

**Introduction**

In the scheme of the Parliamentary system of government provided by the Constitution, the President is the nominal executive authority (de jure executive) and Prime Minister is the real executive authority (de facto executive). Prime Minister is the leader of the executive system of Government of India and also the head of the Council of Ministers. Prime Minister is the real custodian of all the executive authority

**Article 75: Appointment**

The Constitution does not contain any specific procedure for the selection and appointment of the Prime Minister. Article 75 says only that the Prime Minister shall be appointed by the President.

The salary and allowances of the Prime Minister are determined by the Parliament from time to time. He/she gets the salary and allowances that are payable to a member of Parliament.

**Article 84: Eligibility**

- ❑ Must be a citizen of India.
- ❑ Must be the member of either of the Houses of the Parliament i.e The Lok Sabha and The Rajya Sabha.
- ❑ Should complete 25 years of age if he is a member of the Lok Sabha and 30 years of age if he is a member of the Rajya Sabha.

**Disqualifications**

Following are the disqualifications of Prime Minister:

- ❑ **Office of Profit**
  - Article 102(1)(a) of The Indian Constitution which bars the Prime Minister to hold the office of profit. Office of profit is defined as the financial amount which is given to the occupant to gain a financial advantage in the form of salaries, perks and other benefits. The office of profit has not been defined in the Constitution of India or under the Representation of People's Act, 1951.
  - **In Jaya Bachchan v. Union of India**
    - The Office of Profit is defined as follows:
    - Office of Profit is an office which is capable

of yielding a profit or pecuniary gain.

- Holding an office under the Central or State Government to which the salaries, remuneration, allowances are paid amounts to hold the office of profit.

❑ **Unsound Mind**

- The Prime Minister and other members disqualify if he/she is of unsound mind and stands so declared by the competent Court.

❑ **Not a citizen of India**

- The Prime Minister disqualifies if he/she is not a citizen of India or has voluntarily acquired the citizenship of the foreign state.

❑ **Other Disqualification**

- If he is an undischarged insolvent.
- Disqualified under any law made by Parliament.
- Disqualified for being a member of either House of Parliament.

**Tenure**

- ❑ The full term of the office of Prime Minister is five years but they can hold their office only if they enjoy the majority in the Parliament and the term can end sooner if loses the vote of confidence in the Lok Sabha. Once they lose their majority, the period of holding their office also comes to an end.
- ❑ The Indian Parliamentary system does not follow the democratic system of US where if the President holds his office twice and has completed his office, he/she cannot again hold their position. In India this system is not followed, here the President, Prime Minister can hold their office many times till they attain their discharge period.
  - Atal Bihari Vajpayee, The 13th Prime Minister of India. His first tenure as a Prime Minister was from 16th May 1996-1st June 1996, he held the office for 13 days but due to loss of support from the other parties to obtain the majority, he resigned. Then again, he was chosen as a Prime Minister with a full majority from 19th March 1998- 22nd May 2004.

- Pandit Jawaharlal Nehru held the office in a row as a Prime Minister for 4 times from 15th August 1947-27th May 1964.
- ❑ Thus, in India, the Ministers can hold their office for many times till they enjoy their vote of confidence in the Lok Sabha

### ***Deputy Prime Minister of India***

- ❑ The post of Deputy Prime Minister of India is not technically a constitutional post, nor is there any mention of it in an Act of Parliament. But historically, on various occasions, different governments have assigned one of their senior ministers as the deputy prime minister.
- ❑ There is neither constitutional requirement for filling the post of deputy Prime Minister, nor does the post provide any kind of special powers. Typically, senior cabinet ministers like the finance minister or the Home Minister are appointed as Deputy Prime Minister. The post is considered to be the senior most in the cabinet after the prime minister and represents the government in his/her absence.
- ❑ Generally, Deputy Prime Ministers have been appointed to strengthen the coalition governments. The first holder of this post was Vallabhbhai Patel, who was also the Home Minister in Jawaharlal Nehru's cabinet.

## ***Powers and Functions of the Prime Minister***

### ***Power to appoint the Authorities***

- ❑ Prime Minister has the right to give advice to the President in relation to the appointment of the Government Authorities.
- ❑ Such authorities include the Comptroller and Auditor General of India, Attorney General of India, Solicitor General of India, Election Commissioners, Chairman and Members of the Finance Commission.
- ❑ Prime Minister also has the right to give advice to the President on the appointment of the Council of Ministers and the Cabinet Ministers.

### ***Power as the Leader of the House of Parliament***

- ❑ Prime Minister is the Leader of the Lower House of Parliament i.e the Lok Sabha.
- ❑ He advises President with regard to the summoning of the sessions of the Parliament.
- ❑ The Prime Minister can recommend the President for the dissolution of the Lok Sabha.
- ❑ Prime Minister in consultation with the Speaker of

the lower house decides the agenda of the House.

