

2. Governor's Power to Call for Floor Test

Prelims Syllabus: State Legislature

Mains Syllabus: GS-II Parliament and State Legislatures - structure, functioning, conduct of business, powers & privileges and issues arising out of these.



Why in New?

- Recently, the Supreme Court (SC) has said that the Governor cannot call for a Floor Test on the basis of internal differences in the Party Members.

What is a floor test?

- It is a term used for the test of the majority. If there are doubts against the Chief Minister (CM) of a State, he/she can be asked to prove the majority in the House.
- In the case of a coalition government, the CM may be asked to move a vote of confidence and win a majority.
- In the absence of a clear majority, when there is more than one individual stake to form the government, the Governor may call for a special session to see who has the majority to form the government.
- Some legislators may be absent or choose not to vote. The numbers are then considered based only on those MLAs who were present to vote.

How can the Governor Call for a Floor Test?

- Article 174 of the Constitution authorizes the Governor to summon, dissolve and prorogue the state legislative assembly.

- ✓ Article 174(2)(b) of the Constitution gives powers to the Governor to dissolve the Assembly on the aid and advice of the cabinet. However, the Governor can apply his mind when the advice comes from a Chief Minister whose majority could be in doubt.
- According to Article 175(2), the Governor can summon the House and call for a floor test to prove whether the government has the numbers.
- However, the Governor can exercise the above only as per Article 163 of the Constitution which says that the Governor acts on the aid and advice of the Council of Ministers headed by the Chief Minister.
- When the House is in session, it is the Speaker who can call for a floor test. But when the Assembly is not in session, the Governor's residuary powers under Article 163 allow him to call for a floor test.

Governor's Discretionary Power:

- Article 163 (1) essentially limits any discretionary power of the Governor only to cases where the Constitution expressly specifies that the Governor must act on his own and apply an independent mind.
- The Governor can exercise his discretionary power under Article 174, when the chief minister has lost the support of the House and his strength is debatable.
- Generally, when doubts are cast on the chief minister that he has lost the majority, the opposition and the Governor would rally for a floor test.
- On numerous occasions, the courts have also clarified that when the majority of the ruling party is in question, a floor test must be conducted at the earliest available opportunity.

What are the SC's Observations on the Governor's Floor Test Call?

- In 2016, the SC in Nabam Rebia and Bamang Felix vs Deputy Speaker case (the Arunachal Pradesh Assembly case) said that the power to summon the House is not solely vested in the Governor and should be exercised with aid and advice of the Council of Ministers and not at his own.
- The Court highlighted the facts that the Governor is not an elected authority and is a mere nominee of the President, such a nominee cannot have an overriding authority over the representatives of the people, who constitute the House or Houses of the State Legislature.
- In 2020, the Supreme Court, in Shivraj Singh Chouhan & Ors versus Speaker, Madhya Pradesh Legislative Assembly & Ors, upheld the powers of the Speaker to call for a floor test if there is a prima facie view that the government has lost its majority.

-
- The Governor is not denied the power to order a floor test where on the basis of the material available to the Governor it becomes evident that the issue as to whether the government commands the confidence of the House requires it to be assessed on the basis of a floor test.

What is Confidence and No-confidence motion?

- A **confidence motion** or a **vote of confidence** or a **trust vote**, is sought by the government in power on the floor of the House.
- It enables the elected representatives to determine if the Council of Ministers commanded the confidence of the House.
- The idea underlying the trust vote is to uphold the political accountability of the elected government to the State legislature.
- A **no-confidence motion**, or **vote of no-confidence**, or a **no-trust vote**, can be sought by any House member to express that they no longer have confidence in the government.

