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2021 Edition

# Rajasthan

Polity & Administration

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Book by RajRAS

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## Persons on Important Posts

Post (Rajasthan)	First	Current (July 2021)
Chief Justice of Rajasthan	Sir Sarat Kumar Ghosh (1949)	Indrajit Mahanty (37th)
Chief Information Commissioner (CIC)	M. D. Kaurani	D B Gupta
RPSC Chairman	Sir Dr. S K GHOSH	Dr. Bhupendra Singh Yadav
Advocate General of Rajasthan	G.C. Kasliwal	Mahendra Singh Singhvi
Rajasthan State Human Rights Commission	Kanta Kumari Bhatnagar	Gopal Krishan Vyas
Lokayukta of Rajasthan	ID Dua (1973)	Pratap Krishna Lohra
Chief Secretary Rajasthan	K. Radhakrishnan	Niranjan Kumar Arya
Pro-Term Speaker	Maharav Sangram Singh	Gulab Chand Kataria
Speaker Vidhan Sabha	Narottam Lal Joshi	Dr. C. P. Joshi
Leader of Opposition	Jaswant Singh	Gulab Chand Kataria
Governor of Rajasthan	Maharaj Man Singh II (1949) Gurumukh Nihal Singh (Reorganised State 1956)	Kalraj Mishra
Rajasthan Financial Commission Chairman		Pradhyuman Singh
Chief Electoral Officer of Rajasthan (CEO)		Praveen Gupta
State Election Commissioner of Rajasthan (SEC)		Prem Singh Mehra
Chairperson State Commission for Women		-

<b>DGP Rajasthan Police</b>	M L Lather
<b>Deputy Chairman - Chief Minister's Economic Transformation Advisory Council</b>	Arvind Mayaram

## Governor

**Part VI of Constitution** of India deals with government of states. This contains articles 152 to 237 that deals with various provisions related to States. It covers the executive, legislature and judiciary wings of the states. Out of these, articles **153 to 167** deal with state executive and the governor. Constitutional provisions concerning the Governor and the scope of these provisions shows that there are three main facets of Governor's role.

1. As the constitutional head of the State operating normally under a system of Parliamentary democracy.
2. As a vital link between the Union Government and the State Government.
3. As a representative of the Union Government in a specific areas during normal times.

### Important Aspects:

- State Executive includes:
  - The Governor
  - Chief Minister
  - Council of Ministers
  - Advocate General of State.
- No office of Vice-governor.
- Governor: Dual Role
  - Nominal Executive head (Constitutional Head)
  - Agent of the Central Government
- 7<sup>th</sup> Constitutional Amendment 1956 (CA): Allowed appointment of same person as governor for two or more states.

### Appointment of the Governor:

- Appointed by President by warrant under his hand and seal.
- No election. Why? Various reasons:
  - Incompatible with Parliamentary System (If both CM & Governor come by election, they shall compete for power, Not good for state).
  - Governor is only Constitutional head. Therefore, no point in doing so much expense for getting a signing authority.
  - Allows Center to maintain control over state.
  - Allows for neutrality & impartial head.

- No governor election: **Canadian Model**, followed by India.
- **Conditions** required for appointment:
  - Citizen of India
  - 35+ years age.
  - Remember: No other condition
- Conventions (Not rule, but generally followed)
  - Does not belong to state (Example: Kalraj Mishra in Rajasthan, belongs to UP)
  - President consults Chief Minister before appointment.
- Conditions for Governor's office: **in Constitution (6 Only)**
  - Should not be member of Parliament/Legislative assembly. If he/she is member then deemed to vacate the seat in the house. (Resignation from house assumed).
  - Should not hold any office of profit.
  - Entitled to use of Raj Bhawan as official residence.( free)
  - Emoluments: decided by Parliament
  - Single person appointed to two or more states - President decides expenses ratio.
  - Emoluments (Salary etc) cannot be reduced post appointment.
- Oath to office (3 Points)
  - Faithfully execute office
  - Preserve, protect, defend – Constitution & Law
  - Devote himself to service & welfare of **people of State**.
- Dismissal
  - Anytime, based on pleasure of President. (Non-Justiciable)
  - Maximum limit, 5 years from date of entering to office.
  - Can be reappointed / transferred.
- Trivia: When Central Gov. changes opposition party governors resign so that new Centre can reappoint their own people.
- There **cannot be any interregnum**. (Governor can hold office beyond 5 years until his successor assumes charge).
- When governor absent: **Chief Justice can act as temporary**. This also President will do.

## Powers & Functions of Governor:

Can be placed under 4 categories: *Executive, Legislative, Financial & Judicial powers.*

### Executive Powers & Functions:

1. All executive actions of a state are taken under his name.
2. Can make rules how Orders (& others) will be made & executed in his name.
3. Appoints CM & Other Ministers.
4. Appoints Advocate general of state. (Can dismiss him whenever he/she wants) (Also decides remuneration)
5. Appoints state election commissioner.
6. Appoints chairman & members of RPSC.
7. Acts as Chancellor of **State Universities** in state & appoints Vice-Chancellor (VC) of universities.
8. Can seek info from CM relating to bills.
9. Can require CM to submit to council of ministers any decision that a minister has take without consideration of council of ministers.
10. Can recommend imposition of emergency.

### Legislative Powers & Functions:

The Governor is an integral part of the state legislature (Art. 168). According to this Article, the State legislature shall consist of the *Governor and the Legislative Assembly*. In such capacity, he/she has following powers:

- Summon or prorogue state legislature and dissolve the state assembly.
- Can address the State legislature at first session after election & first session each year.
- Can send messages to State legislature.
- Can appoint any member of legislative assembly to preside over proceedings when offices of both speaker & deputy speaker fall vacant.
- Can nominate one member to state legislature from Anglo-Indian Community.
- Decides on question of disqualification of members of state legislature in consultation with Election Commission.
- He can promulgate ordinances when state legislature is not in session.
- Lays the report of State Finance Commission, RPSC, and Comptroller and Auditor General report related to accounts of state before the state legislature.
- When a bill is passed state legislature the Governor can

- Assent / withhold his assent
- Return the bill. However, if bill is passed again then has to give assent.
- Reserve bill for President.
  - **Compulsory to reserve if bill endangers position of high court**
  - Can also reserve if violates constitution, opposes dpsp, deals with 31A (compulsory property acquisition), national importance, larger interest of country.

**Financial Powers & Functions:**

- Under *Art. 202*, the Governor is required to be laid before the House or Houses of the legislature the Budget or the Annual Financial Statement.
- A money bill cannot be introduced without the recommendation of the Governor.
- A Demand for Grant cannot be moved without the recommendation of the Governor.
- Can make advances out of **Contingency fund of State**,
- Constitutes State Finance Commission every five years.

**Judicial Powers & Functions:**

- Article 161 confers on the Governor the power to grant pardon, reprieve, respite or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to matters to which the **executive power of the state extends**. However, the President has the exclusive power to grant pardon in cases where a person **has been** sentenced to death.
  - The Governor cannot grant pardon in case of death sentence. He can only commute the punishment.
  - The Governor has no power in relation to Court Martial.
- Consulted by President while appointing Judges of State High Court.
- Appoints persons to State Judicial Service (Other than district judges) in consultation with State high court and RPSC.

**When Governor reserves Bills for Consideration of President:****Ordinary Bill:**

- When governor reserves a bill for President he does not have any role in that bill. If President returns bill for state legislature to reconsider & it again passes then bill again goes to President only.

- What can the President do?
  - Give assent / Withhold assent
  - Return bill to State Legislature. If bill is again passed with/without amendment, again presented to President. He may assent or withhold assent.

#### Money Bill:

- What can the President do?
  - Give assent / Withhold assent
  - President cannot return money bill to state legislature.

#### Ordinance making Power difference with President

<p>President needs no instruction to make an ordinance.</p>	<p>Governor cannot make ordinance without instructions from President in 3 cases:</p> <p>A. Bill containing same provision would have required previous sanction of President for introducing to state Legislature.</p> <p>B. He would have deemed necessary to reserve a bill with same provision for President.</p> <p>C. If act of State Legislature containing same provision would have been invalid without President's assent.</p>
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#### Constitutional Position of Governor

- Article 154 – Executive power of state vested with governor | Nominal (*de Jure*) Executive.
- Article 163 – Council of Minister with CM as head – advises Governor to exercise his function except where discretion required. [Hence, Constitution envisages Governor to act with discretion at times.]
- Article 164 – Council of Ministers collectively responsible to legislative assembly of the state. This principle is foundation of parliamentary system for government.
- **Difference to President:**
  - Constitution envisages Governor to act with discretion at times nothing such envisaged for President

- 42<sup>nd</sup> CA (1976) makes ministerial advice binding for President to act but no such provision for Governor.
- Governor has **Constitutional discretion** in following cases:
  - Reservation of bill for President
  - Recommendation for imposition of President Rule in State
  - Exercising his function as administrator of adjoining UT (in case of additional charge)
  - Determining amount payable to Tribal district councils from mineral exploration in certain states.
  - Seeking info from CM on legislative/administrative matters of state.
- **Situational discretion available to governor**
  - CM appointment when no party has clear majority. OR when CM dies & no obvious successor.
  - Dismissing Council of Minister when they can't prove majority in Legislative assembly.
  - Dissolution of legislative assembly when council of ministers has lost its majority.

### Governors of Rajasthan:

S.No	Governor's Name	Took office	Left office
1	Maharaj Man Singh II (Rajpramukh)	30-Mar-49	31-Oct-56
2	Gurumukh Nihal Singh	01-Nov-56	16-Apr-62
3	Sampurnanand	16-Apr-62	16-Apr-67
4	Sardar Hukam Singh	16-Apr-67   24-Dec-70	19-Nov-70   30-June-72
5	<b>Jagat Narayan (Acting)</b>	20-Nov-70	23-Dec-70
6	Sardar Jogendra Singh	01-Jul-72	15-Feb-77
7	<b>Vedpal Tyagi (acting)</b>	15-Feb-77	11-May-77
8	Raghukul Tilak	17-May-77	08-Aug-81
9	<b>K. D. Sharma (acting)</b>	08-Aug-81	06-Mar-82
10	Om Prakash Mehra	06-Mar-82	04-Jan-85
11	Vasantryao Patil	20-Nov-85	15-Oct-87
12	Sukhdev Prasad	20-Feb-88	03-Feb-90

13	<b>Milap Chand Jain (acting)</b>	03-Feb-90	14-Feb-90
14	Debi Prasad Chattopadhyaya	14-Feb-90	26-Aug-91
15	<b>Swarup Singh (acting)</b>	26-Aug-91	05-Feb-92
16	Marri Chenna Reddy	5 February, 1992	31-May-93
17	<i>Dhanik Lal Mandal (additional charge)</i>	31-May-93	30-Jun-93
18	Bali Ram Bhagat	30-Jun-93	01-May-98
19	Darbara Singh	01-May-98	24-May-98
20	<b>Navrang Lal Tibrewal (acting)</b>	25-May-98	16-Jan-99
21	Anshuman Singh	16-Jan-99	14-May-03
22	Nirmal Chandra Jain	14-May-03	22-Sep-03
23	<i>Kailashpati Mishra (additional charge)</i>	22-Sep-03	14-Jan-04
24	Madan Lal Khurana	14-Jan-04	01-Nov-04
25	<i>T. V. Rajeswar (additional charge)</i>	01-Nov-04	08-Nov-04
26	Pratibha Patil	08-Nov-04	21-Jun-07
27	<i>Akhlaqur Rahman Kidwai (add. charge)</i>	21-Jun-07	06-Sep-07
28	S. K. Singh	06-Sep-07	01-Dec-09
29	Prabha Rau (additional charge)	02-Dec-09	24-Jan-10
30	Prabha Rau	25-Jan-10	26-Apr-10
31	<i>Shivraj Patil (additional charge)</i>	26-Apr-10	12-May-12
32	Margaret Alva	12-May-12	07-Aug-14
33	<i>Ram Naik (additional charge)</i>	07-Aug-14	04-Sep-14
34	Kalyan Singh	04-Sep-14	08-Sept-19
35	Kalraj Mishra	<b>09-Sept-19</b>	



## Chief Minister

In the Parliamentary system of Government provided by Constitution of India, the Governor is the nominal executive authority while the Chief Minister is the real executive authority. In other words, Governor is the head of state while Chief Minister is the head of Government. Thus, Chief Minister's position in state is analogous to the prime ministers position at the centre.

### **Appointment of Chief Minister**

- Article 164 of Constitution states that Chief Minister shall be appointed by the Governor and in accordance with conventions of parliamentary system, the Governor appoints the leader of the largest party of the house or leader chosen by the largest coalition to become the chief minister.
- The Governor may exercise situational discretion if no party has clear majority. He may ask a leader to become chief minister and then prove his majority on floor of the house.
- On death of a Chief Minister, the ruling party elects a new leader and Governor has no choice but to appoint the new leader as Chief Minister.
- Constitution does not require a person to prove his majority in legislative assembly before he is appointed CM.
- A person who is not member of State Legislature can be appointed as Chief Minister for 6 months, within this, he/she should be elected to the state legislature.

### **Term & Salary of Chief Minister:**

- Oath:
  - Bear true faith & allegiance to Constitution of India
  - Uphold Sovereignty & integrity of India
  - Faithfully & conscientiously discharge duty
  - Do right to all people in accordance with Constitution, law. Act without fear/favour, affection/ill-will
- The term of Chief Minister is not fixed and he/she holds the office during the pleasure of Governor. But the Governor can't dismiss him till he has a majority in the house.
- The Salary and allowances of Chief Minister are determined by State Legislature.

## Powers & Functions of Chief Minister:

### In relation to Council of Ministers:

- Recommends people to be appointed as ministers to the Governor.
- Allocates and reshuffles portfolio of ministers.
- Can ask the minister to resign or tell the governor to dismiss him.
- Supervises activities of all ministers.
- Presides over meetings of Council of Ministers and influences the decisions.
- Can collapse the government by resigning from office.

### In relation to Governor

- Principal channel of communication between Governor & Council of Ministers
  - Communicates to Governor all decisions of Council of Ministers
  - Furnishes information related to any decision of Council of Ministers called by Governor
  - Furnished to Council of Minister any decision that Governor requires consideration.
- Advises Governor for appointment of persons on important posts like Chairman & Members RPSC, election commission etc.

### In relation to State Legislature

- Advises Governor for summoning or proroguing of session of state legislature.
- Can recommend dissolution of Legislative Assembly to the Governor at any time.
- Announces Government policies on floor of the house.

### Other Powers

- Chairman - State planning Board
- Vice-Chairman of concerned zonal council by rotation, for 1 year at a time. Union Home Minister is head.
- Member Inter-State Council & Governing Council of Niti Aayog – both headed by PM.
- Chairman - Chief Minister's Economic Transformation Advisory Council

**List of Chief Ministers of Rajasthan:**

S.NO	Chief Minister	Took office	Left office	Party	Tenure
1	Heera Lal Shastri	07-Apr-49	05-Jan-51	Indian National Congress	639 days
2	C. S. Venkatachari	06-Jan-51	25-Apr-51		110 days
3	Jai Narayan Vyas	26-Apr-51	03-Mar-52		313 days
4	Tika Ram Paliwal	03-Mar-52	31-Oct-52		243 days
#3	Jai Narayan Vyas [2]	01-Nov-52	12-Nov-54		742 days (total 1055 days)
5	Mohan Lal Sukhadia	13-Nov-54	13-Mar-67		4503 days
P1	(President's rule)	13-Mar-67	26-Apr-67	N/A	
#5	Mohan Lal Sukhadia [2]	26-Apr-67	09-Jul-71	Indian National Congress	1535 days (Total 6380 days)
6	Barkatullah Khan	09-Jul-71	11-Aug-73		765 days
7	Hari Dev Joshi	11-Aug-73	29-Apr-77		1389 days
P2	(President's rule)	29-Apr-77	22-Jun-77	N/A	
8	Bhairon Singh Shekhawat	22-Jun-77	16-Feb-80	Janata Party	970 days
P3	(President's rule)	16-Feb-80	06-Jun-80	N/A	
9	Jagannath Pahadia	06-Jun-80	13-Jul-81	Indian National Congress	403 days
10	Shiv Charan Mathur	14-Jul-81	23-Feb-85		1320 days
11	Hira Lal Devpura	23-Feb-85	10-Mar-85		16 days
#7	Hari Dev Joshi [2]	10-Mar-85	20-Jan-88		1046 days
#10	Shiv Charan Mathur [2]	20-Jan-88	04-Dec-89		684 days (total 2004 days)
#7	Hari Dev Joshi [3]	04-Dec-89	04-Mar-90		91 days (total 2526 days)
#8	Bhairon Singh Shekhawat [2]	04-Mar-90	15-Dec-92	Bharatiya Janata Party	1017 days
P4	(President's rule)	15-Dec-92	04-Dec-93	N/A	
#8	Bhairon Singh Shekhawat [3]	04-Dec-93	29-Nov-98	Bharatiya Janata Party	1821 days (total 3808 days)

12	Ashok Gehlot	01-Dec-98	08-Dec-03	Indian National Congress	1834 days
13	Vasundhara Raje	08-Dec-03	11-Dec-08	Bharatiya Janata Party	1831 days
#12	Ashok Gehlot [2]	12-Dec-08	13-Dec-13	Indian National Congress	1822 days (total 3656 days)
#13	Vasundhara Raje [2]	13-Dec-13	16-Dec-18	Bharatiya Janata Party	1829 days (total 3660 days)
#12	Ashok Gehlot [3]	17-Dec-18	"Incumbent"	Indian National Congress	

## Council of Ministers

As per the Parliamentary system of government in the state, on Union pattern, the Council of Ministers headed by the Chief Minister is the real executive authority in the state. Article 163 deals with the status of council of ministers and article 164 deals with the appointment, tenure, responsibility, qualification, oath, salaries and allowances of the ministers.

### **Appointment of Council of Ministers:**

- The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister.

### **Term of Council of Ministers:**

- The council of the Ministers holds the office during the pleasure of the Governor, but actually holds the office as long as it enjoys majority in state legislative assembly.
- A Minister who for any period of six consecutive months is not a member of the Legislature of the State, at the expiration of that period ceases to be a Minister.
- **Disqualification under 10th Schedule:** A person who is disqualified for being a member of Legislature under Tenth Schedule shall also be disqualified to be appointed as a Minister; he will have to seek a fresh election in order to become a minister again.

### **Strength of Council of Ministers:**

- The total number of Ministers, including the Chief Minister, in the Council of Minister in a State shall not exceed 15% per cent of the total number of members of the Legislative Assembly of that State.
- It also says that the number of Ministers, including the Chief Minister in a State shall not be less than 12.

### **Oath:**

- Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule. | TEXT Same as CM

### **Salaries and allowances:**

- The salaries and allowances of Ministers shall be determined by the Legislature of the State.

**Responsibility of Ministers:**

- **Individual responsibility:** Article 164 also contains the principle of individual responsibility. The ministers hold office during the pleasure of the Governor. The chief minister can ask him/her to resign or advice governor to dismiss him.
- **Collective responsibility:** Article 164 states that Council of ministers is collectively responsible to the legislative assembly of the state.
- **No Legal responsibility:** There is no provision for legal responsibility of minister in the state. Hence, an order of Governor does not need counter sign of minister. Additionally, the courts are barred from enquiring into nature of advice given by ministers to the Governor.

**Category of Ministers:**

There are three categories of ministers in the council:

- **Cabinet Ministers:** They attend cabinet meetings and play important role in state government.
- **Minister of state:** They can be independent in charge of department that aren't attached to cabinet ministries or in charge of specific department part of a ministry /specific work in a ministry which is headed by a cabinet minister.
- **Deputy Minister:** They are attached to cabinet ministers or ministers of state and assist them in their work.

**Cabinet**

Cabinet is the smaller body of the council of ministers. It consists of most important ministers in State Council of Ministers. It is the most powerful authority in State administration. All the important decisions of the State administration are taken by the Cabinet. The decisions of the Cabinet are binding upon the Council of Ministers.

**Cabinet Committees:**

The cabinet works through various committees called as cabinet committees. They are of two types:

- Standing Cabinet Committees - Permanent
- Ad-Hoc Cabinet Committees - Temporary

Cabinet has the power to review the decisions of these committees.

## State Legislature

The state legislature occupies an integral position in political system of India and governing of state. The Constitution of India provides for a legislature in each State and entrusts it with the responsibility to make laws for the state. Articles **168 to 212 in Part VI** of Constitution of India deal with the organisation, composition, duration, officers, procedures, privileges and powers of the state legislature. Some of these are similar with Parliament of India, while others are different.

### ORGANISATION OF STATE LEGISLATURE

In the political system of India, there are two types of states with regard to state legislature. Most of the state in India have Unicameral system while few others have a bicameral system. Unicameral system has only one House and is known as the Legislative Assembly (Vidhan Sabha) and in Bicameral system, the State has two houses, the Upper House is known as the Legislative Council (Vidhan Parishad) and the lower House is known as the Legislative Assembly (Vidhan Sabha).

State Legislature includes:

- Governor
- Legislative Assembly
- Legislative Council (if there)

Note: *The advocate general of state can participate in proceedings of legislature but is not a part of state legislature. The governor is part of state legislature but doesnot participate in its proceedings.*

### **Method of Abolition or Creation of a State Legislative Council (Vidhan Parishad):**

**Article 169** in Constitution of India provides for Method of Abolition or Creation of a State Legislative Council. If a **state Legislature** passes a resolution by a *special majority*, in favour of the creation of the second chamber and if **Parliament** gives approval to such a resolution by Simple Majority, the concerned State can have two Houses in the Legislature.

### **Different types of state legislatures:**

- **Unicameral Legislature**
  - 22 States & 3 Union Territories in India have unicameral system of state legislature (including Rajasthan). Here, the state legislature includes Governor and Vidhan Sabha.
  - Other than these states, two Union territories - Delhi and Puducherry have State Legislatures (Both Unicameral).

- **Bicameral Legislature**
  - 6 States in India namely: Bihar, Andhra Pradesh, Telangana, Karnataka, Maharashtra and Uttar Pradesh have Bicameral system of state legislature. Here, the state legislature includes Governor, Vidhan Sabha and Vidhan Parishad.

## COMPOSITION OF STATE LEGISLATURE

### Legislative Assembly (Vidhan Sabha)

- **Strength:**
  - Can be maximum of 500 and minimum of 60, to vary according to population of state.
  - Rajasthan Legislative Assembly has 200 members.
  - Special Case: Goa, Arunachal Pradesh & Sikkim number is fixed at 30 and for Mizoram & Nagaland at 40 & 46 respectively.
- **Manner of Election:**
  - Members of legislative assembly are elected directly by people on basis of Universal Adult Franchise.
- **Territorial Constituencies:**
  - The demarcation of territorial constituencies is to be done in such a manner that the ratio between the population of each constituency and the number of seats allotted to it, as far as practicable, is the same throughout the State.
  - 84<sup>th</sup> CA banned readjustment of territories till 2026
- **Reservation:**
  - Constitution makes special provisions regarding the representation of Scheduled Castes and Scheduled Tribes on basis of population ratios.
- **Nominated Members:**
  - Provision has also been made to nominate one member of the Anglo-Indian Community, if the Governor is of the opinion that the community is not adequately represented in the Assembly.

### Legislative Council (Vidhan Parishad)

The system of composition of the Council as laid down in the Constitution is not final. The final power of providing the composition of this Chamber of the State Legislature is given to the Union Parliament. But until Parliament Legislates on the matter, the composition shall be as given in the Constitution, which is as follows.