### ***Aid and Advice the President***

- ❑ Prime Minister is the Chief Advisor of the President.
- ❑ The Prime Minister advises the President in all the matters of the state.
- ❑ Prime Minister informs the President regarding all the decisions taken in the Cabinet Meeting.
- ❑ The Prime Minister advises and gives all the information to the President regarding the emergency situation or any changes in the foreign policy.
- ❑ Prime Minister advises the President to take necessary steps in the economic, financial, political and developmental situations of the country.

### ***Power as the Chairman of the Cabinet***

- ❑ The Prime Minister is the Leader of the Cabinet.
- ❑ The Prime Minister presides over the meetings and decides the agenda of the meetings.
- ❑ All the decisions of the Cabinet meetings are decided by the approval and consent of the Prime Minister.
- ❑ The reject or accept of the proposal of the Cabinet discussions is in the hand of the Prime Minister.
- ❑ The Prime Minister guides, directs, controls and coordinates all the activities of the Minister.
- ❑ The Prime Minister allocates various portfolios and ministries among the Ministers.
- ❑ In case of any wrongdoing and difference in the opinion, the Prime Minister can ask a Minister to resign or advise the President to dismiss the Power of the Minister.
- ❑ Chairman of the NITI Aayog National Development Council, National Integration Council, Inter-State Council, National Water Resources Council.

### ***Power to Remove the Minister***

- ❑ The Minister remains in the office according to the pleasure of the Prime Minister.
- ❑ The Prime Minister can demand resignation from any Ministers at any time and the Minister is duty bound to accept it.
- ❑ In April 2010 when Manmohan Singh was the Prime Minister, Shashi Tharoor, the Minister of State for External Affairs had to resign from his office under the allegation of the corruption in the IPL case.

### ***Emergency Powers***

- ❑ The President declares the emergency only under the advice of the Prime Minister.
- ❑ Under Article 352 of the Indian Constitution, the

President can declare an emergency on the basis of the written request by the Prime Minister.

- ❑ In the year 1975-1977, the then President Fakhruddin Ali Ahmed with the written request and consent from the then Prime Minister Indira Gandhi imposed emergency. The reason behind this was threat to National Security and bad economic conditions.
- ❑ Thus, the Prime Minister has the power to impose an emergency when the situation is as such.

### ***Coordinating Power***

- ❑ The Prime Minister is the chief coordinator between the President and the Cabinet.
- ❑ The Prime Minister communicates the President all the decisions of the Cabinet and puts before the Cabinet the decisions of the President, thus acting as the medium of the communication.
- ❑ It is the responsibility of the Prime Minister to coordinate the activities of all the department and to secure the cooperation among the ministers.

### ***Other Powers***

- ❑ Prime Minister is the Leader of the Nation. The general elections of the country are fought in his name.
- ❑ Plays a key role in determining Indian Foreign Policy and relations with other countries.
- ❑ Power to allocate and change the department of the Ministers.

### ***Limitations To the Power of Prime Minister***

- ❑ ***Vote of no confidence:*** Under the Parliamentary system of government, the Prime Minister is not performing to the satisfaction of the Members of Parliament and not meeting the aspirations for which he was put there, they could pass a vote of no confidence in him. Under such a situation, the Prime Minister must resign. The fear of being pushed out of power serves as a limitation to his powers.
- ❑ ***Toeing the party line:*** The party, to which the Prime Minister belongs, has an ideology and policies manifesto they would like to implement. The Prime Minister can, therefore, not act outside the policies that the party professes.
- ❑ ***Advice from the head of State:*** From time to time, the

Head of State may advise the Prime Minister on one issue or the other. He or she may draw the attention of the Prime Minister to certain pertinent issues confronting the country. In that sense, the Head of State serves as a limitation to the Prime Minister.

- ❑ ***Public opinion:*** The Prime Minister could be influenced by the public. This may happen when he leads the introduction of a policy that the public thinks are inimical to their interest. Also, the Prime Minister counselling may not want to be in the news for the wrong reasons. In that sense, he is limited by the opinions of the public.

### ***Misuse of Power by Prime Minister***

- ❑ ***Shah Commission Report:*** It was a commission of inquiry appointed by the Government of India in 1977 to inquire into all the excesses committed in the Indian Emergency (1975 - 77).
- ❑ The commission stated that the decision to impose Emergency was made by Prime Minister Indira Gandhi alone, without consulting her cabinet colleagues, and was not justified.
- ❑ To check the misuse of power by Prime Ministers, the Lokpal has been provided the jurisdiction to inquire into allegations of corruption against anyone who is or has been Prime Minister. But there is a problem that it cannot inquire into any corruption charge against the Prime Minister if the allegations are related to international relations, external and internal security, and public order, unless a full Bench of the Lokpal, consisting of its chair and all members, considers the initiation of a probe, and at least two-thirds of the members approve it.

### ***Conclusion:***

India follows the Quasi Federal democracy where the Prime Ministers are elected for the people, of the people and by the people. The Prime Minister plays a very significant and highly crucial role in the politico-administrative system of the country. As Dr. B.R. Ambedkar stated, 'If any functionary under our constitution is to be compared with the US president, he is the Prime Minister and not the President of the Union'.