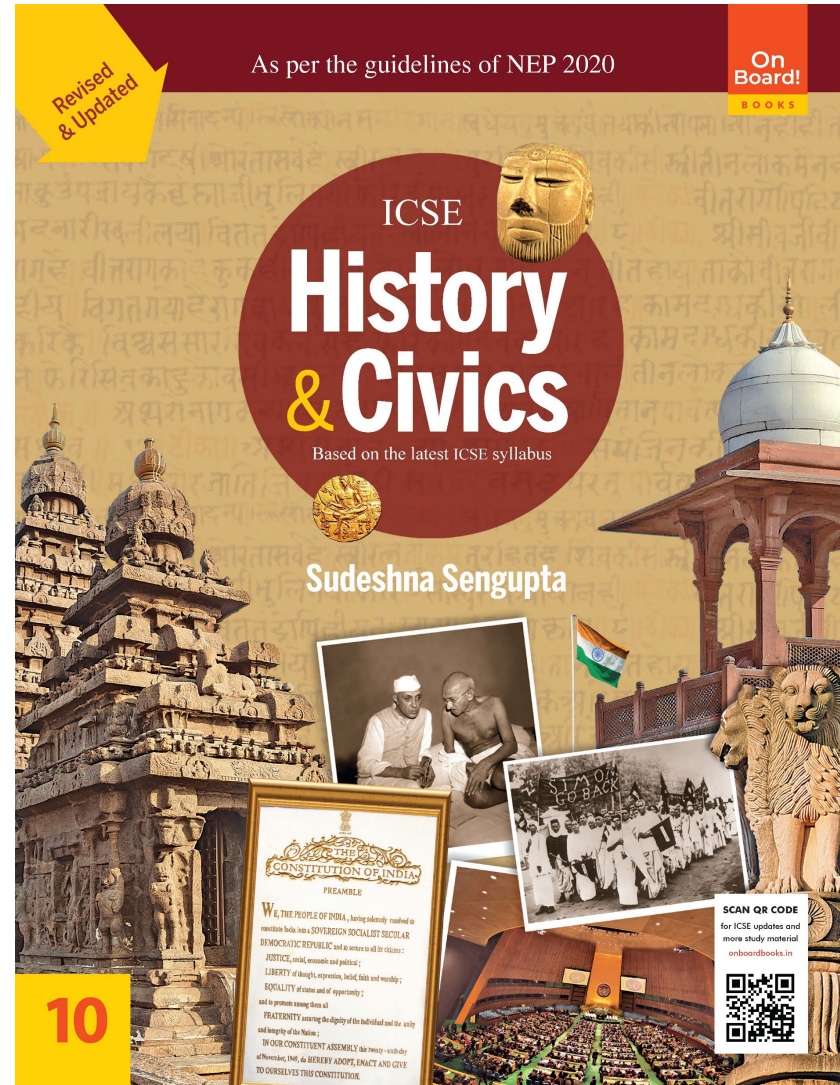


On Board!

BOOKS

ICSE History and Civics 10



Section A: Civics

Chapter 2 The President and the Vice President

The President

Qualifications

Procedure for election

Election disputes

Oath of office

Term

Procedure for impeachment

Emoluments

POWERS AND FUNCTIONS

OF THE PRESIDENT

Legislative powers

Executive powers

Judicial powers

Financial powers

Military powers

Diplomatic powers

Emergency powers

General Emergency (Article 352)

Emergency due to failure of the constitutional machinery in a state (Article 356)

Financial Emergency (Article 360)

Chapter 2 The President and the Vice President

Limitations of President's powers

Discretionary powers of the President

THE VICE PRESIDENT

Qualifications

Election

Term and removal

Functions

Emoluments

Chapter 2 The President and the Vice President

Article 53(1) of the Constitution states, 'The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.' Moreover, India is a Republic and the head of the State in a Republic is an elected person who holds office for a period as defined and prescribed by the Constitution of the State.

THE PRESIDENT

The President is the symbolic head and the chief executive of the State. The administration of the Union is carried on in his name. The Constitution thus confers an enormous array of powers on the President, but these are to be exercised according to the advice of the Cabinet.

Qualifications

Article 58 of the Constitution states that in order to be elected as President, a person must be:

- A citizen of India.
- 35 years of age.
- Qualified for election as a member of the Lok Sabha.
- Not holding any office of profit under the Government of India or the government of any state or under any local or other authority subject to the control of any of the said governments.

