

Course Name- B.A.L.L.B IVth Sem.

Subject- Political Science

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Topic- Executive

Executive

Definition of the Executive:

The term “executive” means that branch of the government which executes or implements the will of the state. In a democratic government, the laws represent the will of the people and there the executive department must exist to give them effect according to the judgment of the judiciary.

In its wide amplitude, the executive includes all those agencies and officials who are directly concerned with the implementation of the day-to-day administration of the country. Put in the narrow sense, the executive includes the principal functionaries of the state except those who are included in the legislature and the judiciary.

This is nicely stated by Herman Finer:

“The executive is the residuary legatee in a government after other claimants like the parliament and all law courts have taken their share.”

Different Forms of the Executive:

There are three forms of the executive, namely nominal executive, political executive and permanent executive. The scope of the executive will be better known by distinguishing among these three forms of executive.

1. Nominal Executive:

Nominal executive is one that possesses all powers in law, but does not make any use of that power which is discharged in effect by another person or body called the real executive. He is the head of the state like the King or Queen of England. He is also likened to the President of India. In England, as also in India, all government actions are done in the name of the Queen or the President who is the nominal executive. Behind the nominal executive there is a real executive which is the council of ministers.

Although in the language of the constitution the President is the constitutional head, in reality he is just a rubber stamp. The nominal executive may be directly or indirectly elected. He may be nominated or have a hereditary title. The President of India is indirectly elected. The Governor-General of Canada and Australia are nominated by the British Queen. The Queen of England or her successor gets the throne as a birth right.

2. Political Executive:

The political executive is the real executive as distinguished from the nominal executive. In India the council of ministers is the political executive and its members are chosen by the President. Same is the case in England. In the USA the President is the political executive, there being no nominal executive in the USA.

He is elected directly by the people. In the USSR and Switzerland the political executive is elected by the legislature. Whatever may be the mode of appointment, the political executive is the real executive. He formulates and directs the policy of the state and controls the administration.

Kinds of Political Executive:

Political executive may be either parliamentary or presidential depending upon whether the political executive is responsible to the legislature or not. The parliamentary executive is responsible to the legislature. It remains in power so long as it enjoys the confidence of the legislature. The presidential executive has practically nothing to do with the legislature. It cannot be outvoted except by the difficult procedure of impeachment.

Again, the political executive may be single or plural. If the executive authority is vested in a single person as in the case of the President of the USA, it is a case of single executive. If the executive power lies in a number of persons, it is a plural executive. In Switzerland there is a Federal Council of seven members and in the former USSR there was a Presidium of thirty-three members. Thus we find plural executive in both Switzerland and the defunct USSR.

3. Permanent Executive:

This kind of executive is also called permanent civil service or public administration. This type of executive consists of a vast body of officials who hold a permanent tenure but abstain from any active participation in political life. The change of the government does not affect their services.

They are ordinarily recruited into service on the basis of merit in a competitive examination. They enter the service at a prescribed age and retire on attaining the age of superannuation. They are organised into several departments under the charge of a political minister.

Functions of the Executive:

The dominant function of the executive is to execute or enforce the laws of the state. In a modern state the functions of the executive are enormous. Since a modern state is a positive state it is imperative that all the needs of the people and their aspirations are to be met by the executive. The result is that the functions of the executive are ever-increasing. We may now go to discuss the various functions of the executive.

1. Maintenance of Law and Order and Administrative Functions:

The primary job of the executive is to maintain law and order. For that purpose the executive is to rely on an administrative staff to control, direct and superintend the public administration. It is the executive that determines the organisation, recruitment and training of the administrative staff. It explains to them the policy of the government and provides them with powers and responsibilities. It is apparent that the executive is to detail a police force under the command of the administrative wing.

2. Military Functions:

It is common knowledge that the defence of the country against foreign aggression is a basic function of the executive. The executive appoints the top army, air and naval staff and allocates funds and purchase defence equipment from friendly countries. The executive is to build-up arms in the frontier and keep a vigil over the border.

3. Diplomatic Functions:

A modern state cannot be an island to live a hermit's life. A world-wide function is a necessity for any modern state. So the executive of a modern state must have diplomatic relations with each other. So foreign policy is an important function of the executive. Thus every executive is endowed with treaty-making powers. His routine includes visiting foreign countries on a goodwill mission and also to receive the dignitaries of the foreign countries as visitors in his own country.

4. Public Utility and Social Services:

The executive is not only to maintain public utility services but some public welfare works also. Thus railways, posts and telephones, irrigations, etc. are some of the important public utility services of the executive. In the list of the social services will come education, public health and labour welfare measures.

5. Financial Administration and Planned Economy:

The executive regulates the financial business of this country in the form of what is called the budget. It is on this chessboard that income and expenditure of the country is regulated. But a present government is to think of long-term measures like the Five-Year-Plan for boosting the national economy. So planning the economy is another function of the executive of a modern state.

6. Emergency Functions:

When an extraordinary situation arises the executive can switch on the red light and declare national, constitutional and financial emergency and thereby suspend some of the provisions of the constitution and curtail the fundamental rights. The national emergency may be necessary to meet a situation that may take the form of an armed rebellion or foreign aggression.

The constitutional emergency may be necessary for a situation when the administration cannot be carried on in accordance with the provisions of the constitution. In the first case, the fundamental rights can be suspended. In the second case, the President will take over the administration of the province. There is a third type of emergency called the financial emergency. It is a financial crisis, to meet which the executive may make a cut in the salary of the public servants.

7. Legislative and Judicial Functions of the Executive:

Whatever functions we have so long narrated above are the executive functions of the executive. But the executive may overstep its executive field and travel into other's sphere of action like legislative and judicial.

(a) Legislative functions of the executive:

The following are some of the legislative functions done by the executive:

(i) In the parliamentary form of government all bills are introduced by the executive, usually by a minister. This is a major legislative function of the executive.

(ii) When the legislature is not in session the chief of the executive can promulgate ordinances which are also the laws of the land.

(iii) The chief executive head summons and prorogues the legislature. He can and does dissolve the lower house before the expiry of its turn.

(iv) When a bill is passed by the legislature, it must go to the chief executive who may accept it or reject it. It will not become law until it is assented by the chief executive.

(b) Judicial functions of the executive:

The following are some of the judicial functions performed by the executive:

(i) The chief executive can play the role of a judge by granting pardon to the criminals and amnesty to political offenders. In case of death sentence appeal lies to the head of the executive.

(ii) The executive appoints the judges and the judicial commissions.