fair opportunity to those communities

who so far had not adequately been represented in government employment. This dispute was finally resolved by the Supreme Court of India by hearing all the cases. This case was known as the 'Indira Sawhney and others Vs Union of India case'. The Supreme Court judges in 1992 declared that this order of the Government of India was valid. Thus, the dispute came to an end and this policy has been followed since then.

Need for Political Institutions

Several arrangements are made in modern democracies which are called Institutions. Democracy works well when these institutions perform functions assigned to them.

Institutions involve meetings, committees and routines. This often leads to delays and complications.

Some of the delays and complications introduced by institutions are very useful as they provide an opportunity for a wider set of people to be consulted.

Institutions make it difficult to have a good decision taken very quickly. But, they also make it equally difficult to rush through a bad decision.

Parliament

Decisions are not directly taken in Parliament. But Parliamentary discussions on the Report influence and shape the decision of the government. These discussions bring pressure on the government to act. If Parliament is not in favour of the decision, then the Government can not go ahead and can not implement the decision.

Why Do We Need Parliament

An assembly of elected representatives is called Parliament which exercises supreme political authority on behalf of the people. At the state level, this is called the Legislature or Legislative Assembly. The name may vary in different countries, but such an assembly exists in every democracy.

Parliament exercises political authority on behalf of the people in many ways as listed below:

Parliament is the final authority for making laws in any country.

Those who run the government can take decisions only when they get the support of Parliament.

Parliaments control all the money that governments have.

Parliament is the highest forum of discussion and debate on public issues and national policy in any country.

Two Houses of Parliament

Most large countries divide the role and powers of Parliament into two parts which are called Chambers or Houses.

One House is usually directly elected by the people and exercises the real power on behalf of the people.

The Second House is usually elected indirectly and performs some special functions. The most common work for the second House is to look after the interests of various states, regions or federal units.

In India, Parliament consists of 2 Houses. The two Houses are known as:

The Council of States (Rajya Sabha)

The House of the People (Lok Sabha)

The President of India is a part of Parliament, although he/she is not a member of either House. All laws made in the Houses come into force only after receiving the assent of the President.

Indian Constitution does give the Rajya Sabha some special powers over the states. But on most matters, the Lok Sabha exercises supreme power. Here are some points that illustrate this:

Any ordinary law needs to be passed by both the Houses. But if there is a difference between the two Houses, the final decision is taken in a joint session in which members of both the Houses sit together. The view of the Lok Sabha is likely to prevail in such a meeting since there are a lot many members of the Lok Sabha.

Lok Sabha exercises more powers in money matters.

Lok Sabha controls the Council of Ministers.

Political Executive

At different levels of any government, functionaries take day-to-day decisions but do not exercise supreme power on behalf of the people. All these functionaries are collectively known as the executive. This executive is in charge of the 'execution' of the policies of the government. Thus, when we talk about 'the government' we usually mean the executive.

Political and Permanent Executive

In a democratic country, two categories make up the executive.

One that is elected by the people for a specific period, is called the political executive. Political leaders who take big decisions fall in this category.

People who are appointed on a long-term basis are called the permanent executive or civil services. People working in civil services are called civil servants. They remain in office even when the ruling party changes. These officers work under political executive and assist them in carrying out the day-to-day administration.

Why is the minister more powerful than the civil servant?

In a democracy the will of the people is supreme. The minister is an elected representative of the people and thus empowered to exercise the will of the people on their behalf. Minister is

finally answerable to the people for all the consequences of his/her decision. That is why the minister takes all the final decisions. The minister is not, and is not expected to be, an expert in the matters of her ministry. The minister takes the advice of experts on all technical matters and then takes the decision.

Prime Minister and Council of Ministers

There is no direct election to the post of the Prime Minister. The President appoints the

Prime Minister.

The President appoints the leader of the majority party or the coalition of parties that commands a majority in the Lok Sabha, as Prime Minister.

In case no single party or alliance gets a majority, the President appoints the person most likely to secure majority support.

The Prime Minister does not have a fixed tenure. He continues in power so long as he remains the leader of the majority party or coalition.