- **Strength:**
  - Strength of legislative Council cannot be more than one-third of the total number of members in the Legislative Assembly of the State and in no case less than 40 members. However, actual strength decided by Parliament.
  - Rajasthan does not have legislative council.
- **Manner of Election:**
  - 1/3 of total number of members of the Council shall be elected by electorates consisting of members of local bodies, such as municipalities, district boards.
  - 1/12 shall be elected by electorates consisting of graduates of three years' standing residing in that State
  - 1/12 shall be elected by electorates consisting of persons engaged for at least three years in teaching in educational institutions within the State, not lower in standard than secondary schools.
  - 1/3 shall be elected by members of the Legislative Assembly from amongst persons who are not members of the Assembly.
  - Remainder shall be nominated by the Governor from persons having knowledge or practical experience in respect of such matters as *literature, science, art cooperative movement and social service*.
  - Thus 5/6 of member of legislative council are indirectly elected and 1/6 are nominated by the governor.

## DURATION OF STATE LEGISLATURE

### Legislative Assembly (Vidhan Sabha):

The duration of the Legislative Assembly is *five years from date of its first meeting after the general elections*. The Governor has the power to dissolve the Assembly even before the expiry of its term.

Additionally, during National Emergency, the Parliament by law can extend the term of assembly for a period not exceeding one year at a time and not extending in any case beyond a period of six months after proclamation has ceased to operate.

**Legislative Council (Vidhan Parishad):**

Like Rajya Sabha, Legislative council is a continuing chamber. It is a permanent body, unless abolished by the Legislative Assembly and Parliament by due procedure.

One-third of the members of the Council retire on the expiry of every second year, which means, a term of six years for each member. There is no bar on a member getting re-elected on the expiry of his/her term.

## MEMBERSHIP OF THE STATE LEGISLATURE

**Qualifications:**

A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he/she

- Is a citizen of India;
- Is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age; and
- He/She must make and subscribe before person authorized by election commission an oath or affirmation according to the form prescribed in Third Schedule.
- Possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Accordingly, the Parliament by the Representation of the People Act, 1951, has provided additional qualifications that:

- A person shall not be elected either to the Legislative Assembly or the Council, unless he is himself an elector (registered as Voter) for any Legislative Assembly constituency in that State.
- To qualify for governor's nomination – should be a resident of the state.
- To Contest seats reserved for SC/ST must be a member of SC/ST. However, a member of SC/ST can also contest a seat not reserved for them.

**Disqualifications:**

A person shall be disqualified for being chosen as and for being a member of the Legislative Assembly or Legislative Council of a State if he

- Holds any office of profit under the Government of India or the Government of any State, other than that of a Minister for the Indian Union or for a State or an office declared by a law of the State not to disqualify its holder (many States have passed such laws declaring certain offices to be offices the holding of which will not disqualify its holder for being a member of the Legislature of that States);
- Is of unsound mind as declared by a competent Court;
- Is an un-discharged insolvent;
- Is not a citizen of India or has voluntarily acquired the citizenship of a foreign State or is under any acknowledgment of allegiance or adherence to a foreign State;
- Is so disqualified by or under any law made by Parliament.

Accordingly, the Parliament through, the Representation of the People Act, 1951, has laid down some grounds of disqualification:

- Conviction by a Court, having been found guilty of a corrupt or illegal practice in relation to election, being a director or managing agent of a corporation in which Government has a financial interest (under conditions laid down in that Act).
- Convicted for any offence resulting in imprisonment of more than 2 years.

Art. 192 lays down that if any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned above, the question shall be referred to the **Governor** of that State for decision who will act according to the opinion of Election Commission.

#### **Disqualification on ground of defection:**

The **Tenth Schedule** to Constitution provides for disqualification of the members on ground of defection. Defection refers to desertion of one's party in favor of an opposing one. The question of disqualification under Tenth Schedule is decided by Speaker in Vidhan Sabha and Chairman in Vidhan Parishad.

#### **Oath:**

- Bear true faith & allegiance to Constitution of India
- Uphold Sovereignty & integrity of India
- Faithfully discharge duty of his office.

## OFFICERS OF THE STATE LEGISLATURE

### Presiding Officers of State Legislature:

Each house of state legislature has its own presiding officer.

- **Legislative Assembly:**
  - Speaker
  - Deputy Speaker
- **Legislative Council**
  - Chairman of Council
  - Deputy Chairman of Council

### Speaker of Rajasthan Vidhan Sabha

The assembly itself from amongst its members elects the Speaker. Usually, the speaker remains in office during the life of assembly. However, he vacates his office earlier in any of three following cases.

- (a) Shall vacate his office if he ceases to be a member of the Assembly;
- (b) May at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and
- (c) May be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly. Such a resolution can be moved only after giving 14 days advance notice.

### Powers & Functions of Speaker of Legislative Assembly:

- Maintain order and decorum in assembly for conducting its business.
- Final interpreter of:
  - Constitution of India
  - Rules of procedure and conduct of business of assembly.
  - Legislative precedents within the assembly.
- Adjourns assembly or suspends meeting in absence of quorum.
- Does not vote on first instance but can use his/her vote in case of tie.
- At request of leader of assembly, allow secret sitting of the assembly.
- Decides whether a bill is money bill.

- Decides on cases of disqualification of members on ground of defection under Xth Schedule.
- Appoints Chairman of all committees of assembly and supervises their working.
- Himself is the Chairman of:
  - Business Advisory Committee
  - Rules Committee
  - General Purpose Committee

**Important Facts:**

- First Speaker of Rajasthan Assembly: **Narottam Lal Joshi**

**Deputy Speaker of Rajasthan Vidhan Sabha**

Like the Speaker, the Deputy Speaker is also elected by the assembly itself from its members. The election for deputy speaker takes place after the election of Speaker has taken place.

**Article 180: Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.**

- While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose.
- The Speaker nominates from the members a panel of chairman. Any one of them can preside over the assembly in absence of both speaker and deputy speaker.

**Important Facts:**

- First Deputy Speaker of Rajasthan Assembly: **Lal Singh Shaktawat**

Speaker nominates from the members a panel of chairman. Any one of them can preside over assembly in absence of speaker / deputy-speaker.

**Pro-term Speakers of Rajasthan Vidhan Sabha**

**Pro-tem**, is a Latin phrase which best translates to “**for the time being**” in English. Legislative bodies can have one or more *pro tempore* for the post of presiding officer. As per the Constitution, the Speaker of the last Assembly vacates his office immediately before the first meeting of the newly- elected assembly. Therefore, the Governor appoints a member of the assembly as the Speaker Pro-term.

Usually, the senior most member is selected for this. The Governor himself administers oath to the Speaker Pro Tem.

#### Functions of Pro-Term Speaker:

- He presides over the first sitting of the newly elected assembly.
- His main duty is to administer oath to the new members.
- He also enables the House to elect the new Speaker. When the House elects the new speaker, the office of the Speaker Pro Tem ceases to exist.

#### Important Facts:

- First Pro-term Speaker of Rajasthan Assembly: **Maharav Sangram Singh**

## POWERS AND FUNCTIONS OF THE STATE LEGISLATURE

Each State Legislature exercises law-making powers over the subjects of the State List and the Concurrent List. In case a state has only Legislative Assembly, all the powers are exercised by it. However, even in case it is a bicameral state legislature with both Vidhan Sabha and Parishad, the Vidhan Sabha exercises almost all the powers. The Vidhan Parishad plays only a secondary, advisory and minor role.

## LEGISLATIVE PROCEDURE IN STATE LEGISLATURE

#### Sessions:

The Governor of the Rajasthan summons the House from time to time keeping in mind that the intervening period between the last sitting in one session and first sitting in next session *does not exceed six months*.

As per the Rules, Rajasthan Legislative Assembly shall have at least three sessions in a calendar year. The business of the House is decided by the House on the recommendation of the Business Advisory Committee.

#### Adjournment

An Adjournment suspends the work in a sitting for a specified time – hours, days or weeks. Here, adjournment *sine die* – terminating sitting for indefinite time. Power of adjournment – presiding officer.

### Prorogation

Presiding officer (speaker/ chairman) declares house adjourned *sine dine*. Then few days later, governor issues notification of for prorogation of session. However, Governor can also prorogue house which is in session.

In 2021, For the first time in the state, the monsoon session of the assembly is being convened as a continuation of the budget session after five-and-a-half months. The government did not send the file to the governor for prorogation of the budget session of the assembly. Hence, the budget session of the Assembly was not prorogued for more than five months.

### Dissolution

Dissolution ends the life of existing house and new house is constituted post general elections. What happens to bills?

- Bill pending in Rajasthan Vidhan Sabha lapses.
- Bill passed by Rajasthan Vidhan Sabha but pending assent of Governor does not lapse.
- Bill passed by Rajasthan Vidhan Sabha but returned by President for reconsideration does not lapse.

### Quorum

Stands for minimum number of members required to be present in house before it can conduct any business. Equals to 10 or 1/10<sup>th</sup> of number of house strength, whichever is higher. For Rajasthan Vidhan Sabha equals 20.

### Procedural Devices:

There are two types of procedural devices available. One is *Questions* and others are *Motions*.

- **Questions:** There are three categories of questions, Starred Questions, Unstarred Questions and Short Notice Questions. It is essential to give questions in the prescribed form with 14 clear days notice for starred and unstarred questions and shorter than 10 clear days notice for Short Notice Questions.
- **Motions:** Besides questions, the members may raise the matters of urgent and current public importance before the House through the devices like Half an Hour Discussion, Calling Attention Motion, Notice Under Rule 295 (Special Mention Procedure) for Short Duration Discussion, Adjournment Motion etc.

**Legislation:**

All the legislative proposals are to be brought in the form of *Bills* before the legislature. These can either be Government Bills or Private Members Bills. Government Bills are prepared and drafted by the Law Department of the State government.

**Process of Passing of Bill:**

There are three readings (stages) for passing a Bill.

- **First Reading:** The first reading means motion for leave to introduce a Bill and its adoption.
- **The Second Reading:** The second reading consists of discussion on the principles of the Bill and clause by clause consideration.
- **The Third Reading:** The third reading is completed when a motion for passing a Bill is adopted by the House.

After the House passes a Bill, it is presented to the Governor/President for assent. With such assent and its publication in the official gazette, it becomes law of the State.

*Note: Money can be introduced in State Assembly only after recommendation of the Governor and can only be introduced by a Minister.*

**Assent of the Governor:**

Every ordinary bill, after it is passed by the assembly, is presented to the Governor. There are four options before the Governor:

- May give his assent to the Bill
- May withhold his assent to the bill
- May return the Bill to the Legislative Assembly for reconsideration.
- May reserve the Bill for the consideration of the President

If the Governor gives his assent to the Bill then it becomes an Act. If the Governor withholds his assent to the Bill then bill does not become an act. If the Governor returns the bill to assembly and the assembly again passes the bill, with or without amendments, then Governor has to give assent to the Bill.

**Assent of the President:**

When the Governor reserves the Bill for consideration of the President, then President can either:

- Give his assent to the bill.

- Withhold his assent to the bill.
- Return the bill for reconsideration of assembly.

When bill is returned to the assembly by President, it must reconsider it within 6 months. After it is passed by Assembly again, with or without amendments, President can again give/withhold his assent to the bill.

#### **Committees:**

Legislative Committees can be divided into two categories - the Standing Committees and the Ad-hoc Committees. In Rajasthan Legislative Assembly, there are 18 Standing Committees out of which four are financial and the rest relates to various other subjects.

The financial committees are -

- **1. Public Accounts Committee**
  - Examine the Secretaries to Government on various irregularities in their Departments as pointed out in the Report of the Comptroller and Auditor General
- **2. Public Undertakings Committee**
  - Public Undertakings Committee is required to go into the functions of the various public undertakings and is expected to examine the Undertakings on various irregularities pointed out by the Report of the Comptroller and Auditor General under their control
- **Two Estimates Committees**
  - Report as to what economies can be effected and what improvements in particular organisation may be made and also to suggest alternative policies in order to bring about efficiency and economy in administration, as also changes in the form of budget estimates. (**3. Committee on Estimates "A" | 4. Committee on Estimates "B"**)

The financial committees are elected on the basis of proportional representation through single transferable vote and the rest are nominated by the Speaker. The Chairmen for all these committees are nominated by the Speaker from out of the members of these committees.

Besides the above mentioned four financial committees, the Rajasthan Legislative Assembly has following other 17 standing committees.

1. Committee on Subordinate Legislation
2. Committee on Welfare of Scheduled Tribes
3. Committee on Welfare of Scheduled Castes
4. Business Advisory Committee
5. House Committee
6. Rules Committee/ Sub-Rules Committee

7. Library Committee
8. Committee on Petitions
9. Committee on Privileges
10. Committee on Government Assurances
11. General Purposes Committee
12. Question & Reference Committee
13. Committee on Welfare of Women & Children
14. Committee on Welfare of Backward Classes
15. Committee on Welfare of Minorities
16. Committee on Local Bodies and Panchayat Raj Institutions
17. Committee on Environment
18. Committee on Ethics

**General features of the Committees:**

- These committees are constituted from the members of the ruling as well as opposition parties generally in proportion to their strength in the House.
- The term of office of the members of the committee is generally one year.
- No minister can be a member of the committee except in the case of Select Committees on Government Bills.
- Normally, the Chairman of the Committees presents the Reports of these committees to the House but in inter-session period the Chairman may submit the Report to the Speaker.

**Rajasthan Vidhan Sabha Important Committees & their Chairman (2021-22)**

S.No.	Financial Committee's Name	Chairman
1.	Committee on Public Accounts	Gulab Chand Kataria
2.	Committee on Public Undertaking	Hemaram Choudhary
3.	Committee on Estimates "A"	Rajendra Pareekh
4.	Committee on Estimates "B"	Dayaram Parmar

S.No.	Committee's Name	Chairman
1.	Business Advisory Committee	C. P Joshi (Speaker)
2.	General Purpose Committee	C. P Joshi (Speaker)
3.	Rules Committee/Sub-Rules Committee	C. P Joshi (Speaker)
4.	Committee on Local Bodies and PRI's	Dr. Rajkumar Sharma
5.	Committee on Environment	Manju Devi
6.	Committee on Ethics	Deependra Singh
7.	Committee on Government Assurances	Bhanwar Lal Sharma
8.	Committee on Petitions	Arjun Lal Jingar
9.	Committee on Privileges	Shakuntala Rawat
10.	Committee on Subordinate Legislation	Narendra Budania
11.	Committee on Library	Ram Narayan Meena
12.	Committee on Questions & References	Brijendra Singh Olan

13.	Committee on Welfare of Schedule Tribes	Mahendra Singh Malviya
14.	Committee on Welfare of Schedule Caste	Ashok Bairwa
15.	Committee on Welfare of Minorities	Ameen Khan
16.	Committee on Welfare of OBC	Jitendra Singh
17.	Committee on Welfare of Women & Children	Anita Bhadel

### Origin & Growth of Rajasthan Vidhan Sabha

Though the Rajasthan Vidhan Sabha came in to existence in **March 1952**, the people of Rajasthan had experienced some kind of a parliamentary democracy even under the princely rule. The Maharaja Ganga Singh of Bikaner was one such progressive king who gave the House of Representatives to the people of **Bikaner State** in 1913.

Maharaja Ummed Singh of **Jodhpur** accepted the principle of people's participation in the administration in the 1940s and accorded his approval to the setting up of the Central and District Advisory Boards.

In **Jaipur State**, a Vidhan Samiti consisting of both official and non-official members was created in 1923. Later, Maharaja Mansingh constituted a Central Advisory Board in 1939 with a view to eliciting public opinion through representatives on matters of public interest and importance. It consisted of 13 nominated members and 35 non-official members and was given the power to advise on matters relating to medical facilities, sanitation, public works, roads, wells & buildings, public education, rural upliftment, marketing, commerce & trade etc. It was inaugurated on 18 March, 1940.

Under the pressure of changed political situation in **Udaipur**, a Reforms Committee headed by Shri Gopal Singh was constituted in May, 1946. The Committee consisted of official and non-official members including five representative of the Praja Mandal and recommended setting up of a Constituent Assembly to prepare a Constitution for Mewar. The Maharana did not accept this recommendation but eventually agreed to the setting up of an Executive Council in October, 1946, to

which he appointed Shri Mohan Lal Sukhadia and Shri Hira Lal Kothari as the representatives of the Praja Mandal and Shri Raghbir Singh as the representative of the Regional Council

Maharaja Ishwar Singh of **Bundi** set up the 'Dhara Sabha' on 18 October, 1943. It consisted of 23 members out of which 12 were elected members and 11 were nominated members. The members of the Tehsil Advisory Boards and the Town Council elected members to the 'Sabha'. The Dhara Sabha had the power to ask questions to the Government and to adopt Resolutions on matter of Public interest. The Committee did not possess any constitutional and economic powers. Its status was not higher than that of an Advisory Committee.

The Maharaja of **Banswara** formed a "Rajya Parishad" on 3 February, 1939. All the 32 members of the Council were nominated members, which included seven employees and eight 'Jagirdars'. The 'Rajya Parishad' had the power to put questions, adopt Resolutions and enforce laws with the assent of the Maharaja.

At time of Independence, Rajputana included twenty-two small and big Princely States. Though these Princely States were declared to have been annexed to the Union of India on 15 August, 1947, the process of merger and their unification became complete only in April, 1949, in five phases. The process of the creation of Legislative Council had started during the final phase of the formation of Rajasthan. This process continued upto the beginning of 1952. The *First Rajasthan Legislative Assembly (1952–57)* was inaugurated on 31 March 1952 and had strength of 160 members.

#### **Strength of Rajasthan Legislative Assembly:**

- The strength was increased to 190 after the merger of the erstwhile Ajmer State with Rajasthan in 1956.
- The Second (1957–62) and Third (1962–67) Legislative Assemblies had a strength of 176.
- The Fourth (1967–72) and Fifth (1972–77) Legislative Assembly comprised 184 members each.
- The strength became 200 from the Sixth (1977–1980) Legislative Assembly onwards.

### Rajasthan Vidhan Sabha in Present Context:

As per the provisions of Article 168 of the Constitution of India, every state has a state legislature consisting of one or two Houses. Rajasthan has a unicameral character (only Vidhan Sabha) and its legislature is known as the Rajasthan Legislative Assembly or Rajasthan Vidhan Sabha. The present Rajasthan Vidhan Sabha or the Legislative Assembly is situated in the capital city of Jaipur.

Rajasthan Vidhan Sabha was first formed in March 1952 and this process is continuing with the exceptions of 1967, 1977, 1980 and 1992 when the Presidential Rule was in force. The current Legislative Assembly, which is the *14th Assembly* of the Rajasthan Vidhan Sabha, was elected in 2013.

#### Strength & Constituencies of Rajasthan Vidhan Sabha:

The strength of the Rajasthan Legislative Assembly which is determined by *delimitation Commission*, was **160 in 1952**. Currently, there are a total of **200** Assembly constituencies in Rajasthan, which are represented by 200 MLAs or Members of Legislative Assembly.

At present, 34 constituencies are reserved for the candidates belonging to the Scheduled castes and 25 are reserved for the candidates belonging to the Scheduled tribes.

#### District-wise list of Constituencies:

S.No.	District	Districts
1	Ajmer - 8	8
2	Alwar	11
3	Banswara	5
4	Baran	4
5	Barmer	7
6	Bharatpur	7
7	Bhilwara	7
8	Bikaner	7
9	Bundi	3
10	Chittorgarh	5

11	Churu	6
12	Dausa	5
13	Dholpur	4
14	Dungarpur	4
15	Hanumangarh	5
16	Jaipur	19 (Highest)
17	Jaisalmer	2 (Lowest )
18	Jalor	5
19	Jhalawar	4
20	Jhunjhunu	7
21	Jodhpur	10
22	Karauli	4
23	Kota	6
24	Nagaur	10
25	Pali	6
26	Pratapgarh	2 (Lowest )
27	Rajsamand	4
28	Sawai Madhopur	4
29	Sikar	8
30	Sirohi	3
31	Sri Ganganagar	6
32	Tonk	4
33	Udaipur	8
<b>Total Constituencies in Rajasthan</b>		<b>200</b>

### 15th Assembly of Rajasthan: Important Persons

<b>Speaker</b>	Dr. C P Joshi
<b>Deputy Speaker</b>	
<b>Leader of the House (Chief Minister)</b>	Ashok Gehlot
<b>Leader of the Opposition</b>	Gulab Chand Kataria
<b>Proterm Speaker</b>	Gulab Chand Kataria
<b>Government Chief Whip</b>	Dr. Mahesh Joshi

### **Rajasthan Vidhan Sabha: Business Procedure Rules**

The Rajasthan Legislative Assembly has framed 'Rules of Procedure and Conduct of Business in Rajasthan Legislative Assembly for regulating the business of the House and its Committees. They were first framed in 1956 and after many amendments, the latest Fourteenth Edition has been printed in 2014.

As per the Rules, Rajasthan Legislative Assembly shall have at least three sessions in a calendar year. The House on the recommendation of the Business Advisory Committee decides the business of the House.

### **Rajasthan Vidhan Parishad**

Rajasthan does not have any Upper House of Vidhan Parishad. However, attempts have been made to create legislative council in the state. On April 18, 2012, the Rajasthan Legislative Assembly passed a resolution to create Legislative Council for the state of Rajasthan with 66 members. Union Cabinet cleared the proposal and bill was tabled in Parliament but failed to pass. Since, then there have been deliberation at Union Government level, but no actions have been taken. As a result, Rajasthan is still a unicameral state.

House	House Tenure		Total Seats	Seats of Ruling Party	Seats of Opposition	Name of Chief Minister	Name of Opposition Leader
	Constitution Oath Date	Upto					
<b>First</b>	23-02-1952 29-03-1952	23-03-1957	160	82 (Congress)	78 (RRP & Others)	1. Tikaram Paliwal 2. Jai Narain Vyas 3. M.L. Sukhadia	Jaswant Singh (Ind.)
<b>Second</b>	02-04-1957 24-04-1957	01-03-1962	176	119 (Congress)	57 (Praja Pragatisheel Dal & Others)	M.L. Sukhadia	
<b>Third</b>	03-03-1962 13-03-1962	28-02-1967	176	89 (Congress)	87 (Swatantra Party & Others)	M.L. Sukhadia	Laxman Singh
<b>Fourth</b>	13-03-1967 03-05-1967	15-03-1972	184	103 (Congress)	81 (Swatantra Party & Others)	1. M.L. Sukhadia 2. Barkatullah Khan	Laxman Singh
<b>President Rule</b>	13-03-1967	26-04-1967					
<b>Fifth</b>	15-03-1972 20-03-1972	30-04-1977	184	145 (Congress)	39 (Swatantra Party & Others)	1. Barkatullah Khan 2. Haridev Joshi	Laxman Singh
<b>President Rule</b>	30-04-1977	21-06-1977					
<b>Sixth</b>	22-06-1977 18-07-1977	17-02-1980	200	150 (Janata Party)	50 (Indian National Congress & Others)	Bhairon Singh Shekhawat	1. Parshram Maderna 2. Ram Narayan Choudhary 3. Laxman Singh
<b>President Rule</b>	17-02-1980	05-06-1980					
<b>Seventh</b>	06-06-1980 04-07-1980	09-03-1985	200	133 (Congress-I)	67 (BJP & Others)	1. Jagannath Pahadia 2. Shiv Charan Mathur 3. Hiralal Devpura	Bhairon Singh Shekhawat
<b>Eighth</b>	09-03-1985 19-03-1985	01-03-1990	200	113 (Congress-I)	87 (BJP & Others)	1. Haridev Joshi 2. Shiv Charan Mathur	1. Bhairon Singh Shekhawat 2. Prof. Kedar Nath Sharma
<b>Ninth</b>	02-03-1990 15-03-1990	15-12-1992	200	84 BJP 54 JD	62 (Congress & Others)	Bhairon Singh Shekhawat	Haridev Joshi
<b>President Rule</b>	15-12-1992	03-12-1993					
<b>Tenth</b>	04-12-1993 28-12-1993	30-11-1998	200	124 (BJP & Others)	76 (INC)	Bhairon Singh Shekhawat	Parshram Maderna
<b>Eleventh</b>	01-12-1998 04-01-1999	05-12-2003	200	152 (INC)	48 (BJP & Others)	Ashok Gehlot	1. Bhairon Singh Shekhawat

							2. Gulab Chand Katariya
<b>Twelfth</b>	05-12-2003 15-01-2004	10-12-2008	200	123 (BJP)	77 (INC & Others)	Smt. Vasundhara Raje	1. Dr. B.D. Kalla 2. Ram Narayan Chaudhary 3. Hema Ram Chaudhary
<b>Thirteenth</b>	11-12-2008 01-01-2009	09-12-2013	200	102 (INC)	98 (BJP & Others)	Ashok Gehlot	1. Smt. Vasundhara Raje 2. Smt. Vasundhara Raje 3. Gulab Chand Kataria
<b>Fourteenth</b>	11-12-2013 21-01-2014	12-12-2018	200	163 (BJP)	37 (INC & Others)	Smt. Vasundhara Raje	Rameshwar Lal Dudi
<b>Fifteenth</b>	12-12-2018 15-01-2019	Cont.	200	107 (INC)	93 (BJP & Others)	Ashok Gehlot	Gulab Chand Kataria

## Elections

In the democratic setup of India, there are three main types of Elections.

