



ISSN 2582 - 211X

LEX RESEARCH HUB JOURNAL

On Law & Multidisciplinary Issues

Email - journal@lexresearchhub.com

VOLUME II, ISSUE III
APR - JUNE, 2021

<https://journal.lexresearchhub.com>

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Publications**

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ROLE OF COUNCIL OF MINISTERS

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ABSTRACT

The position of President becomes more important when there is instability and no majority. If the President is always bound by the advice of the Minister, his provision for the care and protection of the Constitution would be inappropriate and it would not be fair for an interim authority such as the President to exercise such insight. The only conclusion is part of Article 74 (1) which renders the Minister's advice binding on the President is merely a demonstration of the documents. In Britain, it is a meeting for the King to take the advice of the Minister. In India, an attempt has been made to put an end to this convention, but in reality, it is still a presiding officer, not a legal mandate. It may be concluded that Articles 74 and 75 dealing with the composition and status of the Council of Ministers are generally labeled. The provisions of the Indian Constitution left these issues unspecified so that these could be regulated by rituals and conventions, which is one of the major sources of legislation. On various charges such as Ram Jawaya Kapur and Samsher Singh that we follow cabinet plans such as in England and set Article 74 (1) to be a natural obligation. Section 74 explicitly uses the term “functions” and since the Constitution makes a clear distinction between powers and functions, it cannot be used interchangeably.

The 1976 amendment did not change the position in terms of his voluntary performance in administrative duties. The next question we have discussed is whether the President has the power to vote? The powers of the President make it very clear that most of the powers given to the President under the Constitution of India are inherently optional. Words and phrases such as "happiness", "if the President is satisfied", "if the President has an opinion", "with the prior approval of the President", "the President may decide by order", "see it as necessary ", etc., mean that the President can see many things. However, it has been observed that even though the Constitution has given a greater role to the President when it comes to fundamental truths, this clearly shows the erroneous understanding of the Constitution and that there is a difference in the constitutional provision of article 163 and 74, which gives the governor a clear understanding. Stop interpreting and legal meetings.

Keywords - *Role of Council Of Ministers, Related Amendments, Acts, Case Laws Etc.*

INTRODUCTION

The constitution of the country is sacred. It should not be disturbed unless it is in accordance with the proper legal process and to do so would mean a problem. Almost every Constitution has been amended from time to time to keep pace with the current and India is also governed. The highest form of democracy is represented by the type of parliamentary government in India that is owned and operated by the Prime Minister and his Cabinet. The role of the Prime Minister and his Cabinet is to assist and advise the President, who is the head of the executive council.

In India, the presidency looks very similar to that of the British monarch but it is very different when the powers and functions of the President are analyzed in the constitutional framework. Now, under the Constitution of India Article 53 (1) gives the power to govern a union in the hands of the President and provides that, "It shall be exercised by him directly or by his officials in accordance with the Constitution." Thus in a careful reading of Article 53 (1), we know that the officers under them are not without the Prime Minister and his Council of Ministers and if the President is allowed to exercise such powers at will, India will soon be transformed into a dictatorial regime. To avoid this, Article 74 (1) provides that there will be a Council of Ministers and Premiers who will assist and advise the President and such advice to the Council of Ministers shall be binding on the President after consideration and will not be questioned in any court of law.

RESEARCH METHODOLOGY

For this investigation, just optional sources – doctrinal examination have been alluded to, optional sources incorporate books, articles and diary distributions, different sites, websites furthermore, online accessible materials have likewise alluded this investigation.

OBJECT

It is also important to note that the Council of Ministers is headed by a Prime Minister, who is personally appointed by the President under Article 75 (1) and by the Prime Minister appoints Ministers to form the Council of Ministers. Therefore, in accordance with the provisions of the Constitution, the Premier and the Council of Ministers hold office at the pleasure of the President under Section 75 (2). He, therefore, sets out the above statement in common language, that is, the President is the head of the Executive Council and acts with the assistance and advice of the Prime Minister and his Council of Ministers and assumes positions at the discretion of the President.

RESEARCH QUESTION:

What is the role of the Council of Ministers?

RELEVANCES

Donald Rumsfeld aptly states, “See to it that the President, Cabinet and staff are informed. When the flow of information is cut off, their decisions can be negative, either positive or negative. ”The key players in the executive and government are therefore the Council of Ministers because the President acts in accordance with the advice given by this Council of Ministers.