Procedure for election

The President of India is elected indirectly, i.e. by an electoral college, in accordance with the system of proportional representation by means of the single transferable vote.

The electoral college comprises:

- Elected members of both the Houses of Parliament (MPs).
- Elected members of the Legislative Assemblies (MLAs) of states.
- Elected members of the Legislative Assemblies of the Union Territories of Delhi and Puducherry.

This method of indirect election was supported by the framers of the Constitution, on the following grounds:

- Direct election by an electorate of over 600 million would mean a tremendous loss of time, energy and money.
- Under the framework of a parliamentary democracy, the real power lies with the Parliament. Hence, it would have been meaningless to elect the President directly by the people without giving him real powers

The members of the state legislatures have been given a share in the presidential election in order to make the President a choice of the entire nation. A **uniform weightage** system has been devised for fixing the value of each vote.

The value of an MLA's vote is fixed in the following manner:

$$\frac{\text{Population of the state}}{\text{MLAs} \times 1000} = \text{Value of the vote of an MLA}$$

The following example will make the process easier to understand:

Total population of a state: 9,90,00,000

Total number of elected MLAs: 300

The value of vote of each MLA:

$$\frac{9,90,00,000}{300 \times 1000} = 330$$

Similarly, the value of an MP's vote is also fixed by putting together the value of the votes of all the elected MLAs in the country and then dividing it by the number of elected MPs. Thus:

$$\frac{\text{Total value of votes assigned to MLAs of all states}}{\text{Total number of elected MPs}} = \text{Value of vote of each MP}$$

As mentioned earlier, election of the President is conducted through the system of proportional representation by means of the single transferable vote and a secret ballot. The vote will be invalid if:

- the elector marks more than one candidate as the first preference, or
- he fails to mark even the first preference.

Election disputes

Determination of doubts and disputes relating to the election of the President or the Vice President is decided by the Supreme Court. Its jurisdiction shall be exclusive and final. However, disputes can be raised on the ground of any vacancy in the electoral college, which elected the President and the Vice President. The election can also be questioned on matters of bribery, non-compliance with the laws governing the elections, etc.

Oath of office

The President, begins his term by taking the oath of office. The Chief Justice of India administers the oath. The oath goes as follows:

‘I ..., do swear in the name of God (or solemnly affirm), that I will faithfully execute the office of the President of India and will, to the best of my ability, preserve, protect and defend the Constitution and the law, and that I will devote myself to the service and well-being of the people of India.’

Term

The President holds office for a period of 5 years from the date on which he enters the office. He is also eligible for re-election. The President's office may fall vacant before the expiry of the five-year term in either of the two ways.

- By resignation in writing addressed to the Vice President of India.
- By removal for violation of the Constitution, through the process of impeachment.

Procedure for impeachment

The President can be impeached, i.e. removed from office only on account of grave misconduct. The method is as follows:

- A list of charges has to be drawn up and supported by one-fourth of the total members of the House in which it is moved.
- Such a resolution must be passed by two-thirds of the total majority of the members of that House.
- Then the other House investigates the charges levelled against the President.
- If two-thirds of the total membership of the House approve the charges, the impeachment is carried out.

Emoluments

The President is entitled to a monthly salary of Rs 5.0 lakhs. He is also entitled to a pension at the rate of fifty per cent of the emoluments of the President per mensem after the completion of the term and even on resignation. He is further entitled to the use of his official residence, the Rashtrapati Bhavan without rent. He also receives allowances and privileges as may be determined by the Parliament by law. None of the emoluments or allowances shall be diminished during his term of office.

POWERS AND FUNCTIONS OF THE PRESIDENT

Legislative powers

The President is an integral part of the Union Legislature.

- The President has the right to summon and prorogue the Parliament and dissolve the Lok Sabha in consultation with the Prime Minister if the need arises.
- The President enjoys the right to address the Parliament. The President addresses both the Houses at the first session each year. He can also address either House or a joint sitting of both the Houses whenever he deems fit to do so.
- The President nominates 12 MPs to the Rajya Sabha from among persons who have contributed towards the growth of art, science, literature, social service, etc.
- All Bills passed by the Parliament require the President's assent to become a law.
- Bills for the formation of a new state, altering the boundaries of the existing ones and Money Bills require prior sanction of the President.
- The most important legislative power of the President is the power to issue ordinances.
- A Bill passed by a state legislature may also be reserved for President's assent by the Governor of that state.

