Debate about the tenure of Prime Minister in India

Mains: *GS-II – Polity & Governance*

Why in News?

Narendra Modi completed 8,931 days as head of an elected government in India, combining over thirteen years as Chief Minister of Gujarat with three consecutive terms as Prime Minister.

What about the Prime Minister?

- **Prime Minister of India** – He/She is the leader of the executive of the Government of India & also the chief adviser to the president of India & head of the Council of Ministers.
- **Appointment** – As per the article 75, the PM is appointed by the President.
- They can be a member of any of the two houses of the Parliament.
- **From Majority party** – But conventionally must be the leader of the majority party or coalition in the Lok Sabha.
- The Constitution *doesn't specify any procedure* for selecting and appointing the Prime Minister.
- **No clear majority** – If no party has majority, the President uses discretion, usually appoints leader of largest party/coalition.
- **Vacancy** – If PM dies/resigns from the office, the President may exercise discretion temporarily to appoint the PM.
- If ruling party elects a new leader, the President must appoint that leader without his/her discretion.
- **Oath of Office** – Before the Prime Minister enters upon his office, the president administers to him the oaths of office and secrecy.
- **Tenure** – The PM holds office *during the pleasure of the President*.
- In practice, the PM cannot be dismissed as long as majority support in Lok Sabha continues, whereas, he/she must resign if confidence is lost.
- The President can dismiss only if PM loses majority.
- **Salary & Allowances** – The salary and allowances of the PM is determined by Parliament.

Why doesn't India's Constitution set a time limit for how long someone can be Prime Minister?

- **India's Unique Case** – India is unusual among large democracies because it *places no time limit on how long a Prime Minister can serve*.

- **Retain confidence in Lok Sabha** – In most parliamentary systems, this isn't seen as a problem since the Prime Minister *must always retain the confidence of the legislature*.
- But in India, this assumption deserves closer examination, because the mechanisms for removing a Prime Minister are not as straightforward in practice as they appear in theory.

What was Constituent Assembly's rationale?

- **Ambedkar's Reasoning (1948)** – In Constituent Assembly, B.R. Ambedkar explained that India did not need term limits for the Prime Minister because Parliament itself could check the executive daily.
- **Daily vs. Periodic Assessment** – Ambedkar argued that daily checks were stronger and more effective than waiting for elections.
    - **Daily assessment** – The daily assessment of responsibility available through questions, no-confidence motions, and adjournment motions in Parliament.
    - **Periodic assessment** – The periodic assessment offered by fixed-term elections every few years.
- **Core Idea** – No term limit was needed because the continuous legislature's confidence served as a rolling check against misuse of power.
- **Westminster Influence** – India followed the British model, where Prime Ministers have no term limits, but the ruling party's caucus can remove its leader at any time.
    - **For example -** Conservative MPs removed Margaret Thatcher in 1990 despite her long tenure.

What is the comparative evidence on the term limits?

- **USA** – The United States adopted the 22nd Amendment in 1951, responding to Franklin Roosevelt's four consecutive terms.
- **Other countries** – South Korea, Brazil, Colombia, and Indonesia all impose presidential term limits.
- **How Leaders Extend Tenure?** – The study about executive term-limit evasion, showed that leaders in multiple regions have sought to extend their tenure through
    - Constitutional amendment,
    - Replacing rules or
    - Judicial interpretation.
- **Risks of Democratic Decline** – The democracy declines more often proceeds through incremental institutional decay than through sudden authoritarian rupture.
- India has not needed to abolish a term limit because it never had one.
- **India's Structural Question** – India has no formal term limits for the Prime Minister, and parliamentary accountability has been weakened by the anti-defection law, the system faces the same risks that term limits in other democracies are meant to prevent.
- These risks include leaders staying in power for too long, consolidating control, and gradually eroding institutions.

What is the impact of Tenth Schedule of Constitution?

- **Anti-Defection Law (1985)** – The 52nd Amendment (1985) inserted the Tenth Schedule, providing for the disqualification of any legislator who votes against the party whip.
- **Kihoto Hollohan vs. Zachillhu (1992)** – The Court upheld its constitutionality as a measure to protect the integrity of the electoral mandate.
- **Impact on Legislative-Executive Balance –** But the Tenth Schedule fundamentally altered the relationship between legislature and executive that Ambedkar had relied upon.
- Under the anti-defection regime, a ruling-party member who votes against the government on a confidence motion faces disqualification.
- No-confidence motions lose their effectiveness whenever the ruling party has a majority.
- **Absence of British-Style Leadership Checks** – Indian political parties have no institutionalised mechanism for leadership challenges.
- The anti-defection law locks legislators into party loyalty; the absence of intra-party democracy locks the party into loyalty to its leader.

What is the presidential irony?

- **India's Convention** – India has developed a convention against a third presidential term.
- Though the presidency is largely ceremonial, bot real executive authority, *No President has served more than two terms*.
- **Three-Part Test for Conventions** – It was laid down by Ivor Jennings in The Law and the Constitution (1959)
    - Precedent → Past examples show the practice
    - Belief in Rule → Actors feel themselves bound by a rule.
    - Reason → There is a logical justification.
- **India's case** – India's presidential term limit convention meets all three.
- **Contrast with the PM's office** – The President holds no real executive power is constrained by convention.
- The PM office which holds virtually all executive power is constrained only by the electorate's periodic verdict, with the anti-defection law largely weakens daily parliamentary checks.

What is the objection, and its limits on tenure of executive office?

- **Counter-Argument** – Voters have endorsed Mr. Modi's tenure three consecutive times, and that a term limit would override their expressed preference.
- In this sense, term limits can seem anti-democratic.
- **Ambedkar's Premise** – The objection assumes Ambedkar's logic - that periodic elections, combined with parliamentary accountability, suffice to discipline executive power.
- If that accountability has been structurally impaired by the Tenth Schedule, elections must carry a heavier burden.
- **Limits of Elections** – Even free elections are a weak constraint on the compounding

advantages of prolonged incumbency:
    - Control over appointments to regulatory bodies, the Election Commission, and the higher judiciary;
    - The capacity to shape the information environment; and
    - The ability to calibrate policy for electoral benefit across multiple cycles.

What might be done?

- **Restore Parliamentary Check –** Exempt votes on confidence motions from the Tenth Schedule's disqualification provision, so that legislators can remove a government without losing their seats.
- **Introduce Term Limits** – Consider a constitutional amendment limiting consecutive terms as Prime Minister or Chief Minister, while permitting a return after a gap.
- **State-level dimension** – It is also equally pressing, given the extended tenures of leaders such as Jyoti Basu, Naveen Patnaik, and Pinarayi Vijayan.
- Also, strengthen intra-party democracy, which allows leadership challenges within parties.
- **India's system** – It constrains the office that doesn't need limits (President), while leaving the office with actual executive power (Prime Minister/Chief Minister) without effective checks.
- This gap deserves scrutiny regardless of who holds the office.

Reference

The Hindu | What does law say on tenure of Prime Minister?

