

## Model Answer (GS-II)

1. Enumerate the discretionary powers of governor mentioned in the Constitution. Why is it said the post of governor has become highly politicised?

### Approach

- Enumerate the discretionary power of the Governor.
- Examine the factors that have led to politicisation of the office of Governor.

### Answer

- Article 153
- How is the titular head, his discretionary power is more than President

#### **Constitutional discretion**

- Reservation of bills for the consideration of President.
- Recommendation of imposition of president rule.
- Administration of adjoining U.T .
- Disbursing funds to autonomus tribal council.
- Seeking information from CM regarding administration of the state.

#### **Situational discretion**

- Calling leader of the largest grouping when house is hung.
- Dissolution of Legislative assembly
- Dismissing council of ministers when they lose confidence of the assembly.

Governor was expected to be linchpin between the centre and states but with time it became a tool for the centre to interfere in the working of the state. Hence the office of governor became politicised. Factors responsible for it are:

- No fixed tenure
- Wide discretionary powers
- It was expected that he would behave like an elderly statesman but the office of governor suffers from SPOILS syndrome.
- Legislature both at centre and state cant impeach him. So complete patronage of centre executive.

#### **WAY FORWARD**

- Implementing recommendations of Sarkaria, Punchhi commission regarding tenure, impeachment, powers.
- Other institutional reforms by centre to make the office impartial.
- Governor himself should realise the sanctity of the office and should behave like statesman.

2. **What are different institutional arrangements in India to promote centre and states cooperation? Critically analyse the role of ISC to enhance cooperative federalism in India.**

**APPROACH**

- Provide brief introduction regarding the need for centre and state to cooperate
- Enumerate existing institutional mechanisms that enhances the cooperation.
- Aim of the ISC and analyse its role since inception.

**ANSWER**

Cooperation is required so as to enhance transparent, interactive and inclusive governance. Its also required for harmonious working of the federal system. Existing institutional mechanisms to increase cooperation are:

**CONSTITUTIONAL**

- Rajya sabha, all india services, ISC, finance commission, constitutional provision for adjudication of inter state water disputes.

**STATUTORY**

- Zonal council and north eastern council.

**CABINET RESOLUTIONS**

- NDC, NIC, NITI Aayog ( earlier Planning Commission).

**IMPORTANT CONFERENCES**

FULL FAITH AND CREDIT TO PUBLIC ACTS, JUDICIAL PROCEEDINGS OF ALL STATES AND CENTRE THROUGHOUT THE TERRITORY OF INDIA.

Inter-state council is a recommendatory body to investigate and discuss subjects in which some or all the states with Union have common interests, recommendation for better coordination of policy and action. It was constituted under A. 263 in 1990 on recommendation of Sarkaria Commission recommendation.

Its necessary for effective federal cooperation and coordination. Also to resolve the disputes between the states and the union.

HIGHLIGHT THE ACHIEVEMENTS OF ISC {...}

HIGHLIGHT THE UNDER UTILISATION OF ISC

- No compulsion on the centre to accept the recommendation.
- No frequent meetings.
- Clause A of A. 263 has been dropped.
- Planning commission and NDC hijacked the role of ISC.

**WAY FORWARD**

- States should increasingly and effectively use the ISC platform.
- ISC and NITI can be merged together in a constitutional framework for better policy coordination.
- Greater representation to civil society and other stakeholders for policy inputs.
- Reinstating clause A of A. 263 .

**3. In a paradigmatic shift from command and control approach of the past, NITI Aayog accommodates diverse points of view in a collaborative rather than confrontationist setting. Comment.**

**APPROACH**

- Compare the past and present approaches of planning in India
- Discuss NITI's present role and comparison with PC.

**ANSWER**

NITI replaced PC which was responsible for assessing national resources and drafting FYPs. Reasons which demanded transition to a new paradigm are:

- Political character of the PC: far from being a think tank it became a tool for dictating policy terms of the state. It was involved in micro management of the policies.
- Changed from an investment to spending body.
- Was not in consonance with the LPG India adopted in 1991.
- One size fits all attitude. CSS
- Fall of centrally planned economy across the globe. Ex: Soviet Union.
- Confrontation with FC which is a constitutional body.
- Huge diversity of the country made central planning an incongruity.

