



## **FACULTY OF JURIDICAL SCIENCES**

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# Lecture-30



# **Meaning, Types and Functions of the Executive Organ of the Government**

## **Meaning:**

The second important organ of the government is executive. The legislature enacts the laws and the executive implements them. In ancient times the executive (Monarch and Council of Ministers) used to make the implement laws and it also awarded punishment to the law-breakers.

But today the monarchy has been abolished to a great extent and democracy has taken its place. Thus the executive has no power to make laws, to implement them and to punish those who violate the laws. The laws are now made by the legislature; the executive implements them and the judiciary awards punishments for the violation of the laws.

Dr. Garner while explaining the meaning of the executive said, "In a broad and collective sense the executive organ embraces the aggregate or totality of all the functionaries which are concerned with the execution of the will of the State as that will has been formulated and expressed in terms of law".

The definition of Dr. Gamer is very comprehensive. According to it, the Head of the State, Council of Ministers and all other officials who implement the laws are included in the executive. If the word executive is used in a narrow sense, it will include only the President and the Council of Ministers, and the officials are not included in it.

Generally, the term executive is used in a narrow senses and it includes the head of the State and his Council of Ministers, who are required to implement the laws and make policies for running the administration of the State.

## **Types of Executive:**

Modern executive represents different viewpoints.

**We give below the various forms of executive which are functioning in a large number of countries of the world:**

### **(1) Nominal and Real Executive:**

In many countries the Head of the State has nominal powers, as in Great Britain, Japan, Denmark, Sweden, Norway, Belgium and Holland. In these countries, the powers of the Monarch are exercised by his ministers. Thus there is nominal executive in these countries. Contrary to this, under the Constitution of the U.S.A., the President has been given many powers and he himself exercises these powers.

Therefore, there is real executive in America. Though the President of India has been given many powers in the Constitution, yet in actual practice these powers are exercised by his ministers. Thus there is nominal executive in India.

## **(2) Single and Plural types of Executives:**

Single executive means that all executive powers are vested in one Head of the State, e.g., the President of America exercises all executive powers. In Switzerland, the executive power is not in the hands of only one individual, but in the hands of a Council of seven members. The Chairman of this Council has no additional powers. Thus all the seven members are equally responsible for the administration in that country. This type of Swiss executive is called Plural Executive.

## **(3) Parliamentary and Presidential Types of Executive:**

In Parliamentary executive the Cabinet is responsible to the legislature. This system is functioning in England, France, Japan, Sri Lanka, India, West Germany, Italy, Sweden, Denmark, Norway, Belgium and Holland. Where the President is the Head of the State and he has real executive powers and is not responsible to the Parliament, the system will be known as the Presidential type of executive. This system is functioning in the United States of America, Brazil and some countries of South America. The President is elected for a fixed term in these countries and he can be removed only through an impeachment.

## **(4) Hereditary and Elective Executive:**

When a king is the Head of the State and when after his death his son or, in case of his being issueless, some of his near relative occupies the throne, the system is called hereditary executive. This type of executive is functioning in England, Norway, Sweden, Denmark, Belgium, Holland, Japan and Nepal.

In countries where the Head of State is elected either by the people or by their representatives, the system is called Elective Executive. We find this system in India, France, West Germany, Italy, the United States of America, Austria, Pakistan, Egypt, etc.

## **Dictatorship:**

When the entire powers of the nation are in the hands of one person, it is called Dictatorship. The dictator wields power with the help of a particular party or army and later on he becomes all in all in that country. After World War 1 (1914-18), Mussolini in Italy and Hitler in Germany became dictators.

In the Second World War (1939-45) Germany and Italy were defeated and the dictatorship came to an end. Today democratic governments are functioning there. In Spain, General Franco established his Dictatorship.

In Soviet Union, China, Czechoslovakia, Hungary, Romania, Bulgaria and Yugoslavia, the dictatorship of the Communist Party has been established and no opposition party can be formed there.