According to the provisions of the constitution under Article 75 (3), the Council of Ministers shall co-operate with the House of the People or Lok Sabha because all advice given to the Council of Ministers is for the people of the country. The Council of Ministers is therefore bound by the House of Representatives and if the Council receives the full support of the House of Representatives, then it cannot be removed by the President. This statement sounds contradictory to the above statement but is included in maintaining the sanctity of democracy.

The same law "is followed by the State Executive and where under Article 153 of the Constitution the Governor replaces the President and to assist and advise the Prime Minister-led Council of the Prime Minister is appointed under Article 164." the performance and function of the Minister under the headship of both managers are very similar to the procedure for their removal, the obligation of co-operation, accountability, the scope of advice and their binding and ultimately the level of legal examination of such advice can also be set. It is therefore important to consider the nature and scope of the position held by the Council of Ministers and the advice given to them, on which the policies and actions of the future depend.

JOINT RESPONSIBILITIES OF THE COUNCIL OF MINISTERS

"The principle of collective commitment can be regarded as essential to the functioning of the parliamentary government because unity and its great power lie." The basic premise of the work of the Council of Ministers is that you must be accountable to the executive in conducting general government affairs. The term "jointly" means that all ministers in the Council of Ministers must swim or dive together or stand together. The collective responsibility assumes that each minister in the entire government is responsible for the Cabinet's decision and the steps taken to do the same.

Policies, plans or any other cabinet plans should be supported by each minister until he or she is part of that cabinet. There will be no room for differing views on any decision taken by Cabinet either within or outside the legislature. The principle of collective commitment does not mean that each minister must play an active role in policy-making, or that he or she should be present in the committee room whenever a decision is made because it does not happen in modern times as the size of the cabinet is too large. It simply states, in the words of the Supreme Court of India, the principle of collective responsibility is that "in every decision taken by the Cabinet, each minister is accountable to the relevant legislature."

In addition, the principle of collective commitment is blessed and necessary, and can be seen with the help of several lawsuits: First in the case of SP Anand v. HD Dev Gowda, was quoted as saying that "once the Prime Minister has been appointed, he is also the Minister and collectively oversees this House as the Council of Ministers. "The Gujarat Supreme Court has described the party's obligation as follows:" The obligation of co-operation means that all Ministers co-operate collectively in all decisions taken whether they object to or not in such decisions. It means that their decisions must be unanimous and confidential. "Now, if we look at this term of secrecy, it is a matter of secrecy, which means that every decision made or discussion discussed in a cabinet meeting should not be made public and should only be with the Council of Ministers because Thirdly, the Supreme Court ruled that "all ministers in the Council must show one voice in their decision, even if they may express a different opinion at a cabinet meeting."

Does this mean that individual opinions or arguments will never be expressed or prioritized? The answer to the question itself is inconsistent because the minister can oppose or oppose any

government policy or program but in doing so, he should resign from his cabinet, as he cannot remain a minister and at the same time criticize the Cabinet decision. This system is designed to protect the essence of democracy and the faith of the people in government because if each minister is allowed to openly oppose the religion of the people in the elected government it will collapse and eventually the government will lose the majority in Lok Sabha and for this reason, there will be no government in time. In the past, there have been many instances where ministers have left Cabinet to criticize certain government policy as John Maithi resigned as Finance Minister to oppose government policy.

So the question arises how can such a group responsibility be used? The joint responsibility of the Council of Ministers may be enforced by the process of the motion of no confidence referred to in Act 198 of the Lok Sabha Code of Conduct and Conduct. The self-confidence proposal process is a proposal that reflects the need for confidence in the cabinet. 'The motion may be dismissed by any member by giving written notice to the speaker before 10:00 am on a given day to be read by the speaker in the house. The motion must be supported by at least 50 members and the Speaker must announce the date within 10 days from the date of the notice. If the proposal fails to get the support of 50 members then the proposal will be rejected and the member who started the proposal will be notified. 'However, if the proposal is passed, the majority party will have to seek the support of the majority to retain its Lok Sabha seat and if it fails the whole government will have to resign, which means that there will be no Cabinet to assist and advise the President. In such a case, the President may appoint a Cabinet of Ministers from among the other ministers of Lok Sabha and the Council formed as such must show the majority of them in Lok Sabha a non-confidence.