After the appointment of the Prime Minister, the President appoints other ministers on the advice of the Prime Minister which are usually from the majority party or the coalition that has the majority in the Lok Sabha.

The Prime Minister is free to choose ministers, as long as they are members of Parliament.

A person who is not a member of Parliament can also become a minister. But such a person has to get elected to one of the Houses of Parliament within six months of appointment as minister.

The Council of Ministers is the official name for the body that includes all the Ministers. It usually has 60 to 80 Ministers of different ranks as mentioned below:

Cabinet Ministers are usually top level leaders of the ruling party or parties who are in charge of the major ministries. The cabinet is the inner ring of the Council of Ministers and comprises about 25 ministers.

Ministers of State with independent charge are usually in-charge of smaller Ministries. They participate in the Cabinet meetings only when specially invited.

Ministers of State are the junior minister, who are assigned to assist cabinet ministers and the ministers of state with independent charge.

Parliamentary democracy in most countries is often known as the Cabinet form of government because most of the decisions are taken in Cabinet meetings. Every ministry has secretaries, who are civil servants. The secretaries provide the necessary background information to the ministers to take decisions. The Cabinet as a team is assisted by the Cabinet Secretariat.

Powers of the Prime Minister

As head of the government, the Prime Minister has wide-ranging powers, which are mentioned below:

The Prime Minister chairs Cabinet meetings. He is the head of the government.

He coordinates the work of different Departments.

His decisions are final in case disagreements arise between Departments.

He exercises general supervision of different ministries.

All ministers work under his leadership.

The Prime Minister distributes and redistributes work to the ministers.

He has the power to dismiss ministers.

When the Prime Minister quits, the entire ministry quits.

The President

The President is the head of the State. The President supervises the overall functioning of all the political institutions in India, so that they operate in harmony to achieve the objectives of the State.

Election of President

The President is not elected directly by the people. A candidate standing for President's post has to get a majority of votes from Members of Parliament (MPs) and the Members of the Legislative Assemblies (MLAs) to win the election.

Powers of President

All governmental activities take place in the name of the President.

All laws and major policy decisions of the government are issued in the name of the President.

All major appointments are made in the name of the President, which include the appointment of the Chief Justice of India, the Judges of the Supreme Court and the High Courts of the states, the Governors of the states, the Election Commissioners, Ambassadors to other countries, etc.

All international treaties and agreements are made in the name of the President.

The President is the supreme commander of the defence forces of India.

The President exercises all these powers only on the advice of the Council of Ministers. The President can only appoint the Prime Minister by his/her own will.

The Judiciary

All the courts at different levels in a country put together are called the judiciary. The Indian judiciary consists of:

A Supreme Court for the entire nation

High Courts in the states

District Courts

The courts at the local level

India has an integrated judiciary which means the Supreme Court controls the judicial administration in the country. Its decisions are binding on all other courts of the country. It can take up any dispute

Between citizens of the country

Between citizens and government

Between two or more state governments

Between governments at the union and state level

Independence of the judiciary means that it is not under the control of the legislature or the executive. The judges do not act on the direction of the government or according to the wishes of the party in power.

The judges of the Supreme Court and the High Courts are appointed by the President on the advice of the Prime Minister and in consultation with the Chief Justice of the Supreme Court. Once a person is appointed as judge of the Supreme Court or the High Court it is nearly impossible to remove him or her from that position. A judge can be removed only by an impeachment motion passed separately by two-thirds members of the two Houses of the Parliament.

Powers of Judiciary

The judiciary in India is one of the most powerful in the world.

The Supreme Court and the High Courts have the power to interpret the Constitution of the country.

They can determine the Constitutional validity of any legislation or action of the executive in the country when it is challenged before them. This is known as the judicial review.

The Supreme Court of India has also ruled that the core or basic principles of the Constitution cannot be changed by the Parliament.

The powers and the independence of the Indian judiciary allow it to act as the guardian of the Fundamental Rights. Anyone can approach the courts if public interest is hurt by the actions of

the government. This is called public interest litigation