- First, election to the Parliament – MP's
- Second, election to legislative assembly – MLA's
- Third, election to Local Bodies – PRI's & ULB's

While first and second elections are conducted by Election Commission of India (Constitutional Body article 324), election to local bodies are conducted by State Election Commission (again Constitutional body)

### **Elections conducted by Election Commission of India**

Under Article 324(1) of the Constitution of India, the Election Commission of India, is vested with the power of superintendence, direction and control of conducting the elections *to both Houses of Parliament*. Detailed provisions are made under the Representation of the People Act, 1951 and the rules made there under this Act.

Additionally, Article 324 (1) also vests in the Election Commission of India with the powers of superintendence, direction and control of the elections to the *State Legislature*. Detailed provisions of these elections are also made under the Representation of the People Act, 1951 and the rules made there under this Act.

#### **Organizational Structure:**

- At present, the Election Commission of India is a three-member body, with one Chief Election Commissioner and two Election Commissioners.
- At State level, the Chief Electoral Officer of the State supervises the election work under the overall superintendence, direction and control of the Election Commission.
- At District level, the District Election Officer (DEO) supervises the election work of a district.
- At Constituency level (Parliamentary or Assembly), the Returning Officer of a parliamentary or assembly constituency is responsible for the conduct of elections.
- On a Polling Station within the Constituency, the Presiding Officer with the assistance of polling officers conducts the poll.

Additionally, Under section 20B of the Representation of the People Act 1951, the Election Commission of India nominates officers of Government as Observers (General Observers and Election Expenditure Observers) for parliamentary and assembly constituencies.

### Electoral Roles:

The Electoral Registration officer (ERO) is responsible for the preparation of electoral rolls for a parliamentary / assembly constituency.



## Parliamentary Constituencies in Rajasthan:

### Lok Sabha Constituencies:

- There are 25 Lok Sabha Constituencies in State of Rajasthan.

### Rajya Sabha Seats from Rajasthan:

- There are 10 Rajya Sabha seats from Rajasthan.
- Members to Rajya Sabha are elected by the Legislative Assembly of States and Union territories by means of Single transferable vote through Proportional representation.

## Elections conducted by State Election Commission

The State Election Commission constituted under the Constitution (Seventy-third and Seventy-fourth) Amendments Act, 1992 for each State / Union Territory are vested with the powers of conduct of elections to the *Corporations, Municipalities, Zilla Parishads, District Panchayats, Panchayat Samitis, Gram Panchayats and other local bodies*. It is independent of the Election Commission of India.

The SEC is a single member Commission headed by the State Election Commissioner. It has a Secretary who is also the Chief Electoral Officer for the State. The Commission discharges its Constitutional duty by way of preparing electoral rolls and holding elections for Panchayati Raj Institutions as well as for Municipal bodies.

## Seventh Schedule

The Seventh Schedule in Constitution of India gives allocation of powers and functions between Union & States. It contains 3 lists

- Union List (For Union Govt) 97 Subjects – **Currently 100**
- States List (Powers of State Govt) 66 subjects – **Currently 61**
- Concurrent List (Both Union & States) 47 subjects – **Currently 52**

There are the following three lists:

1. **Union list:** only the union can make laws on the subjects contained in these lists. It includes all the subjects of central importance like defence.
2. **State list:** only the state is empowered to make laws on such subjects barring few exceptional situations. Subjects like land feature in this list.
3. **Concurrent list:** Both the state and the centre can make laws on the subjects mentioned in this list.

As with the Canadian federal government, Residual powers (items that are not mentioned in any of the list) remain with the Union Government.

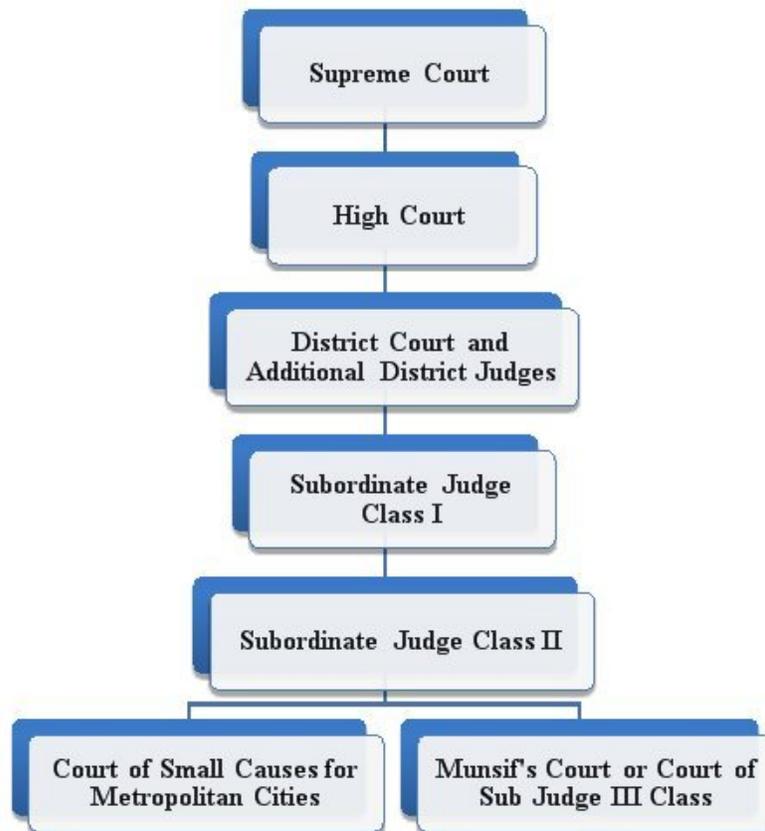
### 42<sup>nd</sup> Amendment 1976

Through the 42nd Amendment Act of 1976, five subjects were transferred from State to Concurrent List. They are:

1. Education
2. Forests
3. Weights & Measures
4. Protection of Wild Animals and Birds
5. Administration of Justice

## Courts in Rajasthan

India has single integrated judicial system. The judiciary in state consists of a high court & a hierarchy of subordinate courts.



### High Courts in Constitution of India:

Articles 214 to 231 in Part VI in Constitution deal with High Courts.

Constitution of India established high court for each state but 7<sup>th</sup> Constitution Amendment (1956) authorized Parliament to setup common high court for two or more states/States+UTs.

### Composition of High Courts

President determines strength of high court. Accordingly, Rajasthan High Court has sanctioned strength of 50 judges.

## Appointment of Judges of High Court

- Appointed by the President.
- The Chief Justice is appointed with consultation of Chief Justice of India & State Governor.
- For appointment of other judges, chief justice of HC is also consulted.
- Oath by Governor

## Qualification for HC judge

- Citizen of India
- Held judicial office in territory of India for 10 years or
- Been an advocate of High Court(s) for 10 years.

## Salaries & Allowances

- Determined by Parliament. Accordingly, in 2018 upgraded, Salary Chief Justice 2.5 Lac/month & other judges 2.25 lac/month + allowances
- Retired judges pension equals 50% of last drawn salary.
- Salaries + allowances charged on Consolidated fund of State but Pension charged on Consolidated fund of India.

## Tenure

- Hold office until age of 62 years.

## Removal

- President can remove but only after Parliament address.
- Parliament address – must be approved by each house by Special Majority (more than ½ of strength & more than 2/3 of present & voting)
- Grounds for removal – proved misbehavior or incapacity.
- Removal process is same as judge of SC.

## Process of Removal (Regulated by Judges Enquiry Act 1968)

1. Removal motion signed by 100 members (Lok Sabha) or 50 members (Rajya Sabha) to be given to speaker/ chairman.
2. Speaker/ chairman may admit or refuse
3. If admit, Speaker/ chairman constitute 3 member committee to investigate. Includes –Chief Justice or Other SC judge + Chief Justice of HC+ distinguished jurist
4. Committee finds guilty – then house can take up.

5. After motion passed by each house by special majority , an address presented to President.
6. President then passes order for removal.

### Transfer

- President can transfer judge 1 HC to other after consultation with Chief Justice of SC.

### Provisions in Constitution for Independence of HC:

- Mode of appointment
- Security of tenure
- Fixed service conditions
- Expenses charged on consolidated fund
- Conduct of judges cannot be discussed in Parliament or State Legislature
- Ban on practice after retirement
- Power to punish for its contempt
- Freedom to appoint its staff
- Jurisdiction cannot be curtailed
- Separation from executive

### Jurisdiction of HC:

- Original Jurisdiction
- WRIT Jurisdiction
- Appellate Jurisdiction
- Supervisory Jurisdiction
- Control over Sub-ordinate Courts
- A Court of Record
- Power of Judicial Review

## Subordinate Courts in Constitution

Articles 233 to 237 in Part VI of Constitution deal with Subordinate Courts.

### Appointment:

- Appointment, promotion, postings – made by Governor in consultation with HC.

### Qualification

- Should not already be in Central/State Government Service.

- Should have been advocate/pleader for seven years.
- Should be recommended by High Court.

## High Court of Rajasthan

The **Rajasthan High Court** is the High Court of the state of Rajasthan. Rajasthan High Court was established on 21 June 1949 under the Rajasthan High Court Ordinance, 1949. The high court has its principal seat at Jodhpur and a bench at Jaipur.

- The first Chief Justice was: **Kamala Kant Verma**

The Rajasthan High Court Rules 1952, as amended from time to time, regulate the administrative business and judicial work in the High Court.

## District Courts in Rajasthan

Under the Rajasthan High Court, there is a hierarchy of courts which are referred to in the Indian constitution as subordinate courts. There are two kinds of Subordinate Courts: the District Courts and others.

The state is divided into districts and each district has a district court, which has an appellate jurisdiction in the district. These courts are under administrative control of the High Court. Currently, in the lower judiciary, there are 36 courts of District & Sessions Judges in Rajasthan.

S. No.	District Courts under Jodhpur Bench	S. No.	District Court under Jaipur Bench
1	Balotra (Barmer)	1	Ajmer
2	Banswara	2	Alwar
3	Bhilwara	3	Baran
4	Bikaner	4	Bharatpur
5	Chittorgarh	5	Bundi
6	Churu	6	Dausa
7	Dungarpur	7	Dholpur

8	Hanumangarh	8	Jaipur
9	Jaisalmer	9	Jaipur Metro
10	Jalore	10	Jhalawar
11	Jodhpur Metro	11	Jhunjhunu
12	Jodhpur	12	Karauli
13	Merta (Nagaur)   Merta	13	Kota
14	Pali	14	Sawai Madhopur
15	Pratapgarh	15	Sikar
16	Rajsamand	16	Tonk
17	Sirohi		
18	Sri Ganganagar		
19	Udaipur		

### District Judge

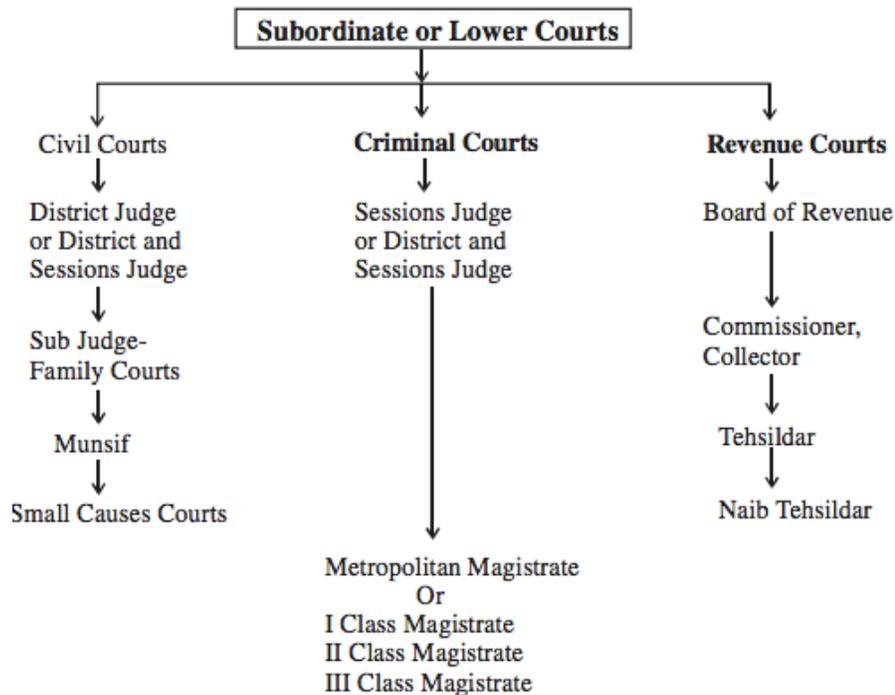
The court of the District judge is located at the district headquarters. It has power of trying both civil and criminal cases. Thus he is designated as the District and Sessions Judge. When district judge deals with civil cases, he is known as District Judge and when he deals with criminal cases he is known as Session Judge.

The district Judge is the highest judicial authority in the district and exercises both judicial and administrative powers over all the subordinate courts in the district.

- He possess original and appellate jurisdiction in both the civil and criminals matters.
- Appeals against his orders and judgments lie to the High Court.
- The sessions judge has the power to impose any sentence including life imprisonment and death sentence. However, death sentence passed by him is subject to confirmation by the High Court, whether there is an appeal or not.

## Sub-Ordinate Courts in Rajasthan

In each district of India there are various types of subordinate or lower courts. They are civil courts, criminal courts and revenue courts. These Courts hear civil cases, criminal cases and revenue cases, respectively.



Under the district courts, there are the lower courts such as the Additional District Court, Sub-Court, Munsiff Magistrate Court, Court of Special Judicial Magistrate of the II Class, Court of Special Judicial Magistrate of I Class, Court of Special Munsiff Magistrate for Factories Act and Labour Laws, etc.

At the bottom of the hierarchy of Subordinate Courts are the Panchayat Courts (Nyaya Panchayat, Panchayat Adalat etc). These are, however, not considered as courts under the purview of the criminal courts jurisdiction. Most of the civil cases are filed in the court of the Munsif. A case can be taken in appeal from the court of the Munsif to the court of the sub-Judge or the Additional Sub-Judge.

## Rajasthan State Legal Service Authority

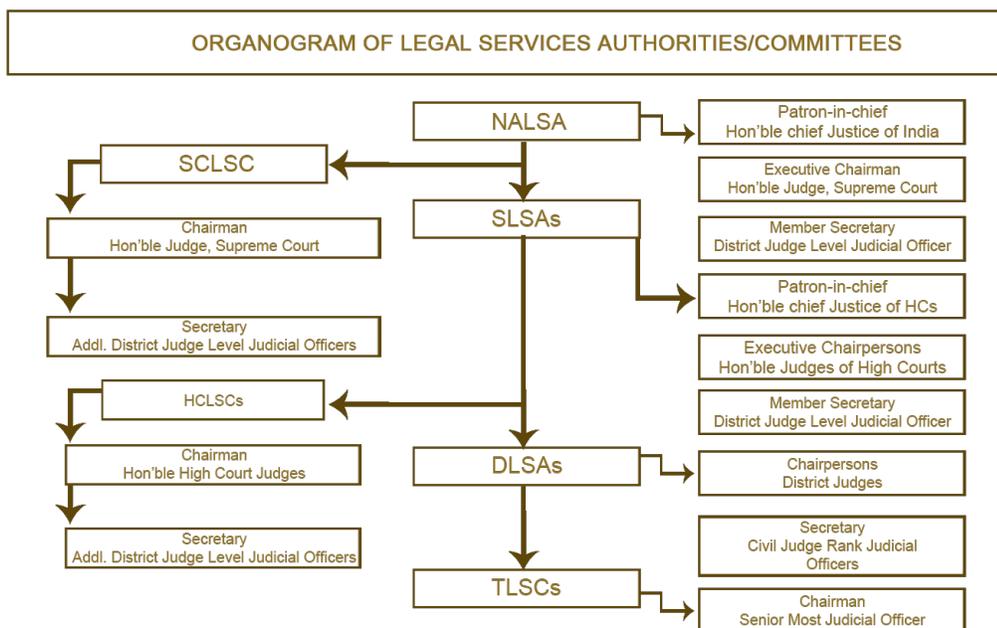
The Constitution of India outlines promise of securing to all the citizens social, economic and political justice. Article 39 A of the Constitution of India provides for free legal aid to the poor and weaker sections of the society, to promote justice on the basis of equal opportunity. Rajasthan State Legal Service Authority is an institution created to pursue these objectives.

### Statutory Provisions: RLSA

In 1987, the Legal Services Authorities Act was enacted by the Parliament, which came into force on 9th November, 1995. This has led to the setting up of *Legal Services Authorities* at the National, State and District levels along with *Legal Services Committees* at the Supreme Court, High Court and the Taluka levels.

The Government of Rajasthan in consultation with the Chief Justice of the High Court, framed the Rajasthan State Legal Services Authority Rules, 1995, and later Regulations, 1999 - to give effect to the provision of the Legal Services Authority Act, 1987( Act No.39 of 1987). Consequently, The Rajasthan State Legal Services Authority came into existence on 07.07.1998 by notification issued by the State Government.

### Organisation Structure: Legal Service Authority



### Composition of Rajasthan State Legal Service Authority

A State Authority shall consist of:

- (a) the Chief Justice of the High Court who shall be the Patron-in-Chief;
- (b) a serving or retired Judge of the High Court, to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and
- (c) such number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

#### **Rajasthan Legal Service Authority: Important Members**

- Patron in Chief: Chief Justice, Rajasthan High Court - **Justice Indrajit Mahanty**
- Executive Chairman: **Justice Sangeet Raj Lodha**- Judge, Rajasthan High Court.

#### **Important Functions of Rajasthan Legal Service Authority**

The Act mandates the State Legal Service Authorities to perform three primary functions:

- (a) Provide free legal service to the weaker sections of the society.
- (b) Conduct Lok Adalats including Lok Adalats for High Court cases; and
- (c) Undertake preventive and strategic legal aid programmes and create legal awareness.

#### **Who is entitled for Free Legal Aid ?**

Any person who fulfils the eligibility criteria as prescribed by Section 12 of the Legal Services Authorities Act, 1987 can avail of the free legal services. This includes:

- a) member of a Scheduled Caste or Scheduled Tribe;
- b) victim of trafficking in human beings or beggar as referred in article 23 of the Constitution;
- c) woman or a child;
- d) a mentally ill or otherwise disabled person;
- e) victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
- f) an industrial workman; or
- g) persons in custody; or
- h) persons in receipt of annual income not more than 1,50,000.

#### **RSLSA Activities:**

- State & District Legal Aid Fund have been created for being utilised for the purposes of this Act.
- The Rajasthan SLSA has appointed 30000 legal services volunteers for implementation of legal aid programs. Prominent persons of the society including the Sarpanchs, NGOs and Anganwadi workers are involved in the legal literacy programs.

- Till 2017, RLSA has been able to provide free legal aid to approximately **1,32,000** beneficiaries.
- Organisation of Lok Adalats & Legal Awareness Camps.

## Lok Adalats in Rajasthan

**Lok Adalat** is a system of alternative dispute resolution developed in India. It may be called "People's court". Lok Adalat is a forum where the disputes/cases pending in the court of law or at pre-litigation stage are settled/compromised amicably. The Lok Adalat has been given statutory status under the Legal Services Authorities Act, 1987. Under the said Act, the award made by the Lok Adalats is deemed to be the decree of a civil court and is final and binding on all parties and no appeal lies before any court against its award.

### Nature of Cases to be referred to Lok Adalats:

1. Any case pending before any court.
2. Any dispute, which has not been brought before any court and is likely to be filed before the court.

However, only compoundable offences can be adjudged in Lok Adalat.

### Types of Lok Adalats:

#### **National Lok Adalat**

National Level Lok Adalats are held for at regular intervals where on a single day Lok Adalats are held throughout the country, in all the courts right from the Supreme Court till the Taluk Levels wherein cases are disposed off in huge numbers.

#### **Mega Lok Adalat:**

This is organised in the State on a single day in all courts of the State.

#### **Permanent Lok Adalats**

Permanent Lok Adalats are organized under Section 22-B of The Legal Services Authorities Act, 1987. Permanent Lok Adalats have been set up as permanent bodies with a Chairman and two members for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to Public Utility Services like transport, postal, telegraph etc.

Here, even if the parties fail to reach to a settlement, the Permanent Lok Adalat gets jurisdiction to decide the dispute, provided, the dispute does not relate to any offence. Further, the Award of the Permanent Lok Adalat is final and binding on all the parties.

The jurisdiction of the Permanent Lok Adalats is upto Rs. 1 Crore . The Lok Adalat may conduct the proceedings in such a manner as it considers appropriate, taking into account the circumstances of the case, wishes of the parties like requests to hear oral statements, speedy settlement of dispute etc.

### **Mobile Lok Adalats**

Mobile Lok Adalats are also organized in various parts of the country which travel from one location to another to resolve disputes in order to facilitate the resolution of disputes through this mechanism.

### **General Features of Lok Adalats:**

- If the parties are not satisfied with the award of the Lok Adalat though there is no provision for an appeal against such an award, but they are free to initiate litigation by approaching the court of appropriate jurisdiction by filing a case by following the required procedure, in exercise of their right to litigate.
- There is no court fee payable when a matter is filed in a Lok Adalat. If a matter pending in the court of law is referred to the Lok Adalat and is settled subsequently, the court fee originally paid in the court on the complaints/petition is also refunded back to the parties.
- The persons deciding the cases in the Lok Adalats are called the Members of the Lok Adalats, they have the role of statutory conciliators only and do not have any judicial role; therefore they can only persuade the parties to come to a conclusion for settling the dispute outside the court in the Lok Adalat and shall not pressurize or coerce any of the parties to compromise or settle cases or matters either directly or indirectly.

## Chief Secretary

The State Secretariat is the principal executive instrument of the State government and is responsible for administering the State Subjects. Each Secretariat Department has a civil servant as its head, who assists the Minister concerned in execution of policies. The chief secretary is the head of these permanent executives and is referred to as executive head of Secretariat.