If the newly formed Council fails to gain the support of the majority the previous Council of Ministers will continue until a new government is formed. No confidence campaign was launched against many governments such as Nehru Government, Lal Bahadur Shastri Government and many others but only two times when the no-confidence campaign was successful against the Morarji Desai Government and Vajpayee Government. Therefore, to show that the quest for self-confidence in Lok Sabha is necessary for any government to survive.

Now if we look at the above discussion the conclusion can be reached that the Council of Ministers co-operates in Lok Sabha and should keep the majority in the House of Commons in power and not only in the will of the President. The Council of Ministers and the Prime Minister are very

important. However, if the ministers held office at the will of the President it would be a non-democratic process.

PRIVATE MINISTER'S WORK

The principle of collective commitment emphasizes that all decisions must be taken unanimously within the Council of Ministers but not in the modern era as, within the Council of Ministers, each minister has a specific position and circumstances related to that portfolio can lead to individual decisions. Decisions made in this manner are not subject to the head of the Council of Ministries but are under the responsibility of that Minister.

Article 77 (3) provides for the allocation of business between ministers. Therefore, together with the principle of collective responsibility, the principle of accountability of each minister should also be in place as there is a good chance that every minister should be held accountable for his or her actions in the legislature. The good responsibility of each minister is crucial if parliament is to play its role in criticizing the authorities.

The concept of personal responsibility has been clearly defined by the Supreme Court in the case of *the Secretary, Jaipur Development Authority v. Daulat Mal Jain* states that "each minister is personally and collectively responsible for action, actions and policies. He is accountable and accountable to the people. Legal and ethical liability or liability for actions or omissions, duties and policy imposed only by the departmental minister. However, when a minister is criticized in Parliament, the principle of co-operation guarantees that other ministers should assist him or her in protecting his or her activity.

Generally, the support of the Council for those ministers depends on the circumstances. Cabinet may sometimes feel obliged to support the minister but in some cases, the cabinet has decided to expel the offending Minister because accepting the full responsibility for such a heinous act could cost the entire government. And the most striking example of a caretaker Prime Minister is that of Krishna Menon who resigned as Minister of Defense due to the decline of Indian weapons during the 1962 Indo-China war. Another example is that of KD Malviya who resigned after the High Commission was set up by him by the High Court and the cases to be investigated are corruption and misconduct.

For now, it may seem that it depends on whether the Council will support those ministers or not but the reality is different. The fact is that it is the Prime Minister's choice to decide whether to resign or not because of criticism in parliament. "It seems unlikely that the House will compel the Prime Minister to remove the Minister from office until the Prime Minister has confidence in him." The removal of each minister is therefore entirely dependent on the confidence he or she receives from his or her colleagues.

Now after discussing the role of the individual and as a party, one thing is very clear that the Council of Ministers is responsible for participating in every decision taken by Cabinet but should not be allowed to suffer for any illegal or immoral act committed by any Minister. The responsibility for such action must be taken only by each Minister.

Now the question arises that if the Ministers are able to seek support for any of their non-oppressive advice that forms the basis of the policy, can it be asked in any court of law or defense provided under Article 75 (2) has a full application?

Article 74

According to the text of the Constitution, there seems to be no provision that makes it obligatory for the President to act in accordance with the advice of the minister. Either it has to be taken from the basic purpose of the Constitution or stated in the specified language. Closer scrutiny indicates that the role of the President can be supported by the language of the Constitution.

The functions of administration are exercised by the President in two ways:

- (1) by him personally;
- (2) by his subordinates.

Section 53 (1) may be read-only to delegate power to the President, while Ministers may exercise only powers as officials under the President. Therefore, if he uses his power in the right way, he will be free to do so without the advice of his ministers. Another important article on the powers of the President is Article 74 which states:

COUNCIL OF MINISTERS TO ASSIST AND ADVISE THE PRESIDENT

(1) There shall be a Council of Ministers with a Prime Minister to assist and advise the President who shall, in accordance with his functions, act on such advice: Provided that the President may require the Council of Ministers to consider such advice, generally or otherwise, and the President shall act in accordance with the reconsideration.

(2) The question of whether there is, and if so, the advice given by Ministers to the President shall not be asked in any court.