**NITI ORGANISATIONAL STRUCTURE, ITS COMPOSITION, ITS THINK TANK ROLE AND PROCEED WITH HOW ITS AN IMPROVEMENT**

- Think tank to centre and states, giving strategic and technical advice.
- Ending slow and tardy implementation of policies and greater inter ministerial coordination along with better centre and coordination.
- Dedicated regional council to address regional problems and peculiarities against 'one size fits all' attitude of PC.
- Built in knowledge, innovation and entrepreneurial support system to foster R&D.
- Emphasising on bottom up planning against top bottom approach.

**4. Though JA has made the judiciary more people friendly, there is also a negative side to the idea of pro-active judiciary in form of judicial overreach. Discuss with examples.**

**APPROACH**

- Explain judicial activism in brief.
- Discuss how a pro-active judiciary can lead to judicial overreach.

**ANSWER**

JA is an exercise of judicial review in which judiciary is generally more willing to decide on constitutional or statutory issue and to invalidate and subordinate executive and legislative domain. It has evolved through progressive interpretation of A.32 .

{Give instances of JA how it has benefitted public at large. Ex: expansion of FRs, bandhua mukti morcha etc}

But at various instances it has been found that same judicial review process of judiciary has encroached into the domain of legislature and executive in an undue fashion.

- Quashing NJAC which was brought through constitutional amendment.
- SC directed the complex interlinking of the river.
- Regulating tourism at various tourist steps.
- Ban on diesel vehicles in New Delhi.
- Ordering state to provide free food grain universally.

Above instances show that how judiciary has overreached its domain and has encroached into the domains of other two pillars. Its against the constitutional principle of doctrine of separation of doctrine. However at various instances it has been seen that the SC intervention has resulted because the other two pillars were not able to fulfil their duties. Through various progressive judgements it has been able to enhance the level of governance and public service delivery. So the judiciary should exercise its powers under A. 32 with caution without necessarily encroaching into domain of legislature and executive.

5. A clear delineation of functions of local government vis-a-vis state government will only strengthen the principle of subsidiarity. In the light of the statement, discuss the challenges and reforms required for effective democratic decentralisation in India.

#### APPROACH

- Briefly explain the principle of subsidiarity.
- Explain the present challenges faced by the local government.
- Suggest reforms to enhance decentralisation.

#### ANSWER

Principle of subsidiarity states that central authority should only exercise functions which cant be performed by the local authorities effectively. Therefore its expected that it should devolve local functions to local authorities. This principle was the core of 73<sup>rd</sup> and 74<sup>th</sup> CAA. However this principle is flouted vehemently.

#### **Challenges faced by LBs:**

- Devolution of funds.
- Devolution of functions.
- Devolution of functionaries.
- Lack of awareness.
- Excessive state control.
- Multiplicity of agencies.
- Lukewarm implementation of PESA.
- Proliferation of CSS.

Reforms that should be taken:

- Principle of subsidiarity should be followed in letter and spirit. A. 243 should be implemented without prejudices by the state govt.
- Voice of LBs must be strengthened {ex: by reserving seats in legislative council}
- Devolution of powers and responsibilities.
- Devolution of funds.
- Timely constitution of SFC. Also pro-active role by it.
- Capacity building.

Ministry of Panchayati Raj comes out with devolution index, whose data shows that there is considerable difference among states when their devolution index is compared. Certain states like kerala, RJ, MP are better off than others when it comes to empowered LBs. These states can become model for effective decentralisation for rest of Indian states.

**6. While the CCI and sector specific regulators are required to complement each other, overlapping jurisdiction has led to regulatory parallelism. Comment.**

**APPROACH**

- Give brief intro of CCI.
- Explain how CCI and sector specific regulators complement each other.
- Then explain how overlapping jurisdiction amongst them is causing regulatory issues.

**ANSWER**

CCI is a statutory body to implement Competition Act, 2002 throughout India to create level playing field and to uphold consumers interest. On the other hand to cater to specific regulations, sector specific regulators have been created over years.

**COMPLEMENTARY ROLES**

- Generalists vs. Specialist.{broad mandate vs meticulousness}
- Proactive vs. Reactive.{ex-ante vs ex-post}

While the role of CCI and sector specific regulators are meant to be complementary, many a times there is an unavoidable overlap:

- Licensing condition
- Market dominance
- Monopoly pricing
- M&A

Examples :

- face-off between RBI and CCI regarding merger of banks.
- CCI and TRAI tussle over tariffs in telecom sector.
- CCI and SEBI over various M&A.

**WAY FORWARD**

- Increased synergy.
- Exchange of information on real time basis.
- Inter agency deputation of officials and domain experts.
- Learning from international best practices.
- Time bounded regulators conference so as to weed out overlapping and other ambiguities.