### **Powers and functions of Chief Secretary:**

The principal functions of the Chief Secretary are:

- Principal advisor to the Chief Minister on all the matters of the State administration.
- Secretary to the State Cabinet.
- Administrative head of the State Secretariat and attends the meeting of the Cabinet and its sub-Committees, if necessary.
- Prepares the agenda for the Cabinet meetings and keeps records of its proceedings.
- Acts as the head of the State Civil Services. In this capacity, deals with all the cases related to appointment, transfers, promotion of senior State Civil Servants. Conscience-keeper to all the State Civil Servants.
- Chief coordinator of the State administration and ensures inter-departmental co-ordination.
- The Chairman of co-ordination committees set up for inter-departmental disputes. Presides over the meetings of the departments' Secretaries.
- Presides over the conferences attended by the Divisional Commissioners, the District Collectors and the heads of the departments of district administrations to effect coordination.
- Acts as the administrative head of some secretariat departments.

### **Chief Secretary of Rajasthan:**

- **First:** Sh. K. Radhakrishnan

## State Secretariat

The Council of Ministers being a body of political leaders cannot be expected to perform the detailed administrative functions themselves. They need advice of professional administrators in performance of these functions. This advice is provided by a body of officers known as the Secretariat.

### **Secretariat Definition:**

The expression “Secretariat” is used to refer to the complex of departments whose political heads are ministers while the administrative heads are Secretaries to the Government. The entire administrative machinery of the state is divided into several departments. The ministers are incharge of these departments and are answerable to the legislature for the activities . Below the ministers are posted in each department several career civil servants who carry out the orders of their respective ministers, advise them and help them by providing necessary information required for facing the legislature and its committees.

### **Relation between Secretariat & Directorate:**

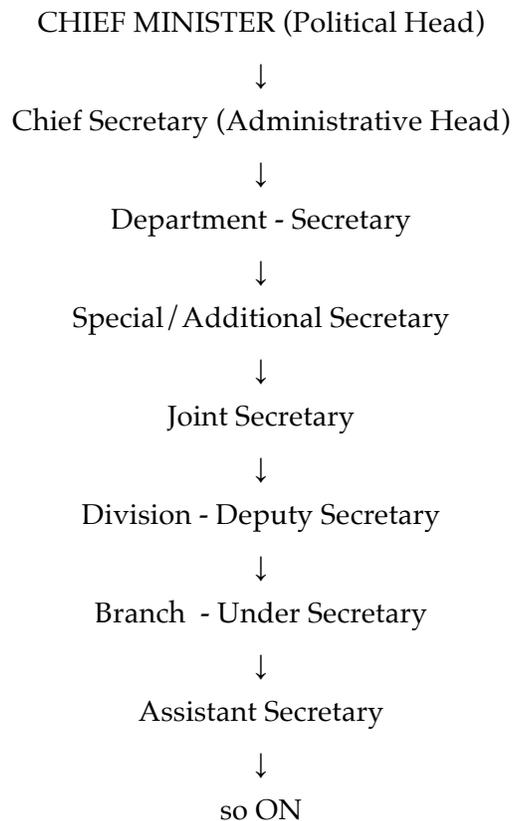
The three components of government at the state level are:

- (i) the minister;
- (ii) the secretary, and
- (iii) the executive head. (The last one in most cases is called the director, although other nomenclatures are also used to refer to the executive head).

The minister and the secretary together constitute the Secretariat, whereas the office of the executive head is designated as the Directorate. The Agriculture Department in the secretariat, for instance is headed by the Secretary Agriculture, but has the Director of Agriculture as its head of the department (Directorate).

### **Organisation of State Secretariat**

The entire administrative machinery of the state is divided into several departments. The Business of the State Government is transacted in Secretariat Departments and distributed between these Departments.



The Secretary is overall in-charge of the department. He is the principal advisor to the minister and responsible for carrying out the policies and decisions made by political chief. Each secretary is normally in charge of more than one department. The number of secretariat departments is usually larger than the number of secretaries.

#### **Role of State Secretariat:**

The State Secretariat, as the top layer of the state administration, is primarily meant to assist the state government in policy making and in discharging its legislative functions. It also acts "as a memory and a clearing house, preparatory to certain types of decisions and as a general supervisor of executive action". The main functions of the State Secretariat are broadly as follows:

- Assisting the ministers in policy making, in modifying policies from time to time and in discharging their legislative responsibilities
- Framing draft legislation, and rules and regulations
- Coordinating policies and programmes, supervising and controlling their execution, and reviewing of the results
- Budgeting and control of expenditure

- Maintaining contact with the Government of India and other state governments;
- Overseeing the smooth and efficient running of the administrative machinery and-initiating measures to develop greater personnel and organisational competence.

## Directorates

The Secretariat is concerned with setting the broader policies and goals of the State Government while the responsibility for achieving these policies and executing the orders rests with heads of executive departments. These executive agencies, as a rule, are located outside the Secretariat and constitute distinct organisational entities referred to as Directorates.

### **Definition of Directorates:**

Directorates are the executive arm of the state government; they translate into action the policies that are framed by the State Secretariat. Even though the terms 'Directorates' and 'Executive Agencies' are often used interchangeably, Directorates are nothing but one type of executive agency.

Directorates are classified into two categories - Attached Offices and Subordinate Offices.

The Attached Offices are responsible for providing executive direction required for the implementation of the policies laid down by the Ministry to which they are attached. They also serve as repository of technical information and advice to the Ministry on technical aspects of the questions dealt with by them.

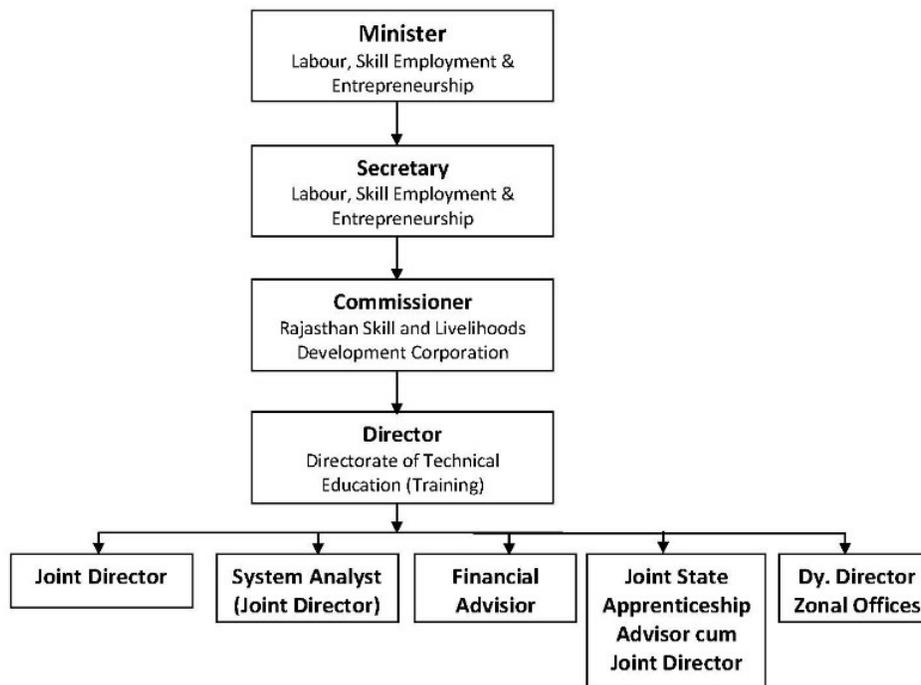
The Subordinate Offices function as field establishments or as the agencies responsible for the detailed execution of the decisions of government. They generally function under the direction of an Attached Office.

Thus, the Attached Offices have in essence a two-fold function. First, they furnish technical data and advice to the Ministry to which they are attached. The second function of the Attached Office is to provide executive directions to the agencies, which are responsible for implementing the policies of government. As contrasted with the attached Office, a Subordinate Office functions as the field establishment or as the agency responsible for the detailed execution of the policies and programmes of the government. As a rule, it functions under an Attached Office.

### **Organisation of Directorates**

Heads of departments are officers who are in charge of the actual administration of specific services or administration and execution of projects. The Heads of the Departments are usually called *Directors or Commissioners*. The State Government exercises control over the working of heads of departments through "administrative departments" of the secretariat. The Secretaries are the "ears and eyes" of the Ministers, while the Heads of Departments are their "Hands". The head of the department is generally a specialist and a secretary is a generalist civil servant.

The directors or Commissioners are assisted by Additional Directors, Joint directors, Deputy Directors and Assistant Directors.



### Functions of the directorates

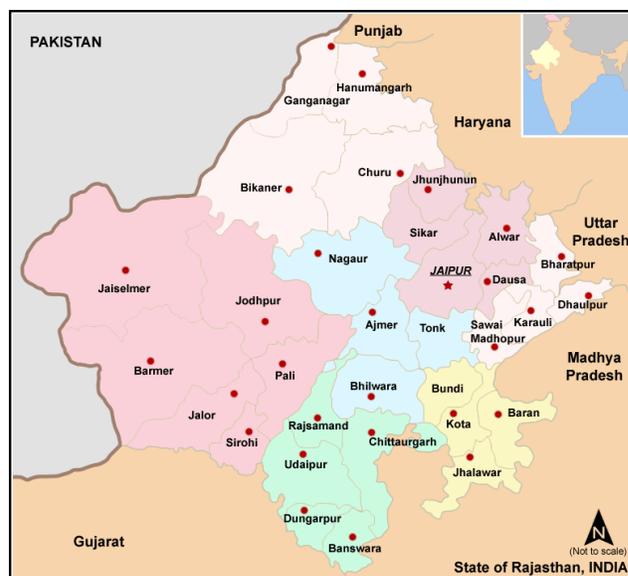
- Formulation of Departmental budget;
- Acting as technical adviser to the Minister;
- Inspection of the execution of work of departmental district staff;
- Allocation of grants according to rules, making budget re-appropriation within prescribed limits;
- Making within approved rules all appointments, confirmations, postings transfers, promotions of all subordinate officers including also sanctioning of leave and making acting arrangements
- Exercising disciplinary powers over all subordinate officers according to rules
- Advising Public Service Commission concerning promotions and disciplinary actions
- Sanctioning the attendance of officers at conference other than inter-state or government of India conferences.

## Administrative Setup

The state of Rajasthan has been divided into 33 districts. However, from administration point of view, there is a multi-layer structure of administration. The State of Rajasthan is divided into 7 divisions, these divisions include within them group of districts. Each of the districts is divided into Sub-division consisting of Tehsils, sub-tehsils and villages.

### Divisions in Rajasthan

- **Ajmer Division:** Includes 4 districts Ajmer, Bhilwara, Nagaur, Tonk.
- **Bharatpur Division:** Includes 4 districts Bharatpur, Dholpur, Karauli, Sawai Madhopur.
- **Bikaner Division:** Includes 4 districts Bikaner, Churu, Sri Ganganagar, Hanumangarh
- **Jaipur Division:** Includes 5 districts Alwar, Dausa, Jaipur, Jhunjhunun, Sikar.
- **Jodhpur Division (Largest by Area):** Includes 6 districts. Barmer, Jaisalmer, Jalore, Jodhpur, Pali, Sirohi.
- **Kota Division:** Includes 4 districts. Baran, Bundi, Jhalawar, Kota.
- **Udaipur Division:** Includes 6 districts. Banswara, Chittorgarh, Dungarpur, Rajsamand, Pratapgarh, Udaipur.



The main officer in-charge of governance, administration and inter-departmental coordination is **Divisional Commissioner**. He/She is also responsible for monitoring all schemes for all round development of the division.

**District Administration:**

- Below the divisions functions the most important unit of administration i.e. districts.
- The main officer in-charge of district administration is **District Collector**. (*Dealt in detail in following chapter*)

**Sub-Divisional Administration**

- The sub-divisional administration functions between district and tehsil level.
- Sub-Divisional Officer is responsible for administration. Like Collector, he also responsible for revenue functions and general administration.
- SDO reports to the district collector.

**Tehsil Administration**

- Administratively, tehsil is the smallest unit but very significant unit.
- Tehsil is the basic unit for purposes of general administration, treasury, land revenue, land records and other items of work
- In some big-tehsils, there are also sub-tehsils. Tehsildar is the officer in-charge of Tehsil whereas Naib-tehsildar is the officer in-charge of sub-tehsil.

## District Collector

The institution of District Collector, as it exists today, was created and developed during the British rule and has become a unique feature of Indian public Administration. With change in time, District collector roles and responsibilities have changed and multiplied but it is still plays a vital role as the bridge between union-state and local government.

### **Origin of office of District Collector**

India is organised administratively into Union, states, districts, sub-divisions, blocks and villages but "District" is the principal unit of territorial administration in India. The Mauryas were the first to constitute 'district' as prominent territorial unit and to centralise its administration with all powers concentrated in a single officer called the Rajuka.

However, the origin and development of development of district as a territorial unit for for purpose of revenue collection and administration came to acquire significance in 1772 under East India Company when on 14th May, Warren Hastings created the office of Collector with revenue and judicial functions united in the same person. By 1786, the district came to occupy a central place in the scheme of local administration.

### **Functions & Responsibilities of the District Collector**

The role and responsibilities of the office of District Collector (DC) have undergone considerable change since Independence. From enforcement of law and order and collection of revenue for its administrative unit, the office of DC has also grown as an important arm for implementing national and state policies on welfare and planned development. DC acts as chief agent and representative of the state and serves as channel of communication between the government and residents of the district.

At present DC's duties and functions can be divided into following categories:

- As a Collector
- As a District Administrator
- As a District Magistrate
- As a District Development Officer
- Disaster Management
- Conduct of Election
- Food and Civil Supplies
- Residual Functions

### **As a Collector**

- Collection of nearly all government dues including government loans, excise revenue, mining cess, royalties etc.
- Assessment and collection of land revenue.
- Supervision of treasury & sub-treasury.
- All matters related to land reforms, land records and land acquisition.
- Management of government estates.

### **As a District Magistrate**

The judicial functions of the Collector have been significantly reduced due to separation of judiciary from executive in modern constitutional democracy. The District Collector in his capacity as the district magistrate (i.e. executive magistrate) is responsible for the maintenance of law and order in the district. For this purpose, the district police force headed by the District Superintendent of Police is kept under the control, supervision and direction of the district magistrate (*The Indian Police Act of 1861* ). Additionally, he also performs other duties including:

- Supervision of the police and jails
- Supervision of subordinate Executive magistracy
- Issue certificates of domicile, scheduled and backward classes.
- Issue custody / detention warrants under special anti-crime / security enactments e.g. NSA.
- To issue orders when there is threat to public peace and order under section 144 of the Criminal Procedure Code.

### **As a District Administrator**

- Sanctioning leave to tehsildars / naib-tehsildars
- Salary and pension of district staff
- Exercise control over field offices like sub-divisional and tehsil headquarters.
- Chief protocol officer of district - arrange VIP stay & visit.

### **As a District Development Officer**

- The Collector, with the assistance of the district-level staff, is responsible for the implementation of majority of developmental works and schemes in the district.
- Apart from the direct responsibilities, a collector frequently gets involved with the programmes of other departments, like the PWD, irrigation, power, forest, agriculture, health and family welfare

### **Coordination in District**

- Coordinate activities of other agencies / departments at the district level.

**Disaster Management**

- Acts as the crisis administrator-in-chief during natural calamities and other emergencies.
- Chairs the District Disaster Management Committee (DDMC), which is responsible for making advance plan to mitigate the effect of impending disasters and provide assistances for protection, relief and rehabilitation in the face of such disasters.

**Conduct of Election**

- DC is designated as District Election Officer (DEO) and function as Returning Officer (RO) in Parliamentary elections.
- In other elections, all RO's function under DC's superintendence.
- DC is also responsible for preparation/updation of electoral roles and holding of free and fair elections in the district.

**Food and Civil Supplies**

- Oversees the implementation of the Public Distribution System
- Enforce provisions of the Essential Commodities Act and related Rules and Orders.

**Residual Functions**

Any function of the government in the district, which is not allocated to any line department automatically, comes within the jurisdiction of the DC.

- Licensing & Regulatory: The Collector is the licensing and regulatory authority under various special laws such as Arms and Cinematography Acts etc. in the district.
- The district collector is also chairman of large number of committees at district level.

## Scheduled Area in Rajasthan

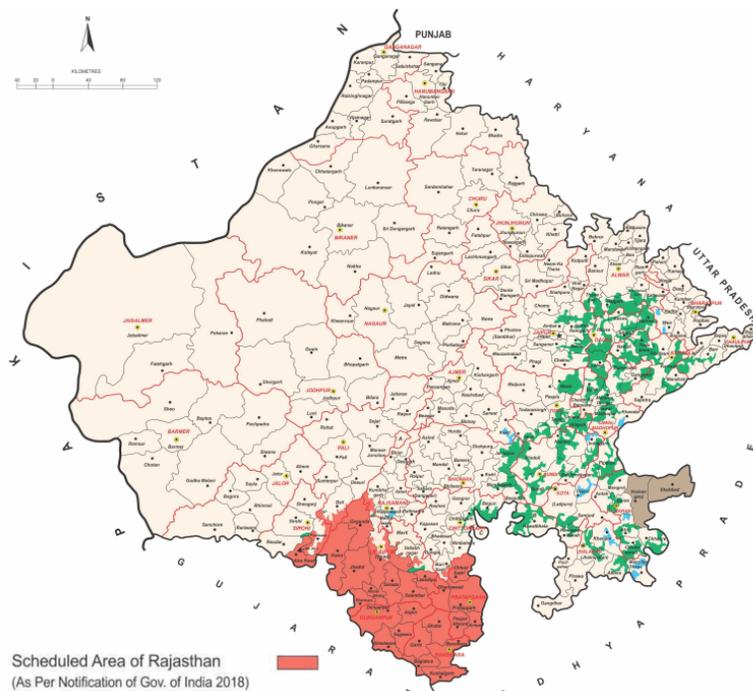
Scheduled Area in Rajasthan comprises of eight districts of south eastern part of the State including 5697 villages of the southern part of Rajasthan. Here, areas having tribal population more than 50 percent have been declared as Scheduled Areas by the Government of India through [Gazette notification dated 19-05-2018](#).

### Constitutional Provisions for Scheduled Areas

To ensure the protection of aboriginal customs, culture of the tribes and prevent alienation of their lands and natural resources to non-tribals, **Article 244** of the Constitution has the provision for declaration of **Schedule V & Schedule VI areas**.

1. **Schedule V areas** can be declared in any state except Assam, Meghalaya, Tripura and Mizoram. Consequently, 5th schedule areas have been declared in in 9 states of India namely Andhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Chattisgarh, Orissa and Rajasthan.
2. **Schedule VI Areas:** The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram.

### Scheduled Areas in Rajasthan



**Districts:**

- Total of 8 districts have either full or partial area declared as part of Schedule V areas.
- Fully Tribal Districts: [Banswara](#), [Dungarpur](#), [Pratapgarh](#).
- Partly Tribal Areas: [Udaipur](#), [Rajsamand](#), [Chittorgarh](#), [Sirohi](#), [Pali](#)

**Population**

- As per the Census 2011, total population of scheduled area is 64,63,353 out of which 45,57,917 are members of scheduled tribes population, which is 70.43% of the total population of the Scheduled Area.

## Historical Background of PRI in Rajasthan

Since Ancient times, village panchayats have been an integral part of social life. It is believed that this system was first introduced by **King Prithu** during colonisation Ganga-Yamuna Doab. Rigveda mentions - Gramini as the leader of the village. Shreni was a well-known term for merchant guilds. A fairly detailed description of the village communities is found in Kautilya's Artha-Shastra. These rural republics in India continued to flourish in the country during the Hindu, Muslim and Peshwa government till the arrival of the East India Company. Here, we look at evolution of Panchayati Raj Institutions (PRI) in Rajasthan.

### **Panchayats during Ancient and Medieval period in Rajasthan:**

The study of various *Lekhas* reveals that executive committees or Panchayats existed in Rajasthan during the ancient period. These agencies were then called Panchkulas (Committee of five), which worked under the presidentship of the *Mahant*. These Panchkulas were composed of village elders who were heads of various castes and religious groups of a village.

Besides these, there were also committees referred as Goshtis (guilds) which were a kind of corporations of professionals meant for looking after the local administration of the areas they furnished.

According to V.B. Mishra, during 600 A.D. to 1027 A.D., there was despotic rule in Western Rajasthan under Pratihara dynasty but village remained autonomous units. Grama or village was the last administrative unit having fixed sites and boundaries. The head of the Grama was called Gramapati or Gamagamika. The Gramapati administered the village with the assistance of the village council composed of the village elders. The Council exercised considerable jurisdiction over the village disputes.

### **PRI in Rajasthan during Mughal Period:**

With the establishment of Mughal rule at Delhi, the Princely States of Rajputana were influenced to some extent but village administration remained unchanged. During this period there existed '*Caste Panchayats*' as well as Panchayats of the whole village for social purposes. The functions of Village Panchayats included settlement of disputes, watch and ward, education, sanitation, recreation and organisation of festivals. Additionally, every caste had its own Panchayat in the village whose structure and functions were more or less similar.

### **PRI in Rajasthan during British Rule:**

Under the British administrators, there was minimal development of Panchayats until 1928 when **Bikaner State** took the lead by passing an act to provide for the establishment of Panchayats. The *Jaipur Village Panchayat Act* was also passed in 1937. In 1939 Karauli also passed a Village Panchayats Act. Gram Panchayat Acts were passed in Mewar and Marwar in 1940 and 1945 respectively. Bharatpur introduced similar enactment in 1944 and Sirohi in 1947. Besides these, there were Panchayat Acts in force in some other states, e.g., Kota, Bundi, Jhalawar, Tonk, Shahpura, etc.

### **PRI in Modern Rajasthan: Beginning**

The United States of Rajasthan was inaugurated in 1948 comprising Mewar and other princely states, with its capital at Udaipur. and Chief Minister as Shri Manikya Lal Verma. One of his very first acts was to promulgate the *Gram Panchayat Raj Ordinance of 1948*. Following the Ordinance, elected Panchayats based on Universal Adult franchise came into being in various villages of the former feudatories in Udaipur, Kota, Partapgarh, Kushalgarh, Banswara, Dungarpur, etc. Thus, 790 Panchayats came into existence in 13,656 Villages of former Rajasthan.

After the inauguration of unified Rajasthan and formation Rajasthan Legislative Assembly, Rajasthan Panchayat Act, 1953 was passed and was enforced on January 1st, 1954.

The Government of Rajasthan started Community Development Programme (CDP) in 1952 as a part of planned development in the state. On the recommendation of the Grow More Food Enquiry Committee, the National Extension Service (NES) was started in 1953. The Balwant Rai Mehta Study Team examined the working of CDP & NES and suggested '*Democratic Decentralisation*' in order to make these programmes successful. The National Development Council also endorsed this proposal and asked each State Government to implement the idea. As a consequence, *the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959*, was passed with effect from **October 2nd, 1959**. This new act also amended the Rajasthan Panchayat Act, 1953.

But after 1965 Panchayats became weak when all the extension officers of Agriculture, Animal Husbandry, and Industries were withdrawn from Panchayat Samitis. The concern departments became important. Girdhari Lal Vyas Committee in 1973, pointed out limitations of the Panchayat system in the State, but suggestions to improve the functioning of the Panchayat System were not implemented. The dormant status of Panchayat was not just limited to Rajasthan but majority of states, forcing Union Government to make a series of committees to revive the PRI in India.

**Ashok Mehta Committee (1978)** recommended a constitutional status for Panchayats and **L.M.Singhvi Committee (1986)** proclaimed the PRIs as the third tier of government and strongly recommended that PRIs should be constitutionally recognized, preserved and protected. It was followed by a series of consultations and workshops to work out modalities to constitutionalise the Panchayats. Finally, 73rd

Constitutional Amendment Act 1993 was enacted. On the basis of the 73rd Constitutional Amendment, Rajasthan passed the Rajasthan Panchayati Raj Act, 1994.