Prior to the amendment of Article 42, Article 74 (1) stated, "there shall be a Council of Ministers and a Premier in the head assisting and assisting the President in the performance of his functions". However, there was little doubt as to whether the recommendations of the Council of Ministers would bind the President. The forty-second amendment to the Indian Constitution (1976) made it clear that the President "shall act in accordance with that advice". The amendment came into effect on 3 January 1977. Amendment 44 (1978) but added that the President may send a recommendation back for consideration once. But if the Cabinet sends the same advice to the President, the President must approve it.

This article leads us to a very important discussion about the binding and inaccuracies of cabinet advice and this chapter will address this in more detail. There are three ways to look at the binding of Cabinet advice to the President.

THE PRESIDENT - BOUND BY THE ADVICE OF THE MINISTER

Experts who support the view that the President is imprisoned for the advice of ministers agree that this language does not oblige the President to accept the advice of his ministers. The term "help and advice" was developed by the English conference and is used throughout the Dominion Constitution. It does not mean that the President may reject advice under the English and Dominion meetings, but that the President will definitely follow that advice. Many experts and court decisions in these countries have interpreted the principles in this regard.

This view is further reinforced by the fact that Article 163 (1) - a text on the governing power of the state - contains this language "at his discretion," which is consistent with the language of the

1935 Act. Section 74 (1) does not contain this language and may not be considered intentionally abolished, that is, article 163 (1) indicates that when the Constitution seeks to give management the power to reject the advice of the Minister, it clearly provides otherwise.

With these examples in mind, academics who are interested in this theory and then enter the legal purpose of the debate framework. When it comes to legal purposes, The Constituent Assembly Debates debate contains a historical record of the pre-Constitutional debate. It has been cited as an authority for the legal purpose after any provision of the Constitution and their purpose was to make the president the head of the party and not the real head. Dr. Ambedkar described the role of the President as enshrined in the Constitution and said that “the President of the Indian Union will be bound by the advice of his ministers. He can do nothing against their advice and can do nothing but their advice.”

Afterward, in response to the question of whether to refuse to follow the advice of the Cabinet is a violation of the Constitution, Dr. Ambedkar said there was not the slightest doubt about it. He also said that "assistance and advice" was enough to bind the President to seek and obey the advice of his Ministers. Pandit Nehru also expressed what he believes is the purpose of the Constituent Assembly. Responding to lawyers for the presidential election, he said: "We want to emphasize the position of government ministers that the power rests with the Department and the Legislatures and not the President." Many other members of the Constituent Assembly agreed with Dr. Ambedkar regarding the construction of this section however, there was an important debate presented by Mr. Mohd. Tahir also tried to make the President's administrative power similar to that of state officials under the Constitution. He moved on to give the President a clear understanding of what he should do when the Constitution allows for it. The proposed amendment was rejected.

Therefore, the purpose of article 74 (1) is to document the policies of the current government in England, namely, the Ministerial Plan. The English monarch does not appoint ministers or distribute positions. This is a special function of the Prime Minister. In India, section 77 (3) of the Constitution provides that the President shall enact legislation in this regard. Therefore, since the plans and states are different, comparing the king's president is a desirable thing, and the written Constitution contains many things that are directly contrary to the English convention, it can be

concluded that the Constituent Assembly remains to be seen, however, how much the Indian system might have constitutionally deviated from the British model.

OPPOSING THE PRESIDENT - HE WAS DETAINED BY THE MINISTER'S ADVICE

Opponents of the position say the straightforward language does not contain the conditions that the President "must" accept the advice of ministers. The words "help and advice" do not mean that advice should be accepted in all cases, but simply for the Minister to give that advice. Another fact is that the Constitution does not have a clause that requires the signing of a joint venture with the President to confirm the decrees issued and shows that the President has unlimited vision, by filling in the definition due to the lack of binding language in the Constitution.

Also, the Constitution does not withhold words; authority is indicated; no authoritative words appear in this article. In addition, the courts are prohibited from inquiring into what ministers' counsel may be given under Article 74 (2). Therefore, the legitimacy of an act declared by the President without the advice of the proposed law and the prohibition of legal involvement strengthens the position that the President is not legally bound by such advice.

The third interpretation of Article 74 (2) is based on the assumption that assistance and advice are binding on the president, and this obligation exists only with reference to chapter one of the fifth part of the Constitution, which is just a chapter of executive authority. The Council of Ministers is mentioned in only two articles (paragraphs 74 and 75), and the President is referred to in all the fifth chapters as well as in many other provisions of the Constitution. His powers and duties are not only administrative, such as those of the Council of Ministers but also law, justice, constitution and justice. These additional powers, or are contested, are outside the scope of the "help and advice" law.

