

**Bill No. CV of 2022**

THE CONSTITUTION (AMENDMENT) BILL, 2022

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BILL

*further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and  
Commencement.

(2) It shall come into force on such date as the Central Government may, by notification  
5 in the Official Gazette, appoint.

2. For article 153 of the Constitution the following new article shall be substituted,  
namely:—

Substitution of  
article 153.

"153. (1) The office of Governor shall cease to exist.

Cessation of  
office of  
Governor.

(2) All the existing powers and responsibilities of the Governor shall be vested in  
10 the President of India; unless specified otherwise."

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|-------------------------------|---|----|
| Substitution of article 154.  | <b>3.</b> For article 154 of the Constitution the following article shall be substituted, namely:—  |    |
| Executive Power of the State. | " <b>154.</b> The executive power of the State shall be vested in the Council of Ministers of the State, headed by the Chief Minister of the State and shall be exercised by him directly."   | 5  |
| Omission of article 155.      | <b>4.</b> Article 155 of the Constitution shall be omitted.   |    |
| Omission of article 156.      | <b>5.</b> Article 156 of the Constitution shall be omitted.   |    |
| Omission of article 157.      | <b>6.</b> Article 157 of the Constitution shall be omitted.   |    |
| Omission of article 158.      | <b>7.</b> Article 158 of the Constitution shall be omitted.   |    |
| Omission of article 159.      | <b>8.</b> Article 159 of the Constitution shall be omitted.   | 10 |
| Omission of article 160.      | <b>9.</b> Article 160 of the Constitution shall be omitted.   |    |
| Omission of article 161.      | <b>10.</b> Article 161 of the Constitution shall be omitted.  |    |
| Omission of article 162.      | <b>11.</b> Article 162 of the Constitution shall be omitted.  |    |
| Omission of article 163.      | <b>12.</b> Article 163 of the Constitution shall be omitted.  |    |
| Amendment of article 164.     | <b>13.</b> In article 164 of the Constitution,  | 15 |
|                               | (i) for clause (1), the following clause shall be substituted, namely:—   |    |
|                               | "(1) The Chief Minister shall be appointed by the Chief Justice of the State and the other Ministers shall be appointed by the Chief Justice of the State on the advice of the Chief Minister:  |    |
|                               | Provided that in the States of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and Backward Classes or any other work."   | 20 |
|                               | (ii) for clause (3), the following clause shall be substituted, namely:—  |    |
|                               | "(3) Before a Minister enters upon his office, the Chief Justice of the State shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule."   | 25 |
| Substitution of article 200.  | <b>14.</b> For Article 200, the following article shall be substituted, namely:—  |    |
| Assent of the Bill.           | " <b>200.</b> When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be deemed to be passed and shall come into force on such date, as the State Government may, by notification in the official gazette, appoint." | 30 |
| Omission of article 201.      | <b>15.</b> Article 201 of the Constitution shall be omitted.  |    |
| Amendment to article 356.     | <b>16.</b> In article 356 of the Constitution, in clause (1),—  |    |
|                               | (i) for the word 'Governor', the words "Council of Ministers headed by the Chief Minister" shall be substituted;  | 35 |
|                               | (ii) in sub-clause (a), the words 'the Governor or', shall be omitted.  |    |

## STATEMENT OF OBJECTS AND REASONS

The Governor of a State serves as its chief executive. He serves as the notional executive leader and a representative of the Central Government. In contrast to being the constitutionally designated head of State, the Governor has increasingly come under scrutiny for acting as the Centre's representative. On numerous occasions, Governments have appointed Governors who are politicians or former bureaucrats. This is a violation of the legally mandated neutral seat and has resulted in prejudice.

2. The Constituent Assembly was divided on the powers of the Governor of a State. The Governors were unanimously agreed to be representatives of the Central Government, similar to the Governors appointed under the British Raj. Many members pointed out that the wordings of the articles related to State Governors were an identical replica of the provision of the British-era Government of India Act of 1935. The British regent served as the Viceroy's representative in each British Province prior to independence. However, following independence, States are no longer the subjects of the Centre.

3. The architects of the Constitution, like all other constitutional authorities, bestowed a tremendous deal of faith in the position of Governor. Whether the Constitution and its framers' faith in the institution of Governor are honored is a subject that requires contextual interpretation in the light of the Constitution's provisions and political realities. The Governor's position has deteriorated to the point that it is imperative to abolish it and replace it.

Hence, this Bill.

RAGHAV CHADHA.

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

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Governors of States.

**153.** There shall be Governor for each State:

Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States.

Executive Power of State.

**154.** (1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Nothing in this article shall—

(a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

Appointment of Governor.

**155.** The Governor of a State shall be appointed by the President by warrant under his hand and seal.

Term of office of Governor.

**156.** (1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Qualifications for appointment as Governor.

**157.** No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

Conditions of Governor's office.

**158.** (1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

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

(3) The Governor 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 by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(3A) Where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

Oath or affirmation by the Governor.

**159.** Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or, in his absence, the senior

most Judge of that Court available, an oath or affirmation in the following form, that is to say—"I, A. B., do swear in the name of God that I will faithfully execute the solemnly affirm office of Governor (or discharge the functions of the Governor) of....(name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself.

**160.** The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

Discharge of the Functions of the Governor in certain contingencies.

**161.** The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.

**162.** Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws:

Extent of Executive Power of State.

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by parliament upon the Union or authorities thereof.

**163. (1)** There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

Council of Ministers to aid and advise Governor.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constituion required to act in his discretion, the decision of the Governor in his descretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

**164. (1)** The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor:

Other provisions as to Ministers.

Provided that in the States of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and Backward Classes or any other work.

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(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

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**200.** When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Assent to Bills.

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom:

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.

Bills reserved for consideration.

**201.** When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that, where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together with such as message as is mentioned in the first proviso to article 200 and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House or Houses with or without amendment, it shall be presented again to the President for his consideration.

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Provisions in case of failure of constitutional machinery in States.

**356.** (1) If the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation—

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor anybody or authority in the State other than the Legislature of the State;

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RAJYA SABHA

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further to amend the Constitution of India.

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*(Shri Raghav Chadha, M.P.)*