## Panchayati Raj in Rajasthan

After Independence, Rajasthan was the first state to establish Panchayati Raj. The scheme was inaugurated by then Prime Minister Nehru on *October 2, 1959 in Bagdari Village of Nagaur district*. Panchayati Raj in India aims to build democracy at grass-root level and signifies the system of rural self government. Panchayats are an effective vehicle for people's participation in administration, planning and democratic process and so organisation of village Panchayats has been made a *Directive Principle of State Policy (Article 40)*. After, *73rd Constitutional Amendment Act of 1992* these institutions have received Constitutional status.

### 73RD CONSTITUTIONAL AMENDMENT ACT OF 1992

#### **Significance of the Act:**

The act has given a practical shape to Article 40 of the Constitution which says that, 'The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government' (DPSP). The act gives a *constitutional status* to the panchayati raj institutions. It has brought them under the purview of the justiciable part of the Constitution. In other words, the state governments are under constitutional obligation to adopt the new panchayati raj system in accordance with the provisions of the act.

Additionally, neither the formation of panchayats nor the holding of elections at regular intervals depends on the will of the state government any more. The act transfers the *representative democracy into participatory democracy*. It is a revolutionary concept to build democracy at the grass-root level in the country.

#### **Major Features of the Act:**

- This act has added a new *Part-IX* to the Constitution of India. It is entitled as '*The Panchayats*' and consists of provisions from *Articles 243 to 243O*. Additionally, the act has also added *Eleventh Schedule* to the Constitution which contains the *29 functional items* of the panchayats.
- The provisions of the act can be grouped into two categories-*Compulsory and Voluntary*. The compulsory (mandatory or obligatory) provisions of the act have to be included in the state laws creating the new panchayati raj system. The voluntary provisions, on the other hand, may be included at the direction of the states.
- Gram Sabha:

- The act provides for a *Gram Sabha* as the foundation of the Panchayati Raj system. It is a body consisting of all the registered voters in the area of the panchayat.
- A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislative of a State may, by law, pro-vide. (Article 243A).
- There shall be *at least two meetings* of the Gram Sabha every year.
- The quorum for a meeting of the Gram Sabha shall be *one-tenth* of the total number of members
- Three-Tier System:
  - The act provides for three-tier system of Panchayati Raj in every state with Panchayats at village, intermediate and district level. In Rajasthan nomenclature used is:

Level of Panchayat	Name used
District Panchayat	Zilla Parishad
Intermediate Panchayat	Panchayat Samiti
Village Panchayat	Gram Panchayat

- Elected members & chairpersons:
  - All *members* of the Panchayats at village, intermediate and district level shall be elected *directly* by the people.
  - Sarpanch of Gram Sabha is elected directly adult voters.
  - The *chairpersons* of panchayats at intermediate & district level shall be elected *indirectly* - by and from amongst the elected members. Manner of election of Chairpersons at village level is decided by State legislative assembly.
- Elections to the Panchayats : The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a *State Election Commission*.
- Duration of Panchayats: Every Panchayat unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.
- Reservations of Seats:
  - Seats shall be reserved for-(a) the Scheduled Castes; and (b) the Scheduled Tribes; in every Panchayat in ratio of population.
  - Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribe/ of the total number of seats to be filled

by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

- **Exempted Areas:** The Act did not apply to certain scheduled areas in some states. However, the act provided power to Parliament to extend the Act to these scheduled areas with certain special provisions. Under which, Parliament passed "*The Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 or PESA Act*". Rajasthan passed its conformity legislation in accordance with PESA on 30th Sept. 1999.
- **Finance Commission:** The Finance Commission shall be constituted under Article 243-I to review the financial positions of Panchayati Raj Institutions and make recommendations to the Governor.

### Panchayats in Rajasthan:

Rajasthan has a three-tier system of Panchayati Raj with 33 Zila Parishads (District level), Panchayat Samities (Block level) and Panchayats (Village level, comprising of a village or a group of villages).

### Additional Rules for PRI's in Rajasthan:

- Rajasthan was the first state to impose the two-child norm as a bar to standing for elections and as a disqualification for occupying a Panchayat elected seat.
- Rajasthan is also the first State in the country to fix a minimum educational qualification for contesting elections to the Panchayati Raj Institutions. However this amendment was removed by another amendment in 2019. The amendments to Section 19 of the Rajasthan Panchayat Raj Act, 1994 also make a functional toilet mandatory in the house of a contestant.
- Fifteen States including Rajasthan have enacted legislation for 50% reservation of women in PRI's.

### Composition of Panchayats in Rajasthan:

#### Gram Panchayat:

- A Sarpanch, and Directly elected Panchas from as many wards as are determined.
- The Sarpanch is assisted by Gram Sevak & Clerk Grade II.

#### Panchayat Samiti:

- Directly elected members from as many territorial constituencies.

- All members of the Legislative Assembly of the State representing constituencies which comprise whole or partly the Panchayat Samiti area.
- Chairpersons of all the Panchayats falling within the Panchayat Samiti

The Pradhan is assisted by Block Development Officer who has an Assistant Engineer, Assistant Account Officer and Block primary education officer at his/her disposal.

#### **Zila Parishad:**

- Directly elected members from as many territorial constituencies as are determined.
- All members of the Lok Sabha and of the State Legislative Assembly representing constituencies which comprise wholly or partly the Zila Parishad area.
- All members of the Rajya Sabha registered as electors within the Zila Parishad
- Chairpersons of all Panchayat Samities falling within the Zila Parishad area.

### **XI Schedule**

**Eleventh schedule of Indian Constitution contains 29 functional items placed within the purview of the Panchayats:**

1. Agriculture including agricultural expansion
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Animal Husbandry, Dairying and poultry
4. Fisheries Industry
5. Minor irrigation, water management and watershed development
6. Social forestry and farm forestry
7. Small scale industries in which food processing industry is involved
8. Minor forest produce
9. Safe water for drinking
10. Khadi, village and cottage industries
11. Rural housing
12. Fuel and fodder
13. Rural electrification, including distribution of electricity
14. Road, culverts, bridges, ferries, waterways and other means of communication
15. Education including primary and secondary schools
16. Non-conventional sources of energy
17. Technical training and vocational education
18. Adult and non-formal education
19. Public distribution system

20. Maintenance of community assets
21. Welfare of the weaker sections of the in particular of the schedule caste and schedule tribes
22. Social welfare, including welfare of the handicapped and mentally retarded
23. Family welfare
24. Women and child development
25. Markets and Fairs
26. Health and sanitation including hospitals, primary health centres and dispensaries
27. Cultural activities
28. Libraries
29. Poverty Alleviation Programmes

### Implementation of PESA in Rajasthan

Rajasthan passed its conformity legislation in accordance with PESA on 30th Sept. 1999. The details of notified FSA / PESA areas in the State of Rajasthan as under:

- Number of PESA District (Fully & Partly covered): 5
  - PESA District (Fully covered): 2 (Banswara and Dungarpur)
  - PESA District (Partly covered): 3 (Udaipur, Pratapgarh and Sirohi)
- Number of PESA Blocks: 26
- Number of PESA Panchayats: 4544
- Number of PESA Villages: Not available

## Urban Local Government

The term Urban local Government in India signifies the governance of urban area by people through elected representatives. There are eight types of urban local governments currently existing in India:

1. Municipal Corporations.
2. Municipality.
3. Notified area committee.
4. Town area committee.
5. Cantonment board.
6. Township.
7. Port trust.
8. Special purpose agency.

### **Historical Background of Urban Local Government**

The origin of Municipal Administration in India dates back to 1687 when a Municipal Corporation was set up in Madras. In 1726, Municipal Corporations were setup in Bombay and Calcutta. Lord Ripon issued a resolution for local self government that continued to influence the development of local self government in India till 1947. He is thus called as father of local self-government in India.

After Independence, Rajasthan Town Municipalities Act was promulgated in 1951 by repealing the existing princely States' municipal laws. Subsequently, due to reorganisation of the State of Rajasthan, all the existing municipal laws including the Act of 1951 were replaced by the Rajasthan Municipalities Act, 1959 (Act). Later, 43 rules were incorporated there under by State Government from time to time.

Constitution (74th Amendment) Act, 1992 inserted new *Articles 243-P to 243-ZG* providing for the legislature to endow certain powers and the duties to the municipalities relating to *18 matters* mentioned in *Twelfth Schedule*.

### **Urban Local Government: Constitutional Provisions**

The Constitution (74th Amendment) Act, 1992 inserted new Part- IX A to the Constitution of India. It is entitled as 'The Municipalities' and consists of *Articles 243-P to 243-ZG*. Additionally, the act has also added *Twelfth Schedule* that contains *18* functional items of municipalities.

### **Significance of the Act:**

Earlier, State Governments were free to manage their local bodies as they wished. The Amendment made statutory provisions for the establishment, empowerment and functioning of urban local self-governing institutions.

**Salient Features of the Act:**

- Three types of Municipalities: It provides for the constitution of 3 types of Municipalities depending upon the size and area namely:
  - Municipal Corporation - for a larger urban area.
  - Municipal Council - for smaller urban area
  - Nagar Panchayat – (by whatever name called) for a transitional area
- Composition of Municipal Bodies:
  1. All seats shall be filled by direct elections from the territorial constituencies known as *wards*.
  2. The member of the Rajasthan Legislative Assembly representing a constituency which comprises wholly or partly the area of a Municipality.
  3. Three six persons in case of Municipal Board, eight persons in case of Municipal Council and twelve persons in case of Municipal Corporation, having special knowledge or experience in municipal administration, to be nominated by the State Government by notification in the Official Gazette. (*Amended 2021*)
  4. The member of the House of the People representing a constituency which comprises wholly or partly the area.
  5. The number of persons to be nominated each in Municipal Board, Municipal Council and Municipal Corporation under point 3 shall include one person with disability. (*Amended 2021*)

*{In March 2021, the state government had amended the Rajasthan Municipal Act to introduce this provision of nominating PwDs to the ULBs as members, making it the first in the country.}*

- Wards Committees: The Act provides for the constitution of Ward Committees, consisting of one or more wards, within the territorial area of a Municipality, with a population of 3 lakhs or more.
- Reservation of seats: In order to provide for adequate representation of Scheduled Caste/ Scheduled Tribe (SC/ST) and of women in the Municipal Bodies, provisions have been made for reservation of seats in every Municipality.

- **Duration of Municipalities:** The Municipality has a fixed term of 5(five) years from the date appointed for its first meeting.
- **Elections:** The *State Election Commission of Rajasthan* discharges its constitutional duty by way of preparing electoral rolls and holding elections for Municipal bodies under Article 243ZA. The manner of election of Chairperson of Municipalities has been left to be specified by the State Legislature.
- **Finance Commission:** The Finance Commission constituted under Article 243-I to review the financial positions of Panchayati Raj Institutions shall also review the financial position of the Municipalities and will make recommendations to the Governor.
- **Committee for District Planning:** There shall be constituted in every State at the District level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the District and to prepare a Draft Development Plan for the District as a whole.
- **Metropolitan Planning Committees:** It is provided in Article 243-ZE of the Constitution that there shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a Draft Development Plan for the Metropolitan area as a whole.

#### **Major Features of the Act:**

The main provisions of this Act can be grouped under two categories—compulsory and voluntary. Some of the compulsory provisions which are binding on all States are:

- (i) Constitution of nagar panchayats, municipal councils and municipal corporations in small, big and very big urban areas respectively;
- (ii) Reservation of seats in urban local bodies for Scheduled Castes / Scheduled Tribes roughly in proportion to their population;
- (iii) Reservation of seats for women up to one-third seats;
- (iv) The State Election Commission, constituted in order to conduct elections in the panchayati raj bodies (see 73rd Amendment) will also conduct elections to the urban local self-governing bodies;
- (v) The State Finance Commission, constituted to deal with financial affairs of the panchayati raj bodies also looks into the financial affairs of the local urban self-governing bodies;
- (vi) Tenure of urban local self-governing bodies is fixed at five years and in case of earlier dissolution fresh elections are held within six months;

Some of the voluntary provisions which are not binding, but are expected to be observed by the States are:

- (i) Giving voting rights to members of the Union and State Legislatures in these bodies;
- (ii) Providing reservation for backward classes;
- (iii) Giving financial powers in relation to taxes, duties, tolls and fees, etc;
- (iv) Making the municipal bodies autonomous and devolution of powers to these bodies to perform some or all of the functions enumerated in the Twelfth Schedule added to the Constitution through this Act and/or to prepare plans for economic development.

### **Urban Local Government in Rajasthan**

In Rajasthan, urban local bodies are called Municipalities, Municipal Councils and Municipal Corporations. There are a total of 213 Urban Local Bodies (ULBs) in Rajasthan including:

- 10 Municipal Corporations (Nagar Nigam)

The 10 Municipal Corporations are:

1. Ajmer
2. Bikaner
3. Bharatpur
4. Jaipur Heritage
5. Jaipur Greater,
6. Jodhpur North,
7. Jodhpur South,
8. Kota North
9. Kota South.
10. Udaipur

### **Authorities:**

Each Municipality has three authorities:

- The Council
  - The Council is deliberative & Legislative wing.
  - It consists of Councillors directly elected by people.
  - Council is headed by Chairman. He presides over all meetings of the council.
- The Standing Committees
  - Standing Committees are created to facilitate working of council.
  - They deal with public works, taxation, health, finance etc.

- The Chief Executive Officer
  - CEO is responsible for day-to-day administration.
  - He/She is appointed by State government.

## XII Schedule of Constitution

**List of 18 items under the ULB's are as follows;**

1. Regulation of land use and construction of land buildings.
2. Urban planning including the town planning.
3. Planning for economic and social development
4. Urban poverty alleviation
5. Water supply for domestic, industrial and commercial purposes
6. Fire services
7. Public health sanitation, conservancy and solid waste management
8. Slum improvement and up-gradation
9. Safeguarding the interests of the weaker sections of society, including the physically handicapped and mentally unsound
10. Urban forestry, protection of environment and promotion of ecological aspects
11. Construction of roads and bridges
12. Provision of urban amenities and facilities such as parks, gardens and playgrounds
13. Promotion of cultural, educational and aesthetic aspects
14. Burials and burials grounds, cremation and cremation grounds and electric crematoriums
15. Cattle ponds, prevention of cruelty to animals
16. Regulation of slaughter houses and tanneries
17. Public amenities including street lighting, parking spaces, bus stops and public conveniences
18. Vital statistics including registration of births and deaths

## Important Bodies

Bodies in India are of multiple types, however in general day-to-day articles and news we come across three major types of bodies:

- Constitutional Bodies
- Statutory Bodies
- Executive Bodies

### Constitutional Bodies:

- Derive their Authority from Constitution of India.
- They are mentioned specifically in Constitution of India and cannot be destroyed/changed without change in Constitution. Hence, Changes in them require Constitutional amendment.
- They have dedicated articles in Constitution w.r.t them.
- Consequently, they are most important bodies like CAG (Article 148), UPSC (Article 315-323), Finance Commission, Election Commission etc.

### Statutory Bodies:

- They are also referred to as **Non-Constitutional bodies** as they do not find specific mention in the Constitution of India.
- However, they are also very relevant and have been created by passing an ACT of Parliament.
- By RTI act Provisions –Information Commission etc or National Human Right Commission based on Protection of Human Rights Act, 1993.

### Executive Bodies:

- These bodies also come under **Non-Constitutional bodies**, as they also do not find any mention in the Constitution of India.
- Further they are also referred to as **Non-Statutory bodies** as these bodies have been specifically formed by Government decision, without passing any act of Parliament.
- Example Now dissolved-Planning Commission of India.

One should understand that difference between: Constitutional/ Statutory/ Executive is based source of their origin i.e. Constitution/ Act of Parliament/ Government Order respectively.

Now you may also come across terms like **judicial/ Quasi-judicial bodies**. They are parameters that define nature and function of bodies.

### Judicial bodies

- Example Courts in India
- Main aim is justice and for that it relies on specific rules/law of the land.
- Follows specific process and needs advocates etc.
- Can go for all the problems
- Composed of judges only.

### Quasi-judicial bodies

- Their Aim is also justice but their field is limited.
- Example: human right commission to look after human right violations.
- They include not only judges but experts from the field also.
- You can go them if the matter is from their field only.
- They do-not have specific rules example you do not need advocate/lawyer and can personally appeal to them.
- Other example is Finance Commission, a constitutional body is also quasi-judicial body in matters related to summoning & enforcing attendance and requisitioning any public record from any court of office.

### Important Bodies in Rajasthan:

- **State Constitutional Bodies:**
  - State Public Service Commission: RPSC
  - State Election Commission
  - Finance Commission
  - Advocate General of Rajasthan (State)
- **State Statutory Bodies:**
  - Rajasthan State Human Rights Commission
  - Rajasthan State Commission for Women
  - Rajasthan State Information Commission
  - Lokayukta
- **State Executive Bodies:**
  - Chief Minister's Economic Transformation Advisory Council

## Rajasthan Public Service Commission

Parallel to Union Public Service Commission (UPSC) at the Centre, there is a State Public Service Commission (SPSC) in a State. The articles 315 to 323 in part XIV of the Constitution deal with the composition, appointment and removal of members and power, functions and independence of a SPSC. In Rajasthan SPSC is called as Rajasthan Public Service Commission (RPSC).

The Government of India Act of 1919 provided for a Central Public Service Commission. After which a Commission was then setup in 1926 and tasked with recruitment of civil servants. The Government of India Act of 1935 provided for establishment of not only a Federal Public Service Commission but also a Provincial Public Service Commission and Joint Public Service Commission.

### Constitutional Provisions related to RPSC

#### Composition (Article 316)

- Consists of Chairman and other members appointed by the Governor.
- No other qualification except that 1/2 of the members shall be persons who at the dates of their respective appointments have held office for at least 10 years under the Government of India/Government of a State.
- Tenure: 6 years or 62 years of age whichever is earlier.
- Resignation- Addressed to the Governor.

#### Removal & Suspension (Article 317)

Although the chairman and members of a SPSC (RPSC) are appointed by the governor, they can be removed only by the president (and not by the governor). The president can remove them on the same grounds and in the same manner as he can remove a chairman or a member of the UPSC. Thus, he can remove him under the following circumstances:

- (a) If he is adjudged an insolvent (i.e., has gone bankrupt); or
- (b) If he engages, during his term of office, in any paid employment outside the duties of his office; or
- (c) If he is, in the opinion of the president, unfit to continue in office by reason of infirmity of mind or body.

In addition to these, the president can also remove the chairman or any other member of SPSC for **misbehaviour**. However, in this case, the president has to refer the matter to the **Supreme Court** for an

enquiry. If the Supreme Court, after the enquiry, upholds the cause of removal and advises so, the president can remove the chairman or a member.

Under the provisions of the Constitution, the advise tendered by the Supreme Court in this regard is binding on the president. However, during the course of enquiry by the Supreme Court, the governor can suspend the concerned chairman or member, pending the final removal order of the president on receipt of the report of the Supreme Court.

Further, the Constitution has also defined the term 'misbehaviour' in this context. The Constitution states that the chairman or any other member of a SPSC is deemed to be guilty of misbehaviour, if he

- (a) is concerned or interested in any contract or agreement made by the Government of India or the government of a state, or
- (b) participates in any way in the profit of such contract or agreement or in any benefit there from otherwise than as a member and in common with other members of an incorporated company.

### **Independence of SPSC (RPSC)**

As in the case of UPSC, the Constitution has made the following provisions to safeguard and ensure the independent and impartial functioning of a SPSC:

- (a) The chairman or a member of a SPSC can be removed from office by the president only in the manner and on the grounds mentioned in the Constitution. Therefore, they enjoy the security of tenure.
- (b) The conditions of service of the chairman or a member, though determined by the governor, cannot be varied to his disadvantage after his appointment.
- (c) The entire expense including the salaries, allowances and pensions of the chairman and members of a SPSC are charged on the consolidated fund of the state. Thus, they are not subject to vote of the state legislature.
- (d) The chairman of a SPSC (on ceasing to hold office) is eligible for appointment as the chairman or a member of the UPSC or as the chairman of any other SPSC, but not for any other employment under the Government of India or a State
- (e) A member of a SPSC (on ceasing to hold office) is eligible for appointment as the chairman or a member of the UPSC, or as the chairman of that SPSC or any other SPSC, but not for any other employment under the Government of India or a state.
- (f) The chairman or a member of a SPSC is (after having completed his first term) not eligible for reappointment to that office (that is, not eligible for second term).

### **Powers & Functions of SPSC (RPSC)**

A State Public Service Commission performs all those functions in respect of the state services as the UPSC does in relation to the Central services:

1. It conducts examinations for appointments to the services of the state.
2. It is consulted on the following matters related to personnel management.
3. All matters relating to methods of recruitment to civil services and for civil posts.
4. The principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another.
5. The suitability of candidates for appointments to civil services and posts for promotions and transfers from one service to another, and appointments by transfer or deputation. The concerned departments make recommendations for promotions and request the SPSC to ratify them.

The Supreme Court has held that if the government fails to consult the State Public Service Commission in these matters, the aggrieved public servant has no remedy in a court.

#### **Rajasthan Public Service Commission (RPSC): Special Facts**

At the time of formation of Rajasthan, Public Service Commissions existed in only three of the 22 covenanting states viz. Bikaner, Jaipur and Jodhpur. The successor state administration after the merger of the princely states promulgated an ordinance establishing the Rajasthan Public Service Commission at Ajmer. The ordinance provided for the abolition of the PSCs or other institution performing duties in the nature of those of a PSC in the constituent states. It also provided inter-alia, for the composition of the Commission, the staff and the functions of the Commission. It was published in Raj. Gazette on **20th August, 1949** and RPSC was institutionalised.

Initially the composition of the Commission was one Chairman and 2 Members. **Sir S.K.Ghosh** (also the then Chief Justice of Rajasthan) was appointed Chairman. Subsequently Shri DeviShankar Tiwari and Shri N.R.Chandorkar were appointed Members and Shri S.C. Tripathi (I.E.S), formerly a member of the Federal PSC was appointed as Chairman.

In 1951, in order to regulate the working of the Commission, the Rajpramukh issued the following Regulations under the provisions of the Constitution of India.

- The Rajasthan Public Service Commission (Conditions of Service) Regulation, 1951
- The Rajasthan Public Service Commission (Limitation of Functions) Regulation, 1951.

The working of Rajasthan Public Service Commission is also regulated by:

- Rajasthan Public Service Commission Rules & Regulation, 1963,
- Rules framed by the Rajasthan Public Service Commission for conduct of their Business

- The Rajasthan Public Service Commission (Regulations and validation of Procedure ordinance 1975 & Act 1976).

**Chairman:**

- First Chairman: **Sir S.K. Ghosh**

## Rajasthan State Election Commission

The state election commission, Rajasthan was **constituted in July 1994** under **Article 243k** of the constitution of India. It is a single member **constitutional body** headed by the state Election commissioner and has a secretary who is also the chief electoral officer for the state.

The **State Election Commission** constituted under the Constitution (73<sup>rd</sup> & 74<sup>th</sup> -Article 243K) Amendments Act, 1992 for each State / Union Territory are vested with the powers of **conduct of elections to the Corporations, Municipalities, Zilla Parishads, District Panchayats, Panchayat Samitis, Gram Panchayats and other local bodies**. It is independent of the Election Commission of India.

### Appointment:

- State election commissioner is appointed by the governor of the concerned state as per the law made by the state legislature (**Article 243k(2)**).
- Tenure and conditions of service shall also be determined by the governor (article 243k(2)).

### Removal:

- State Election commissioner shall not be removed by from his/her office except in the same manner and on the same ground as judge of a high court. (Article 243k(2))

### Functions:

- To announce elections schedule for elections to Panchayati Raj Institutions(PRIs) and urban local bodies(ULBs)
- Superintendence, direction and control of the preparation of electoral roll for election to PRIs(Article 243k(1)) and ULBs(Article 243ZA).
- To declare reserved seats for sc, st, obc, women.
- To conduct free and fair election to PRIs and ULBs.