There are judgments in the interpretation of articles 53 (1) and 74 (1). The Supreme Court of India saw in dicta the case of *Ram Jawaya Kapur v. State of Punjab*, that the Legislature intended to place administrators in India on the British model and concluded that, article 74 (1) obliges the President to follow the advice of the Minister under the British system.

Another case is that the Bank Nationalization decision stated that the issue of the President having to follow the Minister's advice is still under dispute. Therefore, the history of judgment does not help translate this language. This brings us to the conclusion of the discussion on the topic of formally binding the ministers' advice. Now, this chapter will shed light on another important issue, the inaccuracy of Cabinet advice.

INADEQUACY OF CABINET ADVICE

The next question is about the scope of section 74 (2) which prevents courts from initiating an investigation into the type of Cabinet advice provided. This article discusses the legal review of cabinet advice and protects and maintains the confidentiality of negotiations between the President and his Cabinet. Its width is limited. It does not defy the orders and actions of the President in carrying out his duties.

The Supreme Court has clarified the meaning of Article 74 (2) in *S.R. Bommai v. Union of India*. There is no court hearing on what advice the Minister gave to the President. The court is concerned only with the validity of that order and not with what happens in the internal councils of the President and the Minister. The order cannot be challenged because it does not comply with the advice given by the Minister or is not based on the advice. If, in a given case, the President acting outside the jurisdiction of, or contrary to the advice given to him, it would be an offense authorizing his arrest, but to the extent that the court rules, the act of the President. Section 74 (2) protects the confidentiality of negotiations between the President and his Cabinet.

When an act or order of the President is questioned in court, the Council of Ministers must excuse the same by disclosing the elements that form the basis of the law/order. The court will not consider the adequacy of that information. What is important is not the advice just because we are given it to support the advice. The Court disputed this in relation to its previous decision in *the State of Rajasthan v. Union of India*. The view expressed in the Bommai case has been confirmed and extended in the cases of *Rameshwar Prasad (VI) v. Union of India* And views opposing the *State of Rajasthan v. Union of India*, was held to be no longer legal.

The majority held that Article 74 (2) does not preclude the judicial inquiry into the existence of the truth and the significance of the matter on the basis of the advice given to Ministers by the

President. The task of proving that he was in the Union of India and the Governor's report would not be enough. Courts can also consider the reasons for such advice. This clause also states that if the president fails to follow Cabinet's advice he will not be forced by the courts to do so.

COMPARISON BETWEEN ARTICLE 163 AND ARTICLE 174

Under section 74 (1) it is clear that the president cannot exercise his discretion and the governor under section 163 (1) is bound by the advice of ministers only when the subject is beyond his control. The Prima facie, the use of the word 'understanding' of the Emperor, but not the President, indicates that while the Constitution considers it possible for the Emperor to act from time to time in his opinion, that is, with the independence of the Minister, no such thing is expected of the President. Section 163 is broad and clear when it comes to the governor's opinion and states that he is not obliged to act on the advice of the cabinet. During this time, the Governing Body has noted:

Therefore, even under normal circumstances, the exercise of the Emperor's powers should be at the discretion of the Council of Ministers, there may be opportunities for the Governor to obtain that, in order to be faithful to the Constitution and the law and his oath, he must make some independent decision.

However, it is well known that, according to our Constitution, such times will not be very common. Held at the trial of *Samson Singh v. State of Punjab* that the governor is not obliged to seek such advice in his area, and performs these duties properly. There is no denying that sanctions against the prosecution of public servants, including the minister, are a major function of the State Government. The Emperor is not required to perform this function in his opinion 'or under the Constitution.

There is no provision in the Constitution that requires the Governor to do 'of his own free will' in performing the function of the Executive. It is well established that unless a particular Article defines it, the Governor's obligation to act at his discretion is irrevocable, as held by the Hon'ble Supreme Court in *Ram Jawaya v. State of Punjab*, and *Sanjeevi Naidu v. State of Madras*. Recently there was a dispute between the Delhi government. And Lieutenant Governor of Delhi, the subject of the dispute was Article 239 A which said LG, did not agree with the many

decisions of the elected government and referred them to the president, meaning the central government but the Supreme Court ruled that LG was detained with the help and advice of the Council of Ministers. In the event of a disagreement, the LG must immediately refer the matter to the President for a final decision.