Executive powers

- The President is the administrative head of the country. All executive decisions are taken in his name.
- The President is at the head of the Union Executive.
- The President appoints the Prime Minister and on his advice appoints the other ministers.
- He administers the oath of office to them and distributes the portfolios.
- The President appoints the Attorney-General and the Comptroller and Auditor-General of India. All judges of the Supreme Court and the High Courts, the Governors, Ambassadors and other diplomats are appointed by him.
- The President also exercises the power to administer all Union Territories.
- It shall be the duty of the Prime Minister to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation.
- According to Article 75 of the Constitution, the Council of Ministers can be dissolved by the President if he finds that it does not enjoy the support of the majority in the Lok Sabha. Further, the Council of Ministers is duty bound to inform the President of all administrative decisions.

Judicial powers

- The President appoints the judges of the Supreme Court and the High Courts in consultation with the Chief Justice of India.
- Article 72 of the Constitution gives the President the sole right to grant pardon, reprieve or remission.
- The President can consult the Supreme Court on any question of law and the Supreme Court is bound to submit its opinion on the same. The President, however, is free to accept or reject the advice given.

The President enjoys certain judicial immunities, such as:

- No criminal proceedings can be initiated against the President in any court of law during his term of office.
- He is not answerable to any court of law for the exercise of his duties.

Financial powers

- As the Executive Head of the State, certain financial powers have been conferred on the President.
- No Money Bill can be introduced in the Parliament unless recommended by the President.
- A Money Bill or a Budget cannot be introduced in the Lok Sabha without the prior approval of the President.
- The Contingency Fund of India is placed at the disposal of the President and he can advance required sums of money to cover unforeseen expenditure, especially when the Parliament is not in session.
- The President appoints the Finance Commission every 5 years. It consists of a chairman and four other members. It furnishes information to the President on matters like distribution of income by way of taxes between the Union and the states.

Military powers

The President is the Supreme Commander of the Armed Forces in the country. He appoints the Chiefs of the Army, Navy and the Air Force. In his capacity as the Commander of the Armed Forces, he has the power to declare war or conclude peace. However, this power can be exercised in accordance with the advice of the Council of Ministers.

Diplomatic powers

As the head of the executive, the President has the power of appointing Ambassadors, High Commissioners and other diplomatic envoys to foreign countries. He also receives credentials from all foreign diplomats accredited to India. All international agreements and treaties are concluded in his name. The President also represents India in international conferences and meetings.

Emergency powers

According to our Constitution, the President is vested with powers relating to three kinds of emergencies:

1. General or National Emergency (Article 352) caused by war, external aggression or armed rebellion.
2. Emergency on account of the failure of constitutional machinery in a state (Article 356).
3. Financial Emergency (Article 360) resulting from a threat to India's financial stability.

General Emergency (Article 352)

Circumstances General or National Emergency is proclaimed when the President is satisfied that the security of India or any part of it is threatened by war or external aggression or an 'armed rebellion'.

Duration The proclamation of an Emergency must be approved within 1 month by both the Houses of Parliament by a special majority, i.e. a simple majority of the total membership of the House and a majority of not less than two-thirds of the members present and voting.

Effects

- The Union Parliament can legislate on any matter on the State List.
- The Union Government has the power to direct states in the exercise of their executive authority.
- The Union Government is also empowered to alter the distribution of revenue between the Centre and the states.
- The imposition of this Emergency also affects the Fundamental Rights guaranteed to Indian citizens.
- The Right to Freedom under Article 19 that contains freedom of speech, assembly and forming associations remains suspended during the period of Emergency.
- The right to move any court for the enforcement of such rights also remains suspended, except for Articles 20 and 21.
- While a proclamation of Emergency is in operation, the Parliament may extend the duration of the Lok Sabha and the Legislative Assemblies for a year at a time.

Proclamations of General Emergency in the past have happened thrice. Look at the table below.

Date of Emergency	Reason	Revoked on
26 October 1962	Chinese aggression	January 1968
3 December 1971	Indo-Pak War	March 1977
25 June 1975	Internal disturbance	March 1977

Emergency due to failure of the constitutional machinery in a state (Article 356)

Circumstances When the President receives a report from the Governor or he is otherwise satisfied that the government of the state cannot be carried on according to the provisions of the Constitution, he may proclaim an Emergency in that State. This is also referred to as the President's Rule as all the functions of the state government are exercised by the President indirectly. During the period of the President's Rule, the Governor acts as the representative of the Union Government.

Duration The duration of such an Emergency is for 2 months. If it has to continue beyond this period, the Parliament's approval is needed. Even if it has been ratified by the Parliament, it will cease to operate 6 months after the date of its issue. It can however be extended for another 6 months with the approval of the Parliament once again. Thus, a President's Rule can continue for a year.