### Power and Privileges:

- State election commission has same status as Election commission of India.
- Conditions of service of state Election commissioner shall not be varied to his/her disadvantage after his/her appointment.
- State election commissioner has the status , salary, and allowance equal to judge of High court.

### Importance:

- Enforces model code of conduct in elections to PRIs and ULBs so that level playing field can be ensured and decorum of electoral process is maintained.

- Guardian of free and fair elections to PRIs and ULBs.

## State Finance Commission (SFC)

SFC is a **constitutional body** Created under the provisions of 73<sup>rd</sup> constitutional amendment act to review the financial position of Panchayati Raj Institutions (**PRIs**) under **Article 243(I)** and Urban Local Bodies (**ULBs**) under **article 243(Y)**

### Appointment:

- It shall be constituted by Governor of the state after every five year.
- It shall consist of a chairman and number of members (maximum four) determined by the governor. (**The 6<sup>th</sup> SFC of Rajasthan constituted on 12<sup>th</sup> April 2021 has 1 chairman and 2 members**)

### Recommendations:

1. Make recommendations to the governor about the principles that should govern:
  - The distribution of tax proceeds- taxes , duties, tolls, and fees levied by the state between the state and its PRIs at all three levels i.e village, block and district level.
  - Taxes, duties, tolls and fees levied by the PRIs themselves.
  - Grant in aid to PRIs from consolidated fund of the state.
2. Ways to improve the financial position of the PRIs.
3. Others matters referred to State Finance Commission by Governor of the state regarding improving the finance of PRIs.

### NOTE:

- State Finance commission makes same recommendations as above under article 243(Y) for ULBs.
- Governor of the state places the recommendations of State finance commission in the state legislature. It also includes the action taken report by the state government on the commission's report.

### Finance commissions of the Rajasthan:

Till now six Finance commissions have been constituted in Rajasthan. Recently sixth finance commission have been constituted with **Shri Pradhyuman singh** as **chairman** and **Shri Laxman Singh Rawat** and **Shri Ashok Lahoti** as members on 12<sup>th</sup> April 2021.

List of finance commissions constituted in Rajasthan is as follows.

<b>State Finance commission</b>	<b>Chairman</b>	<b>Constitution</b>	<b>Tenure</b>
First	Krishna Kumar Goyal	24 April 1994	1 April 1995-31 March 2000
Second	Hira Lal Devpura	7 May 1999	1 April 2000 – 31 March 2005
Third	Manik Chand Surana	May 2004	1 April 2005 - 31 March 2010
Fourth	Dr. B.D Kalla	13 April 2011	1 April 2010- 31 March 2015
Fifth	Dr. Jyoti Kiran	July 2014	1 April 2015- 31 March 2020
Sixth	Pradhyuman Singh	12 April 2021	1 April 2020- 31 March 2025

## Advocate General of Rajasthan

Advocate General is the Highest Law Officer and is part of state executive. It is a Constitutional post and **Article 165** in Constitution of India defines the procedure of appointment, removal and functions of Advocate General of State.

### **Appointment & Term:**

- He is appointed by the Governor and enjoys the office during the pleasure of the Governor.
- The qualification to become an advocate general is the same as that of a Judge of a High Court.

In other words:

- Must be a citizen of India
  - Must have held a judicial office for 10 years
  - Been an advocate in high court for 10 years.
- The remuneration / retainer of the Advocate General is decided by the Governor.

### **Functions & Duties:**

As chief law officer of state government, Advocate General has following duties:

- To give advice to the state Government on legal matters which are referred to him/ her by Governor.
- To perform legal duties assigned by Governor.
- To discharge functions conferred on him/her by Constitution or any other law.

For performance of the duties, the Advocate General is entitled to appear before any court of law within the state. Additionally, he has the right to speak and take part in meetings of State legislature (Article 177). However, he is not entitled to vote in state assembly.

### **Advocate General of Rajasthan**

The office of Advocate General of Rajasthan came into existence on the formation of the State of Rajasthan as per the State Re-Organization Act 1956 when the High Court of Rajasthan was established. The AG's office presents all the cases in which the Govt. of Rajasthan is one of the parties, in the High Court of Rajasthan at Principal Seat at Jodhpur and Bench at Jaipur.

Shri Shri G.C. Kasliwal was the first Advocate General of Rajasthan.

## Inter-State Council

The NDA Government, in July 2016, constituted inter-state council after a gap of 10 years.

### **What is Inter-State Council?**

Article 263 of the Constitution, contemplates to establishment of Inter-State Council to effect coordination between states and between Union & States. The Council is a recommendatory body to investigate and discuss subjects, in which some or all of the states or the union government have a common interest and recommend ways for the better coordination of policy and action between states.

The inter-state council is not a permanent constitutional body and can be established 'at any time' if it appears to the President that the public interests would be served by the establishment of such a council. Further, he can define the nature of duties to be performed by council, its organization and working procedure.

### **When was first Inter-state Council organized ?**

The *Sarkaria Commission* on Centre-State relations recommended setting up of permanent Inter-State Council under Article 263. Acting on the recommendation, V.P Singh Government established the Inter-State Council through a Presidential Order dated 28 May 1990.

### **Composition of the Council (As per Gazette notification dated 9 August 2019):**

The Council consists of:

- Prime Minister who is the chairman,
- Chief ministers of all states,
- Chief ministers of union territories having legislative assemblies.
- Administrators of Union Territories.
- Where a proclamation has been issued by the President under Article 356 of the Constitution in relation to any State; the Governor of that State shall be invited to attend the meetings of the Council.
- Six union ministers of cabinet rank in the union council of ministers, including home minister, nominated by the prime minister.
- Ten Ministers of Cabinet rank as Permanent invitees Members.

Additionally, the council also has a **Standing Committee**.

- Chaired by home minister, Amit Shah.

### **Meetings of Inter-State Council:**

The inter-state council has met for 11 times and in seven of those meetings, the council had discussed recommendations of the Sarkaria commission. Out of a total of 247 recommendations, 180 recommendations were accepted by the council.

The **Eleventh Meeting** of the Inter-State Council held on 16.07.2016 discussed the following agenda items:

- Consideration of the Recommendations of the Punchhi Commission on Centre-State Relations
- Use of Aadhaar as an identifier and use of DBT for providing Subsidies, Benefits and Public Services
- Improving Quality of School Education with focus on improving learning outcomes, incentivising better performance, etc
- Internal Security with focus on intelligence sharing and coordination for combating terrorism / insurgency , police reforms and police modernisation

#### **What are zonal council meetings?**

The Inter-State Council is assisted by Secretariat, which is headed by a Secretary to the Government of India. Under the home ministry, the secretariat, also organizes the zonal council meetings on the same lines as the inter-state council meeting and is chaired by the union home minister.

The five zones under it are east, central, north, west and south. In the run up to the national meet, a meeting of North Eastern Council (NEC) is also held where chief ministers of all the north-east states are invited.

#### **Points to Remember: Inter-State Council**

- Constitutional body under article 263
- Based on recommendation of Sarkaria Commission
- Nature: Advisory/Recommendatory
- Not a permanent body
- Headed by PM
- Standing Committee/ Zonal meetings: Headed by Home Minister

## Rajasthan State Human Rights Commission

The Protection of Human Rights Act of 1993 provides for the creation of not only National Human Rights Commission but also a State Human Rights Commission at the state level. A State Human Rights Commission can inquire into violation of human rights related to subjects covered under state list (List II) and concurrent list (List III) in the Seventh Schedule of the Indian Constitution.

The State Government of Rajasthan issued a Notification on January 18, 1999 for the constitution of the State Commission in accordance with the provisions of The Protection of Human Rights Act, 1993. Commission became functional from 23 March 2000 with the appointment of Justice Kanta Kumari Bhatnagar, as the first Chairperson along with Shri R. K. Akodia, Shri B. L. Joshi and Prof. Alamshah Khan as the supporting members.

### **Composition of State Human Rights Commission:**

- The State Human Rights Commission is a multi-member body consisting of *a chairperson and two members*.
- The chairperson should be a *retired Chief Justice of a High Court*.
- Other members should be:
  - Serving or retired judge of a High Court or a District Judge in the state with a *minimum of seven years of experience* as District Judge
  - A person of knowledge or practical experience with respect to human rights.
- The chairperson and members are *appointed by the Governor* on the recommendations of a **committee** consisting of:
  - The chief minister as its head,
  - The speaker of the Legislative Assembly,
  - The state home minister and
  - The leader of the opposition in the Legislative Assembly.
- In the case of a state having Legislative Council, the chairman of the Council and the leader of the opposition in the Council would also be the members of the committee.
- A sitting judge of a High Court or a sitting District Judge can be appointed only after consultation with the Chief Justice of the High Court of the concerned state.

**Term:**

- The chairperson and members hold office for a term of 5 years or until they attain the age of 70 years, whichever is earlier.
- After their tenure, the chairperson and members are not eligible for further employment under a state government or the Central government.

**Appointment and Removal:**

- Although the chairperson and members of a State Human Rights Commission are appointed by the governor, they can be removed only by the President (and not by the governor).
- The President can remove them on the same grounds and in the same manner as he can remove the chairperson or a member of the National Human Rights Commission.

**Powers & Functions:**

The main mandate of the State Commission is to function as a watch dog for human rights in the State.

- Inquire suo motu or on a petition presented to it, by a victim, or any person on his behalf into complaint of violation of human rights or negligence in the prevention of such violation by a public servant.
- Intervene in any proceeding involving any allegation of violation of human rights before a Court with the approval of such Court.
- Visit any jail or any other institution under the control of the State Government where persons are detained to study the living conditions of the inmates and make recommendations thereon.
- Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- Review the safeguards provided by or under the constitution of any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
- Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights.
- Undertake and promote research in the field of human rights.
- Encourage the efforts of Non-Governmental organizations and institutions working in the field of human rights.

- Undertake such other functions as it may consider necessary for the promotion of human rights.

**Quasi-judicial Powers:**

- The commission is vested with the power to regulate its own procedure.
- It has all the powers of a civil court and its proceedings have a judicial character.
- It may call for information or report from the state government or any other authority subordinate thereto.
- It has the power to require any person subject to any privilege which may be claimed under any law for the time being in force, to furnish information on points or matters useful for, or relevant to the subject matter of inquiry. The commission can look into a matter within one year of its occurrence.
- The Commission has an investigating agency of its own headed by a police officer not below the rank of Inspector General.

However, the Commission can only make recommendations, without the power to enforce decisions. The commission does not have power to punish the violators of human rights. It cannot even award any relief including monetary relief to the victim. The recommendations of State Human Rights Commission are not binding on the state government.

The Commission submits its annual reports to the state government. These reports are laid before the state legislature, along with details of action taken on recommendations of commission and reasons for non-acceptance of recommendations.

## Rajasthan State Information Commission

The Right to Information (RTI) Act, 2005, which came into force on 12 October 2005, marked a higher level of evolution of India's democratic system. The Right to Information Act of 2005 provides for the creation of not only the Central Information Commission but also a State Information Commission at the state level. Accordingly, Rajasthan Information Commission (RIC) was constituted on April 18, 2006.

### **Composition of State Information Commission**

- The Commission consists of a State Chief Information Commissioner and not more than ten State Information Commissioners.
- They are appointed by the Governor on the recommendation of a **committee** consisting of:
  - The Chief Minister as Chairperson,
  - The Leader of Opposition in the Legislative Assembly and
  - A State Cabinet Minister nominated by the Chief Minister.
- They should be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
- They should not be a Member of Parliament or Member of the Legislature of any State or Union Territory.
- They should not hold any other office of profit or connected with any political party or carrying on any business.

### **Tenure & Service Conditions:**

- The State Chief Information Commissioner and State Information Commissioners hold office for 5 years or until they attain age of 65.
- They are not eligible for reappointment.
- Salary, allowances and other service conditions of the Chief Station IC are similar to Election Commissioner and that of State IC's are similar to those of Chief Secretary of State Government.

### **Powers & Functions:**

The quasi judicial powers and functions of the State Information Commission are:

- It is the duty of the Commission to receive and inquire into a complaint from any person:
  - Who has not been able to submit an information request because of non-appointment of a Public Information Officer (PIO).
  - Who has been refused requested information

- Who has not received response within specified time-limits.
  - Who thinks fees charged are unreasonable.
  - Who thinks information is incomplete, misleading or false.
  - Any other matter relating to obtaining information.
- The Commission can order inquiry into any matter if there are reasonable grounds (suo-moto power).
  - While inquiring, the Commission has the powers of a civil court in respect of civil matters:
  - During the inquiry of a complaint, the Commission may examine any record which is under the control of the public authority and no such record may be withheld from it on any grounds. In other words, all public records must be given to the Commission during inquiry for examination.
  - The Commission has the power to secure compliance of its decisions from the public authority.
  - The Commission submits an annual report to the State Government on the implementation of the provisions of this Act. The State Government places this report before the State Legislature.

**Rajasthan State Information Commission:**

Rajasthan Information Commission (RIC) was constituted on April 18, 2006. Shri **M.D. Kaurani** was the first State Chief Information Commissioner. Apart from CIC there are **two** other Information Commissioners in Rajasthan.

RIC is the final appellate authority with regard to the matters mentioned in Right to Information Act, 2005. Its decisions are final and binding (subject to decision of writ in High Court against RIC's verdict). RIC has also been empowered to receive and inquire into a written complaint from a person, who has been unable to extract information from any Public Information Officer (PIO) or any such PIO has refused to entertain his or her application for obtaining information or appeal under this Act.

## Lokayukta

The 'Lokpal' is the central governing body that has jurisdiction over all members of parliament and central government employees in case of corruption. Whereas, the 'Lokayukta' is similar to the Lokpal, but functions on a state level. Lokayukta is an independent institution whose jurisdiction is the entire state of Rajasthan.

The Lokayukta (sometimes referred to the institution itself) investigates allegations of corruption and mal-administration against public servants and is tasked with speedy redressal of public grievances.

### **History of Lokayukta in Rajasthan**

In 1966, the First Administrative Reforms Commission (1st ARC) headed by Morarji Desai submitted a special interim report on "Problems of Redressal of Citizen's Grievances". The ARC recommended the setting up of two special authorities designated as 'Lokpal' and 'Lokayukta' for the redressal of citizens' grievances. The institutions were to be based on pattern of **Scandinavian Ombudsman**.

Initially, the Public Prosecuting Department was present for the public prosecution in Rajasthan, however, there was no provision of any institution by which the complaints of misuse of the post, corruption and inaction of the posts against ministers, secretaries and public servants could be investigated and explored.

Hence, in 1973, Rajasthan Lokayukta and the Up-Lokayukta's Ordinance was passed, which came into force on **February 3, 1973**. On **March 26, 1973** it received the acceptance of Governor, and since then it is as effective in the state in the form of this Act. Then, Justice **I.D. Dua** became the first Lokayukta of Rajasthan.

**The Lokpal and Lokayukta Act, 2013** (Act No. 1 of 2014) for the establishment of Lokpal and state level Lokayukta institutions came into force on January 16, 2014. On 28.2.2014, a high level committee was also constituted by state government under the chairmanship of Advocate General **Shri Narpat Mal Lodha**, for widening the circumference of this law.

### **Appointment**

- The Governor shall appoint Lokayukta and Up-Lokayuktas by warrant under his hand and seal after consultation with the Chief Justice of the High Court and the Leader of the Opposition in the Legislative Assembly, or if there be no such Leader, a person elected in this behalf by the Members of the Opposition in that House in such manner as the Speaker may direct;

- The Sub-Lokayuktas shall be appointed after consultation with the Lokayukta.

**Qualification:**

- Post of Lokayukta shall only be held by a person appointed by the Governor being a person who is or has been a Judge of the Supreme Court or a Chief Justice of a High Court;
- In respect of an Up-Lokayukta shall be held by a person appointed by the Governor being a person who is or has been a Judge of the Supreme Court or who is or has been a Judge of High Court.

**Term:**

- 5 Years (Amended again in 2019 to five years)

**Allowances:**

- The salary, allowances and pension, payable to and conditions of service of the Lokayukta or sub-Lokayuktas shall respectively be the same as those of the Chief Justice or a Judge of the High Court of Rajasthan

**Removal:**

- Subject to the provisions of Article 311 of the Constitution, the Lokayukta or an sub-Lokayuktas may be removed from his office by the Governor on the ground of mis-behavior or incapacity, and on no other ground.

**Working:**

- Lokayukta has all the powers of the Civil Court under the Code of Civil Procedure, 1908
- Any action before the Lokayukta is a judicial proceeding under section 193 of the Indian Penal Code, 1860.
- If the complaint is completely false and baseless, then the public servant is also allowed to prosecute the complainant.
- Complaints cannot be made in a case which is more than five years old.
- The Lokayukta submits a report to the honorable governor every year to apprise of the complaints received and action taken in connection with their redressal. The Governor, submits such reports received from Lokayukta in the Vidhan Sabha.

**Powers:**

The Lokayukta has been empowered under **Section 7 of the Rajasthan Lokayukta and Sub-Lokayukta Act, 1973** to investigate allegations against ministers and public servants, in certain cases.

According to the definition of public servant given in section 2 (i) of the Act, the Lokayukta has the jurisdiction to investigate against the following:

- I. A member of the Council of Ministers of the State of Rajasthan (other than the Chief Minister), by whatever name known, namely, Minister, Minister of State or Deputy Minister,
- II. A person appointed to a public service or a public post in relation to the activities of the State of Rajasthan,
- III. (a) Every head and deputy head of the Zilla Parishad, the head and deputy head of the Panchayat Samiti and the chairman of any standing committee constituted by or under the Rajasthan Panchayati Raj Act,  
(b) Every Mayor and Deputy Mayor of the Municipal Corporation, each Chairman and Vice-Chairman of the Municipal / Council, the Chairman of the Municipal Board, and the Vice-Chairman and the Chairman of any committee constituted under the Rajasthan Municipal Act,
- IV. Every person who is in the service of the following or has been paid his salary, namely:
  - a. Any local authority in the State of Rajasthan, to be notified in this behalf by the State Government in the Gazette,
  - b. Any corporation (not being a local authority), established by or under a State Act and owned or controlled by the State Government.
  - c. Any Government company under section 617 of the Companies Act, in which twenty-one percent of the paid-up share capital is held by the State Government or any company which is a subsidiary of any such company in which the State Government is holds fifty-one percent of the paid-up share capital.
  - d. Any society registered under the Rajasthan Societies Registration Act, which is under the control of the State Government and notified in this behalf by that Government in the Gazette.

#### **Posts & Persons out of scope of Lokayukta:**

- Chief Judge of the High Court or Judge or member of the judicial service as defined in clause (b) of Article 236 of the Constitution,
- Chief Minister, Rajasthan
- Chairman or member of the Rajasthan Public Service Commission,
- Any court official or employee in India,
- Accountant General, Rajasthan,
- Officials and employees of Rajasthan Assembly Secretariat,
- Chief Election Commissioner, Election Commissioner, Regional Commissioner and Chief Electoral Officer, Rajasthan,

- Retired public servants

## Rajasthan State Commission for Women

An international treaty, CEDAW (Convention on Elimination of Discrimination against Women) to ensure women's empowerment was signed in 1979. India signed this treaty with some amendments on 9 July, 1993 and in consonance to International efforts for women's empowerment, National Policy for Women was declared in 1996. Subsequently, National Commission for Women and State Commissions for Women were constituted.

On 23th April 1999, the state government introduced Rajasthan State Commission for Women Act (1999) in Rajasthan Vidhan Sabha, the act was passed Rajasthan State Commission for Women was constituted as statutory body on 15th May 1999.

### RSCW: Aim & Objectives:

- Redress the grievances of the suffering women across the State of Rajasthan
- Safeguard the interests of women across the State
- Advise the Government of Rajasthan on all Policy matters affecting women
- Review prevailing laws concerning women and to request the government to make amendments for women to get justice.
- Recommend remedial legislative measures.

### RSCW: Functions of the Commission

Section 11 of the Rajasthan State Women Commission Act, 1999, elaborates the functions of the Commission, but in short, these are as follows:

- To investigate and analyze all unjustified acts committed against women and to request the government to take action.
- To take steps to make the existing laws more effective and ensure their implementation.
- To review existing laws and recommend amendments.
- To prevent any discrimination against women in state public services and state public enterprises.
- To take steps to alleviate the condition of women by suggesting practical welfare schemes, appealing to the government to provide equal opportunities
- Appealing to the government to take strict action against any public servant found by the commission to be working against the interests of women.
- To submit Annual/ Special Reports to Government with its recommendation.

## RSCW Services:

### Mahila Panchayat

Rajasthan State Commission for Women (RSCW) will now organize *mahila panchayats*.

- The mahila panchayat will consist of mahila sarpanch and five members.
- It will be held every month and will hear cases related to atrocities against women.
- It will also conduct counseling and spread awareness on crime against women.
- The mahila panchayat will send its report to RSCW monthly.
- The panchayat will be organized on every Monday and will include individual hearing and public hearing.

### Mahila Manch

- RSCW has also constituted *mahila manch* in 19 districts.
- RSCW has also introduced a mobile App to get immediate police help in emergency situation.

### 24 Hour Helpline:

- A 24 x 7 toll free Helpline Number 1091 is operational at the commission for the speedy redressal of grievances of women complainants.
- There are 4 Counsellors from the field of sociology and law, who receive complaints on telephone as well as personally.

### Mahila Salah and Suraksha Kendra (MSSK):

- 39 MSSK centers are run across the Rajasthan state by Non-Governmental Organizations (NGOs) to address the grievances of women victims.

### Zila Mahila Sahayata Samiti:

- These Samitis are in operation in all 33 districts of the state since 1997.
- The Samiti is chaired by the Zila Pramukh and the District Collector serves as its Vice-Chairperson.

### Mahila Desk:

- These desks are set up in all police stations of Rajasthan. Any woman can approach the desk for the redressal of grievances.

### Gender Cell:

- Gender Cell of the Commission organizes seminars/Workshops and awareness campaigns across the State.
- Commission targets youth audience in schools and Colleges for gender sensitization.

**Complaint Cell:**

- The SWC takes action on complaints submitted to commission in written form by women.
- Factual reports from concerned authority from local bodies are taken and according to the situation of cases, directives are sent to the law enforcement machinery or administrative authority to provide relief and justice to the women.

**Public Hearing Cell:**

- The commission organizes public hearing programs in all 33 districts of Rajasthan state on regular intervals for the benefit of women who are unable to reach it due to some reasons.

**Mahila Desk:**

- These desks are set up in all police stations of Rajasthan. Any woman can approach the desk for the redressal of grievances.

**Special Courts:**

- Earlier there were only two courts to hear the cases of atrocities against women in Jaipur & Kota. But from the financial year 2012-13, the Government has established five more such special courts in all the Divisional Headquarters.
- Besides this, seven courts have been established to hear cases related to PC&PNDT Act

## Rajasthan State Commission for Minorities

Rajasthan State Commission for Minorities (RSCM) is a statutory body constituted under the Rajasthan State Minorities Commission Act 2001. The Commission consists of a Chairperson and four Members, nominated by the State Government.

Rajasthan State commission for Minorities examines the working of the various safeguards provided in the Constitution of India or laws enacted by Parliament and the laws passed by the Legislative Assembly of Rajasthan for the protection of the Minority Communities, and to make recommendations to ensure their effective implementation.

Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains are notified as Minority communities in Rajasthan.

## CMETAC

In March 2020, the state government has issued an order and constituted the Chief Minister's Economic Transformation Advisory Council.

### Chief Minister's Economic Transformation Advisory Council

The aim of the council is to tackle challenges coming in the way of progress and development of the state. "The council will advise the state on the following — management of state finances, increasing production, identifying areas for employment generation, ensuring the smooth implementation of [schemes](#) and [policies](#) related to health, cleanliness and education,".