Also, that the Lieutenant-Governor should act as a "facilitator" for good governance in the national capital and not as an "obstructionist". One should be able to use one's understanding as long as it does not make the constitution invalid.

SPECIAL POWERS VESTED IN THE PRESIDENT

The President has been given many special powers to discuss briefly in this chapter where the president is required to exercise his judgment. The veto power under Article 111 provides that the President may oppose any law and it is unlikely that he will win the veto. The President may declare his approval of the bill, declare his or her refusal to approve or reinstate the bill for reconsideration and amendment. The following Powers of Military Forces the President has been empowered by the Commander-in-Chief of the Union Defense Forces.

The words “without prejudice to the performance of the above provisions” in subsection (2) of Article 53 mean that the commanding authority of the defense forces is part of the administrative capacity of the union. Although it seems that the President has the potential to see something the heads of modern society have been cut off from any effective administration of military affairs. Another important article is 356 which gives the president special powers to declare a state of emergency, if the President receives a report from the emperor or otherwise, satisfied that a situation has arisen where the state government cannot proceed within the provisions of the Constitution, by proclamation may take over all functions or functions of the state or all powers given to the government.

We feel that the abuse of power on such a large scale in the hands of a person who is not directly elected or in charge of the legislature is dangerous; it may lead to misuse as it involves his political views and racism. The election of a Prime Minister is one of the key powers vested in the President Section 75 of the Constitution which provides that the Prime Minister will be appointed by the President but the President must appoint a multi-party leader in Lok Sabha as the Prime Minister.

But in the absence of a clear majority in Lok Sabha the President can use his discretion in the nomination of the Prime Minister. In India, the opportunity to exercise the power of Prime Minister's nomination appeared for the first time during the shipping of Shri Radhakrishnan's president. The death of Shri Jawahar Lai Nehru on May 27, 1964 ended his rule. The prime minister urgently needed a new government. The President appointed Mr. G.L. Nanda became Prime Minister because she was a very senior Cabinet member. After the President exercises his right and appoints the Prime Minister, there is no power in him to give any advice or guidance in the performance of his duties as Prime Minister as mentioned by Charan Singh in Lok Sabha while seeking a vote of confidence. Section 123 empowers the President to declare regulations to the President, subject to two conditions. Firstly, both Houses of Parliament should not sit and secondly, the President should be "satisfied" that there is a situation that allows for the passing of legislation.

The literal interpretation of Article 123 (1) makes it clear that the proclamation of the law is the power of the President to elect. This is evident from the use of the word "satisfied". Therefore, in its view, the President does not have to take the help and advice of the Council of Ministers when making regulations. However, in *Sardari Lal v. Union of India*, Supreme Court referring to Justice Grover holding that in all areas of the Constitution where the word satisfaction is used, it refers to the satisfaction of the President according to his priorities. This was overturned by Samson Singh”, when the Court ruled that the President's satisfaction was not his own satisfaction.

COUNCIL OF MINISTERS UNION: ORGANIZATION, POWERS AND POSITIONS OF THE COUNCIL OF MINISTERS!

Article 74 of the Constitution of India provides for the real directors of the Union of Ministers of the Union of which the Prime Minister is the head. In theory, the Council of Ministers and the Prime Minister should assist and advise the President in the exercise of his powers. But in reality, in fact, all the powers of the President are exercised by the Prime Minister and his department... The President is bound by the advice of the Prime Minister and his Cabinet.

(A) Council of Ministers:

Art. 75 of the Constitution sets out the following basic rules regarding the organization of the Council of Ministers of the Union:

- (a) The Premier is appointed by the President. All other ministers are appointed by the President on the advice of the Prime Minister.
- (b) Ministers hold office while the President is pleased.
- (c) The Council of Ministers in partnership with the People's House (Lok Sabha).
- (d) Before the Minister takes office, the President swears him or her oath of allegiance.
- (e) The salaries and allowances of ministers are the same as when Parliament decides.
- (i) Procedure for the Establishment of the Council of Ministers of the Union:

The process of forming the Council of Ministers begins with the appointment of the Prime Minister by the President. After the election of each new Lok Sabha, the President appoints a majority leader in Lok Sabha as Prime Minister. Following his appointment, the Prime Minister prepares a list of candidates for the post. The President appoints all other ministers according to his recommendation. The President always accepts the advice of the Prime Minister. In addition, following the advice of the Prime Minister, the President distributes positions among ministers. The Prime Minister is the only judge who will decide who will be the minister? Which portfolio will the Minister hold? And who will be the Cabinet Minister, or the Minister of State or Deputy Minister? The Constitution provides for a free hand for the Prime Minister to form Council Ministers. Usually, only a Member of Parliament is appointed as a minister. However, the Premier may re-appoint a person who is not a member of the Minister, but such Minister must obtain membership of the whole house, (by-election or by appointment) within six months of his or her appointment. In the event of failure to do so within six months, the minister concerned must resign from his post of office after the expiry of the six months.