### **Functions of the Executive:**

The functions of the executive are not the same everywhere. The functions of the executive depend on the form of the government. In dictatorship, the functions of the executive are different from those in democracy.

### **Ordinarily, the following are the functions of the executive:**

#### **(1) Administrative:**

In every country the Head of the State and the Council of Ministers are responsible for the maintenance of law and order and for the running of the administration. The Head of the State, on the recommendation of the Council of Ministers, makes many important political appointments. The administrators are generally recruited on the basis of competitive examinations. They are promoted, demoted and dismissed under the Civil Service Rules.

#### **(2) Legislative:**

Generally law making is the responsibility of the legislature, but in every country the executive has an important role to play in the making of the laws. The executive prepares bills for this purpose and introduces them in the legislature. There is a Parliamentary Government in England, India, Japan, Sweden, Norway, France, Italy and West Germany.

The leader of the majority party becomes the Prime Minister. He has influence on both the organs of the government i.e., Legislature and Executive. The ministers are also important members of the Parliament. Therefore, they too have sufficient influence on the legislature or on the Parliament. In England, India and other Parliamentary countries, the Parliament spends much of its time on the discussion of the bills.

**(3)** The executive has not only this much role to play in the framing of the laws, but more than that. That laws passed by the legislature can be vetoed by the President. This is the practice in India and the U.S.A. Besides, the President has the right to issue Ordinances. This practice also exists in India.

The Queen has this right in England, but she can use this right on the recommendations of the Home Secretary. Besides, if there is a rebellion on a large scale in any country, the President has the right to grant general amnesty. This is the practice in India and some other countries. In some countries the President has the right to appoint the judges, as is the practice in India.

#### **(4) Military Functions:**

In almost all the countries, constitutionally the President or the Head of the State has many military powers. He is the Supreme Commander of the Armed Forces and has the power to promote, demote and dismiss high military officers. He himself, or with the consent of the Parliament, can declare war or peace.

In the U.S.A., the President can declare war or peace with the consent of the Congress. In Britain and India, this right is exercised generally by the Prime Minister. The Head of the State can declare emergency for the defence of the country.

In India, though this right has been given to the President under the constitution, yet it is used by him on the recommendations of the Prime Minister. For instance, when at the time of the Chinese aggression on October 26, 1962.

President Radhakrishnan declared the emergency, he did so on the advice of the late Prime Minister, Jawaharlal Nehru. That emergency continued till January, 1968, so no emergency was declared in India during Indo-Pak war of 1965. On 3rd December, 1971 Pakistan attacked India and the President Shri V.V. Giri declared emergency which continued till March 24, 1977.

#### **(5) Foreign Relations:**

The executive establishes political relations with foreign countries. Our government has established political or commercial relations with almost all big countries. The President appoints diplomatic representatives in other countries and receives those of foreign countries.

#### **(6) Financial Functions:**

Though the legislature controls the national finance, yet the executive prepares the budget and tries to get it passed by the legislature.

### **MCQ**

**1. Which article of Indian constitution envisages that there shall be an Attorney General of India?**

(A) Article 78

(B) Article 76

(C) Article 67

(D) Article 113

**2. How can the post of President be vacant?**

(A) On expiry of his tenure

(B) By his resignation

(C) Only on the commencement of impeachment in Rajya Sabha

(D) Only a and b

**3. Which of the following statements is not correct?**

(A) President is the head of military forces of India

(B) President can appoint a commission to investigate into the conditions of SCs and STs.

(C) Parliament can declare any area as scheduled area

(D) President of India chooses the chairman of the Finance Commission

**4. In which of the following article provision of National Emergency is mentioned?**

(A) Article 356

(B) Article 352

(C) Article 360

(D) Article 365

**5. Impeachment of the President can be initiated in.....**

- (A) Only in Lok Sabha
- (B) Only in Rajya Sabha
- (C) In either house of Parliament
- (D) Supreme Court