#### Members:

- Chief Minister will be the head of the council.
- **Arvind Mayaram** will be the vice-chairman of the council.
- Dr. Govind Sharma - Advisor Member.
- The Council has made Chief Secretary and Additional Chief Secretary Finance and Principal Secretary Chief Minister as - Member and Principal Government Secretary Planning as Member Secretary.
- The members of the council also include — Ashok Gulati, businessmen Anil Agarwal and Laxmi Niwas Mittal, Bollywood actor Nandita Das, former banker Naina Lal Kidwai, economist Rathin Roy, Mr. Vikram Mehta and Dr. Devi Shetty and few others.

#### Working:

- The meeting of the council will take place once in six months on a mandatory basis.
- A working group of the council will be formed in which subject experts will be nominated by the Chief Minister. The responsibility of the Working Group will be to provide meaningful suggestions along with research and analytical activities to prepare a policy paper for the Council. Members of the working group may be nominated from the Council members or from outside the Council for a period of 2 years.

- In the Council meetings, the Minister nominated by the Chief Minister, Minister of State and Additional Chief Secretary of the concerned departments, Principal Secretary of Government will also be called for discussion

**Tenure:**

- The tenure of the council is up to March 2022 and can be extended if required.

## Rajasthan Police

Rajasthan Police is the law enforcement agency for the state of Rajasthan, organisationally it comes under the state ministry of home affairs. Rajasthan Police has its headquarters in Jaipur. The motto of the police force is **सेवार्थ कटबिद्धता**, which means "Committed to Serve".

Currently, use of the latest technology in crime management, controlling hardcore criminals and serious crimes, effective implementation of community police, multi-dimensional eradication of crimes against women, children and weaker sections, curbing road accidents, crime prevention are the various priorities of the Rajasthan Police.

The current head quarter of the organization is located at Lal Kothi, **Jaipur**.

### History of Rajasthan Police Department

After Independence, the process of consolidation of princely states into one single Rajasthan State started. With the merger of these princely states, their police forces were amalgamated into a single police force, which was known as Rajasthan Police. In the initial years after its inception, the Rajasthan Police was headed by officers on deputation and the first Inspector General of Police was **Shri R.Banerji**, who took over on 7th April, 1949.

Shri Banerji started the necessary preliminaries of integration of the various police forces and promulgated a common police code for the United State of Rajasthan in the Rajasthan Police Regulations (RPR) in 1948. RPR 1948 brought structural uniformity, functional harmony and organisational coherence in the Rajasthan Police.

Soon after creation of functional aspects, efforts started for creation of Cadre. Consequently, cadre of Rajasthan Police Service (RPS) was created in **January 1951** and eligible officers from all over the State were appointed. Later in September 1951, through the provision of "Indian Police Service Extension to the States", doors were opened for RPS officers to be inducted to Indian Police Services.

#### Committees:

- In 1971, a Committee on Police Training, with **Dr. M.S. Gore as Chairman** was set up by the then Prime Minister of India to go into all aspects of the training of police officers in the country.
- In October 1973, State Government appointed a committee headed by **Shri Ganesh Singh**, the then Additional Inspector General of Police for the re-organization of police force.

## 'Police' in Constitution

'Police' and 'Public Order' are State subjects under the Seventh Schedule to the Constitution of India and therefore, it is the primary duty of the State Governments to prevent, detect, register and investigate crime and prosecute the criminals.

Central Government, however, supplements the efforts of the State Governments by providing them financial assistance for modernization of their Police Forces in terms of weaponry, communication, equipment, mobility, training and other infrastructure under the **Scheme of Modernization of State Police Forces**.

The National Crime Records Bureau (NCRB), a nodal agency under the Ministry of Home Affairs, is engaged in the process of collecting, compiling and analysing the crime statistics with a view to help the States to evolve appropriate strategies for better prevention and control of crime.

Further, the Bureau has established computerized systems at every District Crime Records Bureau (DCRB) and State Crime Records Bureau (SCRB), across the country, under a project viz., 'Crime Criminal Information system (CCIS)'.

## Organisation of Rajasthan Police

Rajasthan is divided into 2 police Commissionerate (Jaipur & Jodhpur), 7 police range. The ranges are further divided into 46 districts (including 3 rural districts, 2 city districts in Jaipur City and 2 railway police districts). The 46 police districts are then divided into 239 circles, 894 police stations and 1217 out-posts.

Rajasthan State --> 2 Comm.+7 Ranges --> 46 Police Districts ---> 239 Circles--> Police Stations & Out-posts.

### Hierarchy of Rajasthan Police:

1. **State Level:** Director General of Police (DGP)
2. **Commissionerate & Ranges:** Inspector General of Police (IGP) - IPS
3. **Police District:** District Superintendent of Police (SP) & DSP
4. **Police Circle:** Circle Inspector (CI)
5. **Police Station:** Station House Officer (SHO) Rank Inspector, Sub-Inspector (SI) & Assistant Sub-Inspector (ASI)
6. **Out-Posts:** Head Constable & Constables

## Strength of Rajasthan Police Department

Besides, 215 IPS officers & 988 RPS officers, Police force of Rajasthan consists of:

- Police Subordinated Staff
  - Inspector: 1410
  - Sub Inspector: 4665
  - Assistant Sub Inspector: 6325
  - Head Constable: 20235
  - Constable: 76315
- Other Gazetted Officers
- Ministerial Staff
- Other Staff

## Divisions of Rajasthan Police Department

There are 12 organizational wings consisting of

- Administration, Law & Order
- Government Railway Policing (GRP)
- Crime Branch
- Planning, Modernisation and Welfare
- Rajasthan Armed Constabulary (RAC)
- Establishment Branch (Personnel)
- Forensic Science laboratory
- Wireless & Tele-communications
- Traffic Police
- State Special Branch
- Vigilance Branch
- Police Training

\* Check required as different sources, different results

\* The data, is as available on Rajasthan Police Website.

## Rajasthan Armed Constabulary (RAC)

Soon after Independence, the law and order situation along the 1040 km Indo-Pak border became a serious problem. In 1949-50, the duty of guarding the border was handed over to the joint forces of the Central Reserve Police and the Provincial Armed Constabulary, which continued until 1952. In 1952, the Government of Rajasthan decided to raise a special force that could not only be deployed along the border but also assist the civil police in combating the dacoity menace. This laid to foundation of Rajasthan Armed Constabulary (RAC).

The first headquarters and training centre was established at Bharatpur in 1952 and five battalions received training there. These battalions were then dispatched to the border areas of Sriganganagar, Raisinghnagar, Barmer, and Jaisalmer. One unit was stationed at Ghat Gate, Jaipur to check dacoity. Within a year of its inception, the RAC proved its worth both on the border and within the State by successfully carrying out its various duties.

The RAC continued as a temporary force until 1958, there after it was made permanent. From that year up to the late 1970's more battalions of RAC were raised as per the situation and the need. India saw two wars with Pakistan and one with China and there was unrest in Jammu and Kashmir, NEFA, as well as Mizoram. RAC battalions were dispatched to these sensitive areas and earned accolades for their courage and efficiency.

The training imparted to the select RAC companies is decided as per requirements. As on today twelve battalions of RAC and one battalion of MBC are there in the State as Stat epara-military force. Out of these 12 battalions of RAC, 9 battalions are deployed in Rajasthan while 3 in Delhi.

## Mewar Bhil Corps

Mewar Bhil Corp (MBC) – special division of Rajasthan Police marked its 176th foundation day in 2017. The Mewar Bhil Corp has a long, valiant and successful history of service and patriotism. In 1837, *Col. James Outram*, the Political Agent of Mahikanta, proposed the establishment of a Bhil corps under the command of a British officer. As a result, Mewar Bhil Corps was established on 1 January 1841.

### Why Mewar Bhil Corps was created:

In the second half of the 18th century, the hilly region of South-Rajasthan comprising of Mewar, Dungarpur, Banswara, and Pratapgarh, was in a state of perpetual disorder. Weak administration and



indisciplined armies could not control the criminal activities of the Bhils of this hilly region. The number of murders and robberies increased to an alarming extent.

### **Idea behind Mewar Bhil Corps:**

The British Political Agents proposed the setting up of a special force that could tackle this problem. Initially, the force deployed consisted of army officers drawn from the native infantry but that too proved ineffective. Then, in 1837, *Col. James Outram*, the Political Agent of Mahikanta, proposed the establishment of a Bhil corps under the command of a British officer. The idea was to recruit local people for helping in the maintenance of order among their own people.



### **Mewar Bhil Corps:**

In January 1841 Maharana Sardar Singhji established the Mewar Bheel Corps with head quarters at Kherwada about 100 km's south of Udaipur under the command of Capt William Hunter and the entire hilly tracts of Mewar were put under the supervision of the Commandant of the Corps.

Initially the Mewar Bhil Corps was funded by the rulers of Mewar, Pratapgarh, Dungarpur and Banswara, but before long, the finance and administration was taken over totally by the British Indian Army. Other than Bhils, efforts were made to enlist the Garasias and Gametis into MBC. This had a beneficial effect on the law and order situation in the southern region and there was a fair state of discipline.

By 1938, the law and order situation was under control in the Tribal, Adivasi, areas and it was felt that there was no need for this special force, Mewar Bheel Corps was disbanded.

### **Mewar Bhil Corps: Post Independence**

On 5th May, 1949 after India's independence this Corps was under Indian Army regulation and came under the Raj Pramukh Maharaja Sawai Man Singhji of Jaipur who was also designated as commander-in-chief of the newly formed state of Rajasthan.

After Independence, the MBC force of 1000 officers and men was transferred to Rajasthan Police and later absorbed in Rajasthan Armed Constabulary. They were allowed to discharge the same duties and functions, which they did prior to the separation. Uniform pay scales introduced by the government were also made applicable to them subsequently, bringing them on par with other members of the Rajasthan Police. The sole Battalion of M.B.C. are deployed in Udaipur Range.

### Special Task Force (STF)

In 1998, a Special Task Force, along the lines of the Rapid Action Force of C.R.P.F., was formed to maintain peace in the sensitive districts of Rajasthan. These companies are trained and fully equipped to handle riots.

### Other Teams:

Apart from these, Rajasthan Police also has:

1. Quick Response Teams (QRT)
2. Emergency Response Teams (ERT)

### State Special Branch (SSB)

The Criminal Investigation Department of the Rajasthan Police was bifurcated in 1965 into **the Crime Branch**, looking after Crime and Criminal intelligence and **the State special Branch or the Intelligence Branch** dealing exclusively with all other matters of intelligence on the pattern of the Intelligence Bureau.

### Main functions of SSB:

The functions of the branch are as follows:

- Internal Intelligence.
- Border Intelligence.
- Counter Espionage.
- Security of VVIP/ VIP/ Vital Installations.
- Security Training School.
- Foreigners including pass-ports.
- Crimes related with official Secrets Act.
- Dealing with Intelligence Bureau and other Intelligence Agencies.
- Co-ordination regarding intelligence and security matters with defence Services, Paramilitary Forces and other Sister Agencies matters relating to security.

### Crime Branch:

Crime Branch looks into

- Inter State and Inter-district Crime including collection, coalition and dissemination of criminal intelligence.
- Dealing with CBI, NCB and other Concerned Agencies.
- Matters connected with human Rights and also Civil Rights.
- Complaints.
- Matters related with parliament and State Assembly.
- Rewards relating to crime work.
- Police Photography Section.
- Police Dog Squads.
- Public Relations.
- Police Research and Crime Statistics.

### Vigilance Branch

Vigilance Branch was initially established in the office of the IGP Rajasthan in Police Headquarter in 1976 under Director Vigilance (Police). However, since 18-3-1999, an officer of the rank of ADGP is heading the Vigilance Branch.

The Vigilance Branch deals with complaints against police officers/personnel regarding non-registration of F.I.R., use of third-degree methods, corruption in police, misconduct which will include drinking on duty and misbehavior with citizens.

The Branch also monitors departmental enquiries, suspension cases, prosecution sanctions, appeals and vigilance clearance for police officers.

### Wireless & Tele-communications

The Rajasthan Police Wireless Organisation made its modest beginning in 1949-50. Twelve wireless stations were set up with equipment left over from the Second World War. Gradually, work has increased and so have the facilities and the training imparted to the staff.

## Training Academies:

### Rajasthan Police Academy

The first Police training institute of Rajasthan was established at the base of historic fort of Chittorgarh in the year 1949. Geographical and administrative factors and relative constraints contributed to the shifting of this institute to Kishangarh in Ajmer district. The first batch of the trainees joined at Kishangarh on 1st may, 1950. Thus it became the main training institute of the State and continued to function at Kishangrah till August, 1975.

In August, 1975 the institute was shifted to its present location at **Jaipur** and was upgraded to the status of Rajasthan Police Academy. The Academy was inaugurated by the then Chief Minister Shri Bhairon Singh Shekhawat, on the 3rd July, 1978.

### National Police Academy (NPA)

The constitution of the Indian Police Service as an All India Service necessitated a common pattern of police training. With a view to imparting induction training to the new entrants to the IPS who were drawn from all regions of the country and different strata of society, the Central Police Training College was established in Mount Abu on September 15, 1948. This institution was renamed as National Police Academy in 1967.

In 1971, a Committee on Police Training, with **Dr. M.S. Gore** as Chairman recommended that the NPA should shift to a central location, preferably to a home of its own with permanent buildings. Thus, in February 1975 NPA shifted from Mount Abu to its **current location at Hyderabad**.

## Recent Initiatives:

### Command & Control Center (ABHAY):

- Command and Control Centre for integrated solution on GPS and CCTV based security have been set up at 7 divisional headquarters and 28 districts. Work in rest districts is in progress.
- This project covers:
  - Video Surveillance System
  - Dial 100 Control System
  - Forensic Investigation System
  - Intelligent Traffic Management System
  - Vehicle Tracking System
  - Geographical Information System

## Tribal Welfare Cell Raj Bhawan

The Tribal Welfare Cell (TWC) was setup in 2011 after the recommendation of the Ministry of Tribal Affairs, Government of India for setting up a cell in Raj Bhawan, Jaipur.

### **Role**

Tribal Welfare Cell (TWC) has been assisting the [Governor](#) in discharge of his duties/ responsibilities as envisaged under article 244(1) read with Fifth Schedule of the Constitution of India for ensuring peace and good governance in the [Scheduled Areas](#).

### **Organisation**

The Tribal Welfare Cell in Raj Bhawan is headed by Director (Tribal Welfare) and Special Secretary to Governor and he is being assisted by Deputy Secretary, Joint Director, ALR, and subordinate staff.

### **Functions of Tribal Welfare Cell**

#### **Tribal Sub-Plan Budget Analysis**

- The expenditure incurred against the allocated Tribal Sub-Plan (TSP) budget from the Annual State Plan is analysed to ensure that optimum benefits reach the targeted tribal beneficiaries.

#### **The Annual Reports**

- As required under Para 3 of the [Fifth Schedule](#) of the Constitution of India, the Annual Reports are submitted by Tribal Area Development Department and approved by the the Governor for submission to the President of India.

#### **Petitions/reports**

- Issues/representations received from the people/organisations of Scheduled Tribe communities are forwarded to the concerned departments for appropriate action and the responses received are apprised to the Governor.

#### **Coordination with State Government**

- Compliance of the directions given by the the Governor during the meetings on the issues of tribal welfare with Tribal Area Development Department as well as the other concerned departments are placed for perusal and appropriate directions of the Governor.

## Important Acts & Bills: Vidhan Sabha

### Right to Information

[History](#)[Act](#)[Achievements](#)[Criticism](#)[Organizations](#)

Through various judgements, it was held by the Supreme Court that people cannot speak unless they know. Hence, the Right to Information (RTI) is a *fundamental right*, embedded in *Article 19(1)* of the Indian Constitution which specifies that every citizen has *freedom of speech and expression*.

#### RTI Background Timeline

- In 1994, *Mazdoor Kisan Shakti Sangathan (MKSS)* started a grassroots campaign for Right to Information – demanding information concerning development works in rural Rajasthan. This movement grew and the campaign resulted in the government of Rajasthan enacting a law on Right to Information in 2000.
- In 1996, NCPRI and other groups, with support from Press Council of India, send draft RTI bill to the Union government
- In 1997, Government refers the draft bill to a committee headed by H.D. Shourie & The Shourie Committee submits its report. *Tamil-Nadu* became the first state in India to have passed a law on Right to Information.
- 2001 - Parliamentary committee gives its recommendations
- 2002 - Supreme Court gives ultimatum to the government regarding the right to information & Freedom of Information Act passed in Parliament
- 2003 - The Act gets presidential assent, but is not notified.
- 2004 - The RTI Bill is introduced in Parliament and referred to a parliamentary committee; this bill covered only the central government
- 2005 The RTI Bill is passed in Parliament; comes into force from October.

#### RTI in Rajasthan

Mazdoor Kisan Shakti Sangathan (MKSS) was constituted on 1-5-1990 in the village Sohan Garh in Deogarh Tehsil of Rajsamand District. Its objective was to use various modes of struggle to change the lives of the rural poor. Its struggle started for minimum wage to the rural poor for construction work undertaken by Village Panchayat, which turned into demand for details of Panchayat level expenditure. Within four years, it grew into a movement and a campaign for a comprehensive

legislation at both the State and Central levels. The Rajasthan Right to Information law was finally passed in May 2000, but it came into force on 26 January 2001 after the rules were framed.

### Need for RTI

The Right to Information was seen as a **powerful tool for citizen empowerment**. It showed an early promise by exposing wrongdoings at high places, such as in the organisation of the Commonwealth Games, and the allocation of 2G spectrum and coal blocks. It is required to:

- To empower the citizens.
- To promote transparency and accountability in the working of the Government.
- To check corruption.
- To make our democracy work for the people in real sense.

### Achievements of RTI:

- The answer keys of civil service examination and IIT-JEE are now available on the websites of the Union Public Service Commission and IIT-JEE respectively, helping students to find out their scores even before the official announcement.
- Assets and wealth declaration of all public servants — PM and his entire council of ministers, civil servants — are now in the public domain.

### Criticism of RTI

The **RTI Assessment and Analysis Group (RAAG) report** found: 4-5 million applications are filed under the Act every year. This has resulted in additional burden on the existing work force and further decreased work delivery of public services. Few additional criticism of RTI are as under:

- **Lack of Awareness:** As per a survey, Only 36 per cent in rural and 38 per cent urban areas have heard of the RTI Act. Further, women in sufficient numbers are not taking advantage of the provisions of the RTI Act
- **Poor Record-keeping:** Poor record-keeping practices within the bureaucracy results in missing files, which is violation of section 4 of RTI Act.
- **Lack of Infrastructure & Training:** There is lack of infrastructure and training of staff for running Information Commissions. It is estimated that 45% of public information officers did not receive any training
- Dilution of supplementary laws such as the one for whistleblower protection.
- Lack of Proactive declaration of information by the government as stipulated in RTI law increase applications.

- Need to put all RTI replies on government websites to curb unnecessary applications.
- Increasing frivolous RTI applications. (Public authorities have also complained some applicants of using RTI for blackmail).

### Organisations:

- Central Information Commission (CIC)
- State (Rajasthan) Information Commission - RIC

### Right to Information Act, 2005

In 2004, the Union government appointed a National Advisory Council (NAC) to monitor implementation of government schemes and advise government on policy and law. NAC recommended changes to the existing Freedom of Information Act, 2002. Consequently, [Right to Information](#) bill 2004, was tabled in parliament on 23rd December 2004. This as applicable only to the Union Government and there was strong protest from the civil society as most of the information required by the common man was from state governments. As a result, 150 amendments were incorporated in the bill and:

- Bill was passed by Lok Sabha on 11th May 2005 and by Rajya Sabha on 12th May 2005.
- Received assent of President of India on 15th June 2005,
- Published in the Gazette of India on 21st June 2005.
- Came into force with effect from 12th October 2005, and is known as *Right to Information Act, 2005* (Act No. 22 of 2005, RTI Act 2005)

### RTI Act

Right to Information Act 2005 mandates timely response to citizen requests for government information by various Public Authorities under the government of India as well as the State Governments.

### Objectives of RTI Act

RTI Act is an act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities. Its objectives are:

- To empower citizens (as right to information is fundamental right of the citizens under Article 19),
- Promote transparency and accountability in working of Government,
- Prevention & Elimination of corruption

- Transform the relationship between the citizen and government.

**Under the RTI, every citizen is empowered to:**

1. Seek information / ask questions to the government
2. Request for copies of government documents
3. Inspect government documents and works
4. Request for samples of materials of any government work

**Significant Provisions of RTI Act**

To summarise as follows:

- Section 2(h): Public authorities means all authorities and bodies under the Constitution or any other law, and inter alia includes all authorities under the Central, state governments and local bodies. The civil societies substantially funded, directly or indirectly, by the public funds also fall within the ambit.
- Section 4 1(b): Maintain and proactively disclose information.
- Section 6: Prescribes simple procedure for securing information.
- Section 7: Fixes time limit for providing information(s) by PIOs.
- Section 8: Only minimum information exempted from disclosure.
- Section 19: Two tier mechanism for appeal.
- Section 20: Provides penalties in case of failure to provide information on time, incorrect, incomplete or misleading or distorted information.
- Section 23: Lower courts are barred from entertaining suits or applications. However, the writ jurisdiction of the Supreme Court and high courts under Articles 32 and 225 of the Constitution remains unaffected.

**Exemptions to RTI Act**

Twenty-odd organisations are exempted from RTI. But all these entities are related to the country's defence and intelligence, such as RAW, BSF, CRPF, CISF, Intelligence Bureau, National Security Guard etc.

Further, there are some specific instances whereby RTI information cannot be furnished. These instances relate to matters which:

- Would affect national security, sovereignty, strategic, economic and/or scientific interest.
- Have been disallowed by the court to be released.
- Have been disallowed by the court to be released.

- Relates to trade secrets or intellectual property, information which might affect/harm the competitive position of a third party.
- Relates to information under fiduciary relationship.
- Relates to foreign government information.
- Would affect the life/physical safety of any person.
- Would affect the process of an investigation.
- Relates to cabinet papers.
- Relates to personal information without any public interest.

However, RTI law says that any information which cannot be denied to a Member of Parliament or state legislature cannot be denied to any citizen.

**Points to Note:**

- **Public Information Officers**
  - The Public Information Officers are the link between the information seeker and the Public Authority.
  - They are responsible for receiving applications and then give an appropriate reply to the applicants as per the provisions of the Right to information Act.
- Only citizens of India have the right to seek information under the provisions of RTI Act, 2005.

**Current Issue: RTI and Political Parties**

In June 2013, the Central Information Commission held six political parties to be public authorities under the RTI Act and hence subject to the transparency and information requirements under the Act.

**The Right to Information (Amendment) Bill, 2013- Status: Lapsed**

The [Right to Information](#) (Amendment) Bill, 2013 was introduced in the Lok Sabha on August 12, 2013. It was referred to Standing Committee but did not go forward and eventually lapsed. This amendment Bill aimed to remove political parties from the ambit of the definition of public authorities and hence from the purview of the RTI Act. Additionally, the amendments were to apply retrospectively, with effect from June 3, 2013.

**So are Political Parties under purview of RTI Currently?**

Six national parties — the BJP, the Congress, the BSP, the NCP, the CPI and the CPI(M) were brought under the ambit of the RTI Act by a full bench of the Central Information Commission in 2013. (The Trinamool Congress was also recognised as the seventh national party in 2016).

The political parties did not challenge the order in higher courts but at the same time, refused to entertain the RTI applications directed at them. In March 2015, CIC admitted it was powerless to enforce its ruling (2).

Several activists & the Association for Democratic Reforms (ADR) approached the Supreme Court on the grounds of non-compliance of the CIC order and issues with corporate funding through Electoral Bonds.