(ii) Size and composition of Council of Ministers:

Firstly there was no official law regarding the size of the Council of Ministers. The decision in this regard often depended on the Prime Minister. But now the number of ministers cannot exceed 15% of the total membership of Lok Sabha. It is now a clear rule.

(iii) Types of Ministers:

(a) Cabinet Ministers:

Their number is between 15-20. They are key ministers in key positions. They form the Cabinet which is a powerful part of the decision-making and decision-making processes of the Council of Ministers.

(b) Ministers of State:

They form the second minister. They are not Cabinet members. The Minister of State is responsible for the private affairs of the sub-department or attached to the Cabinet Minister. While other departments such as Home Affairs, Foreign Affairs, Defense, Finance, Agriculture have 2 or 3 Government Ministers, departments such as Civil Aviation, Information and Broadcasting, Labor Welfare, Surface Transport and textiles; each led by the Minister of State.

(c) Deputy Ministers:

They assist ministers associated with Cabinet Ministers or Government Ministers. There is no Deputy Minister in charge of an independent case in any department. The current Council of Ministers does not have a Deputy Minister as a member.

Parliamentary Secretaries:

They are not ministers and are not given any administrative duties. Their only job is to help ministers in Parliament. They do not withdraw money.

Office of the Deputy Prime Minister:

The constitution does not provide for the office of the Deputy Prime Minister. It is therefore the will of the Prime Minister that he or she has or has a Deputy Prime Minister in his or her Council of Ministers. In 2002 P.M. Vajpayee has decided to make Mr. Advani as Deputy Prime Minister.

However, in 2004 and 2009 the Prime Minister Manmohan Singh decided not to have a deputy prime minister in his cabinet.

(iv) Term of Office:

Religious ministers hold office during the presidency. It means that as long as they continue to enjoy the confidence of the majority in Lok Sabha. The Prime Minister may at any time require his resignation from any minister and he must do so. The Prime Minister may recommend to the President the dismissal of any minister and the President shall always act on his advice. The resignation of the Prime Minister means the resignation of the entire Cabinet.

Therefore, the term of service or minister is not limited. Each minister/minister remains in office as long as he or she enjoys the loyalty of the majority in Lok Sabha, or as long as the Premier does not resign. The maximum period at which a department can hold office for five years is one full-time Lok Sabha. After all the regular elections in Lok Sabha, a new department will have to be established even if the same party that enjoyed the majority in the former Lok Sabha may return with the majority of the new Lok Sabha.

(v) Oath of Office and Confidentiality:

Every new minister must take an oath of office and confidentiality before entering office. This oath is given by the President of India.

(vi) Salary:

The Constitution stipulates that the salaries and allowances of ministers will be determined by Parliament. According to Parliament, a law passed in 1985 stipulated that each minister would receive the same salary as a Member of Parliament. In addition, the Prime Minister and other ministers receive grants and other perks.

(vii) Cabinet Committees:

Cabinet performs its functions through a number of its various Committees— Political Operations Committee, Defense Committee, Planning Committee, Economic Policy Committee, Foreign Finance Committee, Parliamentary Affairs Committee and other such committees. The Prime Minister leads some of these committees, while others are led by senior ministers. These committees assist Cabinet in its policy-making process. The Office of the Prime Minister (PMO)

now serves as the liaison office. Links to the performance of all other services. The PMO is now the center of power and importance.

POWERS OF THE COUNCIL OF MINISTERS OF THE UNION:

(a) Administrative Authority:

(i) Actual Manager:

The Council of Ministers is the highest authority. All the executive powers of the President of India are actually exercised by the Council of Ministers.

