

BLOGS

Powers of The President under The Constitution of India

Harshita Gulati · 16 Oct 2021

Dr. BR Ambedkar quoted, “Our President under Constitution of India is merely a nominal figurehead, he has no discretion. He is head of the State but not of the Executive. He represents the Nation, but does not rule the Nation.”

The Union executive consists of the President, the Vice-President, and a Council of Ministers with Prime Minister as the head to aid and advice the President. The President is the Chief executive and constitutional head of the republic of India under the Parliamentary system. He is also the first citizen of India.

Article 52 of the Constitution reads: ‘There shall be a President of India’.

It is further stated in Article 53(1) that 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.

Also, Article 53 (2) further declares the supreme command of the Defence Forces of the Union.



Qualifications for Election as President

Article 58 lays down the following qualifications which a person must possess for being elected to the office of the President:

- (a) is a citizen of India
- (b) has completed the age of thirty-five years
- (c) is qualified for election as a member of the House of the People.
- (d) a person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Conditions of President's Office

Article 59 lays down the following conditions of the President's office:

(1) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State,

(2) The President shall not hold any other office of profit.

(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament.

The oath of office to the President is administered by the Chief Justice of India and in his absence, the senior-most judge of the Supreme Court available.

In case of a vacancy caused by the expiration of the term of office, death, resignation or removal of the President the position is immediately filled by the Vice President and in his absence by the Chief Justice of India who is designated as acting President until the new President is elected

In 1969 when former President Dr. Zakir Hussain died then the Vice President VV Giri was elected as an acting President but he resigned from his office then Chief Justice Hidayatullah became the acting President

Electoral College of President

The President shall be elected by the members of an electoral college consisting of –

- (a) the elected members of both Houses of Parliament; and
- (b) the elected members of the Legislative Assemblies of the States. Explanation: In this article and in article 55, “State” includes the National Capital Territory of Delhi and the Union territory of Pondicherry.

The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

In **Dr. N.B.Khare vs. Election Commissioner of India** the election of the President was challenged on the ground that the general election had not taken place in some parts of Punjab and Haryana and as a result, the Electoral College would be incomplete. The Supreme Court held that the election of the President can be challenged only after the completion of the election.

Term of Office of The President

The President shall hold office for a term of five years from the date on which he enters upon his office. Any resignation addressed to the Vice-President shall forthwith be communicated by him to the Speaker of the House of the People.

A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution be eligible for re-election to that office.

Impeachment of President

The procedure for impeachment of the President has been mentioned under Article 61.

Impeachment is a legislative trial for removal of high officials of the State. Impeachment can be started by any House of the Parliament at the initiative of 1/4th of its total membership who must give 14 days' notice. The President has the right to appear and be represented at such investigation. If 2/3rd majority of the total membership of that House approves the charge, the other House will discuss the same. If 2/3rd majority of the other House also approves the resolution, the President shall be impeached.

As clarified by the Supreme Court in the case '**Rameshwar Prasad & Ors vs. Union Of India & Anr**' on 24 January 2006, though the president cannot be prosecuted and imprisoned during his term of office, he can be prosecuted after his term of office for the guilty committed during his term of the presidency as declared earlier by the courts.

An election to fill a vacancy caused by the expiration of the term of office of President or by reason of his death, resignation or removal, or otherwise shall be completed before the expiration of the term and in no case later than six months.

The powers enjoyed and the functions performed by the President can be studied under the following heads.

1. Executive powers
2. Legislative powers
3. Financial powers
4. Judicial powers
5. Diplomatic powers
6. Military powers
7. Emergency powers

Veto Power

President has the veto power over the bills passed by the Parliament, that is, he can withhold his assent to the bills.

The veto power enjoyed by the executive in modern states can be classified into the following types:

1. Absolute veto, which is, withholding of assent to the bill passed by the legislature.
2. Suspensive veto, which can be overridden by the legislature with an ordinary majority.
3. Pocket veto, which is, taking no action on the bill passed by the legislature.

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