In 2018, Election Commission said in an order that political parties are out of the purview of the RTI Act contrary to the Central Information Commission's directive of declaring political parties as public authorities (3).

The matter is currently pending in Supreme Court.

### **Should political parties be considered as public authorities under RTI ?**

Several pleas have been filed in the Supreme Court seeking directions to declare all registered and recognised political parties as "public authority" under the Right to Information Act. The arguments include:

- As per section 29C of the Representation of People Act, donations received by political parties are required to be reported to the Election Commission of India. This obligation points towards their public character.
- Political Parties get tax exemptions, which amounts to indirect financing of the Political Parties in terms of Section 2(h) of the RTI Act.
- Central and the state governments have allotted to parties, accommodations at prime locations all over the country either, free of cost, or on concessional rates which amounts to indirect financing.
- Doordarshan allots free airtime to political parties during elections.
- ECI spent money for providing them facilities, such as free electoral rolls and free broadcast facilities which resulted in loss of revenue.

Political parties have collected Rs 11,234 crore from unknown sources in the last 15 years, according to election watchdog, Association of Democratic Reforms (ADR). As a result, **more than 67 percent of the funds cannot be traced as they come from 'unknown' sources.**

During FY 2018-19, BJP declared Rs 1,612.04 crore as income from unknown sources which was 64 per cent of the total income of national parties from unknown sources at Rs 2,512.98 crore. The Congress

declared Rs 728.88 crore as income from unknown sources which was 29 per cent of the total income of national parties from unknown sources.

An analysis of their Income Tax Returns (ITR) and donations statements filed with the Election Commission of India (ECI) showed that the sources remained largely unknown.

At present, political parties are not required to reveal the names of individuals or organisations donating less than Rs 20,000, neither those who donate via electoral bonds.

## Rajasthan Guaranteed Delivery of Public Services Act

The Rajasthan Government launched its guaranteed delivery of public services act on *14th November 2011* coinciding with the birth anniversary of Pandit Jawaharlal Nehru. It came into force with an aim to provide public services in a time-bound manner. The initial Act covered *108 services of 15 major government departments*, envisages a time-bound performance of duties by government officials and it possessed a provision of cash penalty for the offenders. Presently, *153 services covering 18 departments*, including 11 services of Local Self Government Department are covered under the Act.

*Madhya Pradesh was the first state* to bring out Guaranteed Delivery of Public Services Act on 18th August 2010. [Rajasthan](#) was the first state in India where the state government made a *provision of the penalty* imposed for failing to provide a service or for a delay.

### What is Right to Public Services ?

Right to Public Services legislation in India comprises statutory laws which guarantee time-bound delivery of various public services rendered to citizens and provides mechanism for punishing the errant public servant if they are deficient in providing the stipulated services. Hence, Right to Service legislation ensures delivery of time bound services to the public. If the concerned officer fails to provide the service in time, he will have to pay a fine. Thus, it is aimed to reduce corruption among the government officials and to increase transparency and public accountability.

### Nodal Department:

The Department of Administrative Reforms and Coordination ([ARD](#)) is the nodal agency of the Government of Rajasthan for administrative reforms as well as redressal of public grievances relating to the states in general. The Department coordinates works with other state regarding Administrative Reforms.

### Important Provisions of Rajasthan Guaranteed Delivery of Public Services Act, 2011

- Under this act, each Scheduled Department will appoint a personnel who will be liable for taking complaints under the Act.
- The authorized employee will give acknowledgment to the applicant in writing and also mention the deadline for the attached documents.
- The service shall be made available within the stipulated time and in case of delay or not getting the service, the designated officer will clearly mention the reasons, the timing for the appeal and the appeal officer too.
- When calculating the deadline, public holidays will not be included.
- The designated officer will display all relevant information related to the services on the notice board for public information. It will also mention all the necessary documents for the service.
- No fee will be payable with First Appeal, Second Appeal and Revision Requirement.
- The applicant will be able to appeal to the First Appellate Authority within thirty days of termination of the deadline. The First Appellate Authority will either order the service to the concerned deputy official or reject the appeal.
- A second Appeal to the Second Appeal Officer against the decision of first officer shall lie within sixty days from the date of such decision.
- The stipulated time for clearance of appeals would vary from an hour in some cases to 24 hours; like in the case of appeals made with regard to post-mortem reports and goes up to 45 days; depending upon the service desired.

#### **Penalty or Penalties -**

- Where the Second Appellate Authority has the opinion that if the **deputy** official has **failed** due to adequate reasons to provide the desired service , then he would be able to impose penalty of **more than 500 rupees and less than 5000 rupees** or he can impose penalty on a **rate of 250 rupees per day** whose **maximum limit is 5000 rupees**.
- This amount can be given as **compensation to the applicant** as per the order of Second Appeal Officer.

#### **Review of implementation:**

As per CAG 2017 report, there were only 70 cases registered for first appeal and two for second appeal which clearly brings out that adequate effort was not made to create awareness among citizens. Additionally, Online monitoring system has been discontinued since June 2014. Presently no effective monitoring system/ mechanism is in existence to ensure effective implementation of services.

## Right to Hearing Act, 2012

Rajasthan government implemented the Right to Hearing Act on *1 August 2012*, with the aim of providing a time-bound hearing and disposal of complaints. The Right to Hearing Act, 2012 complements [the Public Services Guarantee Act](#), which covers 153 services of 18 departments. Along with the Right to Information (RTI) Act, these legislations would lead to governance with accountability and transparency.

### Important provisions of Rajasthan Right to Hearing Act 2012:

- On receipt of complaint, a unique registration number shall be given on each complaint by the Public Hearing Officer or person who receive the complaint.
- Every Public Hearing Officer shall fix at least two days in a week for hearing of the complaints received under the Act.
- No fee shall be payable along with complaint, memo of first appeal or second appeal and revision application.
- Provision for Citizens to get an opportunity for hearing their grievance near their residence like the gram panchayat, tehsil, sub-division or district level.
- It shall be mandatory to hear the complaints and dispose them within a stipulated time.
- Public hearing officers (PHO) and appellate authorities have been formed.
- The complainant has the right to appeal up to two levels, if he is dis-satisfied. PHO have to dispose of the complaint within 15 days and if the complaint is rejected, the reason must be stated in writing. First appeal against the decision of public hearing officer has to be disposed of within 21 days
- Where the second appellate authority is of the opinion that the Public Hearing Officer has failed to provide an opportunity of hearing within the stipulated time limit without sufficient and reasonable cause, it may impose on him a penalty which shall not be less than five hundred rupees but which shall not exceed five thousand rupees.

## Rajasthan Protection from Lynching Bill, 2019

The Rajasthan Protection from Lynching Bill, 2019 was passed by the Vidhan Sabha on 5<sup>th</sup> August 2019. The bill makes mob lynching a cognisable, non-bailable and non-compoundable offence punishable with life imprisonment and a maximum fine of Rs 5 lakh to those convicted in cases of mob lynching leading to the victim's death.

**Need:** After 2014, 86 per cent of mob lynching cases reported in the country happened in Rajasthan.

**Salient Features:**

- **Mob:** Bill defines the mob as a group of two or more individuals.
- **Lynching:** It is an act or series of acts of violence or those of aiding, abetting or attempting an act of violence, whether spontaneous or preplanned, by a mob on the grounds of **religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation or ethnicity**.
- **Imprisonment and Fine:** For the offence of an assault by mob, leading to the victim suffering grievous hurts, the bill provides for jail terms up to 10 years and a fine of ₹25,000 to ₹3 lakh and if victims suffer simple injuries the **imprisonment** is up to seven years and a **fine** up to ₹1 lakh
- **Conspiracy of Lynching:** For plotting a conspiracy of lynching or aiding, abetting or attempting such an offence, the bill seeks to punish the offenders in the same manner as if he actually committed the offence of lynching.
- **Prevention of Lynching:** Bill empowers the state police chief to appoint a state coordinator of the rank of Inspector General of Police to prevent the incidents of lynching
- **Other Offences Related to Lynching:** Bill also enlists various other offences related to the lynching such as dissemination of offensive materials, propagation of hostile environment and obstructing legal processes, which would be punishable with jail terms varying from three to five years.
- **Victim Compensation and Rehabilitation:** Bill also stipulates the provision of compensation to victims by the state government as per the Rajasthan Victim Compensation Scheme.
- It also binds the state government to take necessary measures to rehabilitate the victims of mob lynching, suffering displacements from their native places.

## Rajasthan Prohibition of Honour Killing Bill, 2019

**Salient Features:**

- **Death Penalty:** As per the provisions of the bill whoever causes the death of a couple or either of them on the basis that marriage of such couple has dishonoured, or brought disrepute to the caste, community or family shall be punished with death, or with imprisonment for life.
- **Life Imprisonment and Fine:** If the couple or either of them is grievously hurt, the punishment will be from 10 years rigorous imprisonment to imprisonment for life and with fine of

maximum ₹3 lakh whereas in case of simple injuries punishment will be three to five years imprisonment with fine which may extend to ₹2 lakh.

- **Sub Divisional Magistrate or the District Magistrate** shall receive any request or information from any person or persons seeking protection from any unlawful assembly, or from any other person who is likely to or who have been objecting to any lawful marriage.
- **Unlawful Assembly:** Bill says no person or group shall assemble at any time with the view or intention to deliberate on or condemn any marriage, not prohibited by law, on the basis that such marriage has dishonoured the caste or community tradition or brought disrepute to all or any of the persons forming part of the assembly or the family or the people of the locality concerned.

### Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 – Amendment

The state assembly passed an amendment to the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 banning Hookah Bars across the state. The bill states that “No person shall, either on his own or on behalf of any other person, open or run any hookah bar in any place, including the eating place.”

It defined “hookah bar” as an establishment where people gather to smoke tobacco from a communal hookah or narghile which is provided individually.”

The bill subscribes punishment for running hookah bars as “Whoever contravenes the provisions be punishable with imprisonment for a term which may extend to three years but which shall not be less than one year and with fine which may extend to one lakh rupees but which shall not be less than Rs 50,000”.

### New Bills Passed to Scrap educational qualifications in Panchayats & Municipal Bodies

- In 2019, the new state government passed the bills to scrap minimum education qualification for contesting panchayat elections in Rajasthan in the state assembly.
- In 2015, the previous government had introduced education condition, which required a candidate to pass Class X for contesting zila parishad or panchayat samiti elections. For

contesting elections for Sarpanch of a panchayat in scheduled and other than scheduled areas, it was mandatory to pass Class V and VIII respectively.

- The State Cabinet approved new bills considering that the provisions of educational qualification create unreasonable restriction on the right of people to contest election at the grassroots level.

## Rajasthan Jan Aadhar

### Rajasthan Jan Aadhar Authority Act, 2020

On 11th December 2019, the State cabinet decided to replace [Bhamashah card](#) with Jan Aadhaar card from April 1, 2020. Consequently, the new Jan Aadhaar Card was inaugurated on 18th December 2019.

*Jan Aadhaar Card – Tagline: 'One Number, One Card and One Identity'*

#### Salient Features of Jan Aadhaar Card:

- 10 digit number
- All resident families in the [State of Rajasthan](#), will be eligible to have the Jan Aadhaar Card
- The card will replace all other cards like aayushman card, ration card etc.
- Similar to Bhamashah card, would identify family, with Woman as head of family.
- Woman above the age of 18 years of the family will be considered as the head of the family. If there is no woman above 18 years of age in the family, in such a case, a man of 21 years or more will be made the head.
- In a family, if there is no female above 18 years of age and no man above 21 years of age, then any member of the family, having maximum age will be considered as the head of the family.
- Will provide benefits/services related to government/ welfare schemes.
- Will be valid as proof of identity (PoI) and proof of address (PoA).
- Will be accessible through mobile and enable description of all available benefits.

#### Rajasthan Jan Aadhaar Authority

The [state government](#) has also published an ordinance namely **Rajasthan Jan Aadhaar Authority Ordinance 2019** for the statutory & implementation of Jan Aadhaar. Later, on **18<sup>th</sup> February 2020**, Vidhan Sabha passed Rajasthan Jan Authority Bill 2020. Among other things, it prescribes a Jan Aadhaar Authority with following features:

- The headquarters of the Authority shall be at Jaipur.
- Shall consist of a Chairperson and such number of official and non-official members, as the State Government may appoint.
- [Chief Secretary, GoR](#), as ex-officio Chairman
- Director General of the Authority

- An officer not below the rank of the Secretary to the Government .
- DG to supervise and control all officers and servants of the Authority.
- Official Members -
  - Not less than 5 and not more than 8.
- Non Official Members -
  - Not exceeding 2.
  - To be nominated by state government.
  - To hold office as per pleasure of state government, with maximum of 3 years.
- Additionally, the State Government shall also constitute an Executive Committee of the Authority to exercise such powers and perform such duties as may be delegated to it by the Authority from time to time.

The Bill also has the provision of **Social audit** of the delivery of public welfare benefits at such intervals and in such manner, as may be prescribed in the Gram Sabhas in rural areas and the Ward Committees in urban areas or any other forum specified by the State Government by notification.

The Authority shall also create and maintain a database of identity information and photograph of all the Jan-Aadhaar card holders as the **Jan-Aadhaar Resident Data Repository**. The bill holds authority accountable for security and confidentiality of the data in Jan-Aadhaar Resident Data Repository and prohibits with anyone, for any reason whatsoever, except in accordance with the provisions of this Ordinance.

## Rajasthan Sampark

Rajasthan Government launched an online portal *Rajasthan Sampark* dedicated towards providing citizens with a centralized platform with facility to lodge his/ her grievances to the respective departments. **Rajasthan Sampark** has been implemented through Department of IT and Communications. It primarily consists of a *State level Call Center with integrated web portal* which acts as a single point of contact for addressing and redressing various citizen queries and grievances related to government services.

Citizens can lodge their grievances against any government department through this portal and the grievance is further sent to the respective department for redressal. They can further check the status of their complaint and send reminders to government about redressal. This allows citizens to file complaint against multiple departments from single point and also eliminates need to follow up with individual department.

Rajasthan Sampark intends to achieve all important aspects of good governance viz. Transparency, Communication, Robust Delivery System, Grievance Redressal and Sensitivity towards citizens.

### **Rajasthan Sampark: Features**

- Set up to provide citizens a centralized platform to submit and redress grievances.
- Facility to register complaint online without any need for physical presence.
- Free complaint registration at Rajasthan Sampark Centers operating at Panchayat Samiti & District level.
- A toll free number (181) for free complaint registration & to seek information related to any complaint.
- An android app for Smart Phones users.
- Add-on modules like - reality check module, GIS integration and applications like advance data analytics have been developed and implemented for enhanced user experience.
- Reality check module with Automatic Speech Recognition (ASR) functionality has been integrated with Rajasthan Sampark Portal.
- When complaints are not redressed satisfactorily the portal also provides facility to seek personal hearing with concerned authority on decided Thursday.

**Concerns:**

- There have been reports of State Government officials filing false redressal reports on the portal, with a view to score on the administrative efficiency. The problems remain unresolved on site but resolved on the portal, which is contributing to the defeat of its objective.

### Rajasthan Jan Sookhna Portal

In 2019, the [Rajasthan government](#) launched Jan Sookhna Portal with information pertaining to 13 departments on a single platform. The portal has been developed by the information and technology department (DoITC) under the Rajasthan Innovation Vision (RAJIV) campaign.

The information is also available through self-service kiosks (e-Mitra Plus) in rural and urban areas, through toll free number 1800-180-6127 and through Jan Sookhna Android app.

Through the initiative citizens can get their own information from Gram Panchayat to District Level \, without even using SSO ID.

The purpose of the Jan Sookhna portal is to make the facility available to the common people along with social audit. The portal is step in direction of "Public Accountability Act" as per point number 180 of the revised budget 2019-2020.

The Portal which is the first public portal of its kind in the country and is aimed to disclose information in the public domain suo-moto as per **Section 4(2) of the RTI Act**. As per the section - "It shall be a constant endeavour of every public authority to take steps in accordance with the Act to provide as much information suo-moto to the public at regular intervals through various means of communication, including the internet, so that the public have minimum resort to the use of this Act to obtain information".

In August 2021, as per the website, the portal has 437 information of 180 schemes across 73 state departments.

## Citizens Charter

Transparency, accountability and responsiveness of the administration are the three basic characteristics of good governance. Citizen Charter is an initiative to make administration both accountable and citizen-friendly.

### **Historical Background:**

Citizen's Charter was first launched in U.K. by John Major in 1991 through Citizen Charter Mark Award. In India, a Conference of Chief Secretaries was held in 1996 in New Delhi to develop 'An Agenda for Effective and Responsive Administration'. The major recommendations emerging from this Conference were the following:

- Public accountability should be interpreted in a broader sense to include public satisfaction and responsive delivery of public services;
- The Citizen's Charters should be introduced phase-wise for as many service institutions as possible;
- The Citizen's Charters should be introduced in the Departments of the Central and State Governments starting with those with a large public interface.

Consequently, in December 1996, the first directive of the Union Government to the Ministries/Departments to initiate the exercise of formulation of Citizen's Charters was issued. In May 1997, the Conference of Chief Ministers was held in New Delhi adopting an 'Action Plan on Effective and Responsive Government'. A major decision taken as a part of this Action Plan was to formulate Citizen's Charters both at the Centre and the States, beginning with the government departments and agencies with large public interface, such as the Indian Railways, Department of Posts, etc.

The Department of *Administrative Reforms and Public Grievances* of the Union Government has been coordinating formulation, operationalisation and evaluation of the Citizen's Charters of the Union Ministries/Departments and other Central Government organisations.

### **What is a Citizen 's Charter?**

The Citizen's Charter is a written, voluntary declaration by service providers about their service standards, choice, accessibility, non-discrimination, transparency and accountability. It should be in accord with the expectations of citizens. Therefore, it is a useful way of defining with the stakeholders what service should be and what standards to expect.

### **Objectives of Citizen 's Charter:**

1. Transparency and accountability
2. Improved service delivery through setting of standards, improvement in quality and more responsive attitude.

### 3. Value for the taxpayer

**Principles:**

- Conformance to standards
- Stakeholder Involvement
- Continuous Improvement

**Components of a Citizen's Charter:**

A good Citizen's Charter should have the following components :-

- Vision and Mission Statement of the Organisation
- Details of Business transacted by the Organisation
- Details of 'Citizens' or 'Clients'
- Statement of services including standards, quality, time frame etc. provided to each Citizen/ Client group separately and how / where to get the services
- Details of Grievance Redress Mechanism and how to access it
- Expectations from the 'Citizens' or 'Clients'
- Additional commitments such as compensation in the event of failure of service delivery.

**2nd ARC: Recommendations:**

Recommendations:

- a. Citizens' Charters should be made effective by stipulating the service levels and also the remedy if these service levels are not met.
- b. Citizens may be involved in the assessment and maintenance of ethics in important government institutions and offices.
- c. Reward schemes should be introduced to incentivise citizens' initiatives.
- d. School awareness programmes should be introduced, highlighting the importance of ethics and how corruption can be combated.

**Problems in Citizen's Charter implementation:**

- Citizen's Charters have still not been adopted by all Ministries/ Departments/ Organisations in the Government/State Governments of India.
- The Citizen's Charter is not legally enforceable and, therefore, is non-justiciable.
- The exercise remains more of a ritualistic exercise without generating any capacity for people to use Charter commitments to obtain service improvement or for fulfillment of organisational commitments.

**Way Ahead:**

- Orientation & training to staff about ideals, objectives & process of Citizen Charter.

- Public Awareness Campaigns to inform citizen about the benefits & effective use of citizen charter
- Creation of Database on consumer Grievances
- Built in mechanism for monitoring, evaluating & reviewing needs to be developed.
- Participation with stakeholders including citizens, civil society organisations, NGO's etc.
- Regular & persistent efforts to bring about a change in attitude.

## Public Interest Litigation (PIL)

### Historical Background:

The seeds of PIL in India were sown by justice V.R Krishna Iyer in **Mumbai Kamgar Sabha vs Abdul Thai case** (1976).

Landmark judgements which led to the evolution of PIL in India:

- **Hussainara Khatoon vs State of Bihar case (1979):** A petition was filed by lawyer Pushpa Kapila Hingorani on the basis of report published by a newspaper about the under trial prisoners. There were many prisoners in the Bihar who had spent long years in jails, longer than what they would spent if they had been punished for the offences for which they were arrested. In supreme court this case was heard by justice P.N Bhagwati . It became as one of the yearly litigant of PILs, resulted in the release of all the under trials in Bihar and about 40,000 under trials all over the country.
- **Sunil Batra vs Delhi administration case (1980):** Justice V.R Krishna Iyer converted the letter received from a prison inmate of Tihar jail about the torture of prisoners in to a petition. This case also became one of the early pioneers of PIL.

### What are PILs:

PIL is the use of law to seek judicial intervention for the **protection of existing rights of disadvantaged groups and individuals** and also betterment of their life, environment protection etc. and many other issues in the **interest of public**.

**Concept of PIL** was initially originated in the **United States of America** in the 1960s. The term PIL was coined by an American named Abraham Chayes.

**It is a shift of judiciary from its traditional stand (Locus Standi)** where only an aggrieved person whose rights have been violated could move to the court, in case of PIL any public spirited citizen or social organization can move to the court for remedies and enforcement of the rights on behalf of socially and economically disadvantaged groups and individuals.

PIL is also known as **social Action litigation (SAL)**, **Social interest Litigation (SIL)** and **Class action litigation (CAL)**.

### Objectives of PIL:

- Confirmation of rule of law.

- Providing greater access to justice to the socially and economically disadvantaged groups and individuals.
- Welfare of every section of the society.
- Meaningful realization of Fundamental rights.

### Features of PIL:

- PIL are generally used to **safeguard group interest** and **not Individual interests** for which Fundamental rights have been provided,
- Concept of PIL has relaxed the principle of 'locus standi'.
- PIL **addresses the violation of constitutional and legal rights** of the poor and disadvantaged sections of the society.
- PIL provides **easy access to courts** to common people and disadvantaged section of the society.
- It is in **consonance with** equal justice and free legal aid enshrined in **Article 39A**.
- In PIL's role played by courts is more assertive and creative rather than passive.

### Significance of PILs:

- It is the most important **vehicle of judicial activism**.
- It **provides inexpensive remedy** in case of violation of rights i.e secures ease of access to justice to poor and marginalized sections of the society.
- It helps to **make judicial process more democratic** i.e any Individual or organization can file PIL.
- It is an important tool which **protects** and make **human rights** available to those who have been denied rights.
- It is an important instrument of social change and for maintaining rule of law and accelerating the balance between law and justice.
- It helps in monitoring of state institutions like prison, asylum etc. by judiciary.
- It assures public participation in judicial review of administrative action.
- **It resulted in landmark judgements** in India such as opening up the doors of sabarimala and Haji Ali dargah to women, legalized consensual homosexual relations.

**Drawbacks:**

- Frivolous and large number of PILs involving non-genuine cases overburdened the judiciary.
- PILs sometimes give rise to the problem of competing rights, courts exceeds their jurisdiction and resolves questions which belong to the executives.
- PIL has been used as tool of publicity and personal gain rather than addressing the public cause.
- Politically sponsored cases are filed in the form of PILs.
- It inspires judicial overreach i.e judiciary exceeds its jurisdiction and give direction to executives and legislature directly, which disbalances the separation of sphere of separation of powers among the three organs of the governments

**Way Forward:**

- The court should encourage genuine and bonafide PILs and discourage frivolous PILs with vested personal interest.
- Courts should properly formulate rules for entertaining genuine PILs and discouraging the PILs with oblique motives.
- It is a tool made available by judiciary for the protection of the interest of disadvantaged sections of the society hence it shouldn't be used to file ordinary or frivolous litigations.