(ii) Policy Implementation:

Cabinet formulates policies that must be submitted to Parliament for approval. Make these policies approved in Parliament and implement them. It conducts Union administration in accordance with approved policies. Cabinet / Premier organizes and oversees the functioning of all government departments. Cabinet formulates foreign policy and all domestic policies deemed necessary for all development of the country.

(iii) Administrative Performance:

Cabinet regulates governance in accordance with laws and policies. It is responsible for maintaining law and order in the country. Each minister leads one or more departments. It is under his leadership to oversee the administration of the department. Every day decisions are made by departments in accordance with Cabinet policy. In all its policies and decisions the Council of Ministers is united collectively before Lok Sabha. Any failure in any of the priorities could result in the collapse of the service. Accordingly, every minister is responsible for each function before Lok Sabha for the functioning of the department or departments he or she leads.

(iv) Emergency Services:

The use of Emergency Power by the President is carried out on a regular basis in accordance with the recommendations of the Prime Minister and his Cabinet. The President may declare an emergency under the advice of Cabinet only. He is taking all necessary steps to deal with

emergencies on the basis of the advice of the Prime Minister and his Cabinet. The real responsibility for responding to emergencies lies with the Cabinet.

(v) Power to Make Appointments:

The President makes all the appointments - Governments, Ambassadors, Delegates, High Commissioners, Consuls, Supreme Court and Supreme Court Judges, Military Commanders, members of the UPSC, the Electoral Commission, the Planning Commission and others, on the advice of the Prime Minister and Cabinet.

(vi) Contracting and Defense Services:

All agreements and other international agreements are negotiated and signed by ministers on behalf of the President. Preparing to defend the country through the planning and modernization of the Armed Forces, the Air Force and the Navy, and the development of an effective nuclear and defense policy, is an important task of Cabinet. The Council of Ministers therefore exercises real administrative power. In practice, it is administered by the Prime Minister and Cabinet.

(ii) Legislative Powers:

Although the legislative power of the Union is in the hands of Parliament, the Council of Ministers plays an important role in the legal profession. Both ministers are heads of government departments and members of Parliament. They play a full and active role in the functioning of Parliament. Most bills are issued and audited by them. 95% of Parliament's term is spent on public administration, headed by ministers. A bill that is not supported by the Council of Ministers cannot be approved in Parliament because the department enjoys the support of the majority in Parliament. If Lok Sabha passes a bill that is not supported by the Cabinet or rejects a bill that supports it, or rejects the Cabinet budget, it is considered a vote of no confidence in the government and the entire Cabinet resigning. In doing so, the Prime Minister / Cabinet may advise the President to end Lok Sabha, The President calls for floods or dissolves Parliament following Cabinet advice. The Prime Minister would recommend to the President the abolition of Lok Sabha and the holding of new elections. The President always accepts such advice. Cabinet can use the threat of disintegration to gain the support of Lok Sabha. The Council of Ministers, no doubt, is working together before Lok Sabha and the latter can remove it by passing a vote of no confidence. But such an event will not happen as long as Cabinet enjoys the support of the majority in Lok Sabha. A majority-

supported department can have its own approach in Parliament. Usually, it is Cabinet (supported by the majority) that controls the functioning of Parliament.

(iii) Financial Power:

Parliament is the custodian of the national treasury. However, Cabinet has played a major role in this regard as well. The budget is being prepared by Cabinet. It sets out government policies. Cabinet approved the budget by Parliament. Cabinet regulates financial management in accordance with budgetary provisions as approved by Parliament. All additional tax proposals come from Cabinet. Money Loans can only be introduced to Lok Sabha and only by the minister. Parliament may convert financial debt but only with the approval of the Cabinet. Any action by Parliament that is contrary to Cabinet's wishes is tantamount to a vote of no confidence in the Government. Such a situation, however, only arises when the ministry loses the support of the majority. The cabinet is often in the process of getting its proposals approved by Parliament.

POSITION OF UNION COUNCIL OF MINISTERS:

The above account of the powers and functions of the Council of Ministers reflects the strong and central position it holds as a real and powerful official in the Indian political system. All the powers of the President of India are actually exercised by the Council of Ministers. Within the Cabinet, Cabinet is a very powerful organization. A central center that uses all of this energy. Cabinet directs, oversees and oversees the formulation of national policies and administrative action. As a policymaker, administrative director and senior public works coordinator, Cabinet welcome a desirable position. It is indeed the steering wheel of a state ship. The center of power and the most powerful center of the Indian political system.

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