However, the President's Rule can be extended beyond a year only under two conditions.

- When a National Emergency is in operation in the whole of India or in any part of the state.
- The Election Commission certifies that holding elections to the Legislative Assembly of a state is difficult.

But such proclamations can never be extended beyond 3 years.

Effects

- The Legislative Assembly of a state may be dissolved or suspended. The Parliament exercises the powers of the state legislature.
- The President may authorize the Governor to exercise all executive functions.
- The Annual Budget is passed by the Parliament.
- The President can also sanction expenditure out of the Consolidated Fund of India when the Lok Sabha is not in session.
- The President however cannot suspend the operation of any provision of the Constitution relating to High Courts.

Financial Emergency (Article 360)

Circumstances The President may declare a Financial Emergency under Article 360 of the Constitution when the financial stability of India is threatened.

Duration The Emergency is for 2 months and has to be approved by the Parliament if it is to continue beyond the given time. The Financial Emergency continues until the President revokes it.

Effects

- The Union Government shall give directions to the states to observe certain financial rules.
- The President may reduce the salaries and allowances of all government staff.
- The state governments shall be directed to reduce the salaries and allowances of all staff connected with the state administration.
- Money Bills passed by the state legislatures have to be reserved for the consideration of the President.

Limitations of President's powers

- According to the Constitution, the President is required to exercise his powers on the aid and advice of his Council of Ministers.
- Any proclamation of Emergency made by the President has to be laid within 1 month before the Parliament for approval. If it is not approved, it ceases to operate.
- Though the President is the head of the executive, he can be removed from office by way of impeachment approved by a special majority of the Parliament.

Discretionary powers of the President

The President is a ceremonial head. But in reality:

- He has a very important role to play.
- He is the guardian of the Constitution and the law
- He takes an oath to work for the well-being of the people of the country.
- He has the right to be informed of all important decisions and deliberations of the Council of Ministers
- The Prime Minister is duty bound to furnish whatever information the President seeks for clarification.

In a parliamentary system, the President cannot dismiss a Prime Minister so long as he enjoys the support of the majority in the Lower House. However, in case no single party gets a clear majority, a coalition may stake a claim to form the government. During such a situation, the President plays a crucial role. He would have to invite a political leader who can win majority support and provide a stable government. In this era of coalition ministries, the role of the President has become extremely important

THE VICE PRESIDENT

Qualifications

In order to be elected as the Vice President, a person must be:

- A citizen of India.
- Over 35 years of age.
- Not holding any office of profit under the government except that of the President, Vice President, Governor or a minister of the Union or state.
- Qualified to be a member of the Rajya Sabha.

Election

The election of the Vice President, like that of the President, is indirect and in accordance with the system of proportional representation by means of the single transferable vote. The electoral college would comprise members of both the Houses of Parliament.

Term and removal

The term of office of the Vice President is 5 years. His office may be terminated earlier than the fixed term either by resignation or by removal.

Functions

The most important function is to act as the ex-officio Chairman of the Rajya Sabha. But if there is any vacancy in the office of the President by reason of his death, resignation, removal or otherwise, the Vice President shall act as the President until a new President is elected and enters upon his office.

Emoluments The Vice President is entitled to a monthly salary of Rs 4.0 lakhs.

To Remember

The President of India – Qualifications: Must be a citizen of India, 35 years of age, eligible for election to the Lok Sabha, Term: 5 years, eligible for re-election for one term, election disputes, oath of office administered by the Chief Justice of India

Procedure of election – Electoral college, weightage system, proportional representation, single transferable vote and preferential election method through secret ballot

Impeachment procedure – The President can be removed on account of grave misconduct, it is a rigid method, the President cannot be tried by any court of law.

Powers of the President – Legislative, executive, judicial, financial, military, diplomatic and emergency powers.

Three kinds of emergencies – General Emergency (Article 352), State Emergency (Article 356) and Financial Emergency (Article 360).

Actual position of the President – Mere constitutional head, real power lies with the Prime Minister and the Council of Ministers.

The Vice President – Qualifications: Citizen of India, over 35 years of age, Election: Indirect election, Removal: He can be removed by a resolution supported by two-thirds majority of the Rajya Sabha agreed to by the Lok Sabha.

Functions of the Vice President – *Ex-officio* Chairman of the Rajya Sabha, can act as the President until a new President is elected.

Thank You