Governor's Position on dismissal of Ministers

Why in news?

The Governor of Tamil Nadu, R.N. Ravi, has dismissed a Minister in the Council of Ministers of Tamil Nadu.

What is the issue?

- V. Senthilbalaji, a State Minister without Portfolio, is in hospital and in judicial custody.
- The Governor of Tamil Nadu, R.N. Ravi, has dismissed V. Senthilbalaji.
- He stated that the continuation of the Minister in the Council of Ministers will adversely impact the due process of law as the reason for the dismissal.
- The Governor later backtracked on his decision late in the night, keeping the 'dismissal' order in abeyance.
- Similar Issue - Kerala Governor

Why the Governor's move is dangerous and unconstitutional?

- The Governor's move is unprecedented and deliberately provocative.
- The act of dismissing a Minister without the recommendation of the Chief Minister of the State will set a dangerous precedent.
- If Governors are allowed to exercise the power of dismissal of individual Ministers at his discretion the whole constitutional system will collapse.
- It has the potential to destabilise State governments putting the federal system in jeopardy.

- To know more about the powers of the Governor and the recent tussles between Governor and Chief Minister, click here.

What are the position of Governor in independent India?

- Under Indian constitutional system, a Governor is a mere constitutional head whereas the real power lies with the Chief Minister of the State.
- He can act only on the aid and advice of the Council of Ministers headed by the Chief Minister.
- B.R. Ambedkar had stated unambiguously in the Constituent Assembly that there is no executive function which a Governor can perform independently under the Constitution.
- To know about Office of Governor - click here.
- **Powers -** He is the vital link between the Union and State government.
- He enjoys both the constitutional as well as situational discretionary powers.
- He has Constitutional discretionary powers under Article 167, Article 200 and Article

356.
- The Governor promulgates ordinances during recess of the state legislature under Article 213.

How is the dismissal of Ministers carried out under the Indian Constitution?

- Under ***Article 164*** of the Constitution, the Chief Minister is appointed by the Governor without any advice from anyone.
- **Appointment -** The Governor appoints the individual Ministers only on the advice of the Chief Minister.
- The Article implies that the Governor cannot appoint an individual Minister according to his discretion.
- The Chief Minister alone has the discretion to choose his Ministers.
- **Dismissal -** Logically, the Governor can dismiss a Minister only on the advice of the Chief Minister.
- The Constitution has not transferred the discretion of the Chief Minister to the Governor.

What was the power of dismissal during colonial rule?

- The ***Government of India Act of 1935*** confers on the Governor the absolute discretion to choose as well as dismiss the Ministers.
- **Hire -** Under ***Section 51(1)*** of this Act says that the Ministers shall be chosen by the Governor and they hold office during his pleasure.
- It says, 'the Governor's Ministers shall be chosen and summoned by him, shall be sworn as members of the council and shall hold office during his pleasure'.
- **Fire -** The ministers chosen by the Governor are dismissed by him at his discretion.
- ***Section 51(5)*** says, 'The functions of the Governor under this section with respect to the choosing and summoning and the dismissal of Ministers and with respect to the determination of their salaries, shall be exercised by him in his discretion'.

What are the judicial clarifications on the position of Governor?

- The position of the Governor in India's Constitutional setup has been clarified by the Supreme Court of India in a number of cases.

- **Shamsher Singh and Anr vs State Of Punjab (1974) -** The Constitution Bench declared the Law on the Powers of a Governor.
- The Governor and his powers under various Articles, shall, by virtue of these provisions, exercise his formal constitutional powers only.
- **Nabam Rebia vs Deputy Speaker case -** The bench reaffirmed the law laid down in Shamsher Singh.
- It further held that the discretionary powers of the Governor are limited to the postulates of Article 163(1).

Reference

1. The Hindu - The Governor's move is dangerous, unconstitutional



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