Office of the Chief Minster & Floor Test

Mains: *GS-II – Polity & Governance*

Why in News?

A day after the Trinamool Congress lost the West Bengal elections to the BJP, party chairperson Mamata Banerjee said she would not resign as Chief Minister.

What about the Office of the Chief Minister?

- **Chief Minister** – He/She is the real executive head of the state.
- **Constitutional Provisions**
  - **Article 163** – CM heads the Council to aid and advise the Governor.
  - **Article 164** – CM is appointed by the Governor; Council is collectively responsible to the Assembly.
  - **Article 167** – CM communicates decisions to the Governor.
  - **Article 172** – The State Legislative Assembly has a five-year tenure from its first sitting, unless dissolved earlier.
- **Appointment** – The Governor appoints the leader of the majority party/coalition as CM.
- **Term of office** – The CM holds office *at the "pleasure of the Governor,"* but it depends on the Assembly's majority; the term of office is not fixed.

Situations when a CM ceases to hold office?

- **Loss of majority** – If the CM loses a floor test or fails to prove majority support, they must resign.
- **Resignation** – A CM may voluntarily step down for political or personal reasons.
- **Governor's dismissal** – If the CM refuses to resign after losing the majority, the Governor can dismiss them.
- **Assembly dissolution** – Once the Assembly term ends, the CM's tenure also ends, unless reappointed after elections.
- **Criminal disqualification** – Under the Representation of the People Act, a conviction with a sentence of two years or more disqualifies a legislator, thereby ending their Chief Ministership.

Can a Governor remove a CM?

- **Article 164(1) of the Constitution** – Provides that
  - The Chief Minister shall be appointed by the Governor &
  - The other Ministers shall be appointed by the Governor on the advice of the Chief

Minister.
    - The Ministers shall hold office at the pleasure of the Governor.
- On a literal reading of the provision, therefore, the Governor appears to possess the authority to remove a CM from office.
- **Constituent Assembly Concerns –** The Constituent Assembly warned that this wording could allow the Governor to misuse power and dismiss a Chief Minister unfairly.
- **Mohammad Ismail Khan's amendment** – Proposed to replace the phrase "during the pleasure" with "so long as they enjoy the confidence of the Legislative Assembly of the State."
- **His reasoning** – Since the Governor is a presidential nominee, the Council of Ministers should depend on the confidence of the Legislative Assembly's confidence, not the Governor's will.
- **Ambedkar's Clarification** – Dr B. R. Ambedkar, Chairman of the Drafting Committee of the Constitution, affirmed that the Council of Ministers shall hold office only so long as it enjoys the confidence of the majority.
- He explained that this principle is implicit in all parliamentary systems, even if not explicitly written.
- **Judicial interpretations** – Over the years, the Supreme Court has interpreted the Governor's powers as flowing primarily from the "aid and advice" of the Council of Ministers.
- **A.G. Perarivalan v. State Through Superintendent of Police (2022)** – The SC observed that the "Governor" is "but a shorthand expression for the State government".
- Though the Governor is "the formal head & sole repository of the executive power", the court held that the *office is ordinarily bound by the aid and advice* of the State's Council of Ministers.

What is a floor test, & When is it required?

- **Floor Test** (also called a 'trust vote') – A *constitutional mechanism* used to determine whether the executive enjoys the confidence of the legislature or not.
- The Chief Minister must move a *motion of confidence*, and if a majority of members present and voting support it, the government survives.
- Under this process, the Chief Minister must prove majority support in the House; if they lose, the government must resign.
- **When is it required?**
- **Governor asks CM to step down** – If the Governor believes the CM has lost the majority and invites another candidate for the post while the tenure of the Legislative Assembly is still on, a floor test must be held.
- **Loss of majority suspicion** – When coalition partners withdraw support or MLAs defect, the CM may be asked to prove majority.
- **Change in government formation** – If another party claims a majority, the existing CM must face a floor test.
- **Authority to call**
    - When the House is in Session - The *Speaker* has the authority to call for a floor test.

    - When the Assembly is not in Session - The *Governor* can use residuary powers under Article 163 to call for a floor test.

What happens during a floor test?

- **Vote of Confidence** – The leader of the party which claims to have the majority has to move a vote of confidence & prove a majority among those present and voting.
- **Voting methods** – Voting can be conducted by either a
    - Voice vote (MLAs respond orally) or
    - Electronic voting (Pressing a button, results displayed on a board) or
    - Division vote (MLAs cast votes on a ballot or slips collected & counted).
- **Special Situation** – When there are *differences within a coalition government*, the Governor can ask the Chief Minister to prove a majority in the House.
- **Composite Floor Test –** Conducted only when more than one person stakes a claim to form the government.
- When the majority is not clear, the governor might call for a special session to see who has the majority, counted based on those present and voting.
- Done through a voice vote or through division voting (through electronic gadgets, ballots or slips).
- Some legislators may be absent or choose not to vote.
- In case of a tie, the speaker can cast his vote.
- **Outcome of a Floor Test**
    - If CM **proves majority** – The government continues in office.
    - If CM **fails majority** – The CM and council must resign; the Governor may invite another leader to form a government.
    - If **no party or coalition can form a stable government** – President's Rule under Article 356 may be imposed as a measure of last resort.

What happens after the Assembly's tenure ends?

- **Article 172 of the Constitution** – It deals with the duration of a State Legislative Assembly.
- The Assembly shall continue for 5 years from the date appointed for its first meeting, unless dissolved earlier.
- At the end of five years, the Assembly is automatically dissolved.
- **Current West Bengal Assembly** – According to the Election Commission, the current West Bengal Assembly commenced its term on May 8, 2021, and is set to expire on May 7.
- **Governor's Role** – Thereafter, the Governor will have to initiate the process for constituting a new Assembly.

What happens next?

- **End of Assembly Tenure** – A formal resignation following defeat in an Assembly election is largely a matter of convention.
- Once the tenure of the present Assembly ends, the Assembly is *automatically dissolved*.
- The Chief Minister automatically ceases to hold office with the dissolution, even

without a formal resignation.

- **Election Petition** – It may be filed before the concerned High Court *within 45 days* from the declaration of the results of the concerned candidate.
- **Section 100, Representation of the People Act, 1951** – Election of a candidate can be challenged and declared void.
- Grounds include corrupt practices by the candidate and non-compliance with statutory provisions by the returning officer, among other grounds.
- **Writ Petitions** – A writ petition may be filed where the challenge concerns the *integrity of the electoral process itself*, including allegations of arbitrary voter deletions during the special intensive revision of electoral rolls.
- Large-scale deletion of voters in an election constitutes a *violation of fundamental rights* and can therefore be challenged directly in the High Court.

References

1. The Hindu | When does a CM cease to hold office?
2. Indian Express | What is a floor test in the Bihar Legislative Assembly?

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