

MOOC ON
Constitutional Govt. & Democracy in India

MODULE-18
The Prime Minister

ACADEMIC SCRIPT

In England, the Prime Minister is the keystone of Cabinet arch. Infact the position of the Prime Minister has been described by Lord Morley as *primus inter pares* i.e., 'first among equals'. In theory, all Ministers or members of the Cabinet have an equal position, all being advisors of the Crown, and all being responsible to Parliament in the same manner. Nevertheless, has a pre eminence, by convention and usage. Just like in England, in India too, Art 74(1) of our Constitution expressly states that the Prime Minister shall be at the head of the Council of Ministers. Almost all the powers enjoyed by the British Prime Minister through the conventions are in as much in general applicable to the Indian Prime Minister as well. The power of advising the President as regards the appointment of the other Ministers is, thus, embodied in

Article 75(1). As to the function of acting as the channel of communication between the President and the Council of Ministers, Art.78 provides—it shall be the duty of the Prime Minister to communicate to the President all decisions of the affairs of the Union and proposals for legislation. The written provisions of our Constitution in this regard are extremely sketchy. They do not cover the area of entire authority that the Prime Minister has to exercise. Moreover, like in England, our Prime Minister is expected to play the role of the efficient executive in view of the paramount fact that the President constitutes the dignified part of the Union Executive. It should also be borne in mind that there are four important factors that either circumscribe the authority of the Prime Minister or force him to push back the barriers in order to play the role of a great national leader. These are written constitution, federal system, judicial review and multi-party system. The functions of the Prime Minister, thus, should be examined in the light of several limitations hedged around his office and the ability and the courage with which he discharges them for the ultimate good of the people without violating the provisions of the

Constitution. Even then, over the years, the way the Prime Ministers have acted have surely pointed to the direction that the Office of the Prime Minister is significant as well as commands great respect and authority in relation to his Cabinet, Council of Ministers, Parliament as well as the President of India.

Selection and Appointment

The Prime Minister is selected by the party commanding clear majority in the in the Lok Sabha and appointed by the President. Normally selection by the party comes first and appointment by the President afterwards. What really matters is not the action of the President in issuing invitation to form the government but the role of the party commanding absolute majority in the Lok Sabha that has to deal with the crucial issue of choosing it nominee. In such a situation the President is expected to act very cautiously. He should either invite the leader of the majority party in case he is sure that the party has no other possible contestant. He must wait till the decision of the party in clear majority is available to him in case he finds that the battle for selection is impending. As an

instance, it is worth to note that President S.Radhakrishnan appointed Gulzarilal Nanda as the officiating Prime Minister after the death of Nehru in response to the recommendations of the Emergency Committee of the Cabinet. A new practice started henceforth, that in case of sudden vacancy, the senior most member of the Cabinet shall have the chance to act as the officiating Prime Minister until the decision of the majority party is available. A fundamental change, in this direction, occurred in March 1977 when the acting President (Jatti) appointed Morarji Desai as the fourth Prime Minister of India. The election results registered thumping victory for the Janata Party (a combination of four parties namely, Bharatiya Lok Dal, Congress O, Bharatiya Jana Sangh and Socialists and also in alliance with the CFD, CPM, Akali Dal and the DMK). Infact, the problem of appointing the Prime Minister found its manifestation in the political development of July, 1979 when Morarji Desai, instead of facing the no-confidence motion tabled against his ministry by the then leader of the Opposition, Mr. Y.B.Chavan of the Congress (S) resigned. A section of the erstwhile Janata Party formed

the Janata (S) and thus under the leadership of Charan Singh staked its claim. The President gave the first opportunity to the leader of the Opposition. Since, Chavan regretted his inability, the claims of the Janata leader (Desai) and of the Janata(S) (Charan Singh) were carefully studied. Both leaders submitted lists of their supporters. Since the side of Charan Singh became heavier the chance of forming an alternative government was given to him by the President with a word of advice that he would seek the confidence of the Lok Sabha at the earliest possible date. However, this government failed to secure the vote of confidence. It fell after 24 days when the Congress (I) decided not to support the confidence motion tabled by the Prime Minister. Once again, the war of succession ensued. The newly elected leader of the Janata Party (Jagjivan Ram) staked his claim without agreeing to submit a list of his supporters. The President thought mid-term poll as the only way out to solve the tangled issue. So we see here is the case when the President, for the first time, exercised his discretion and then won the applause of the people for taking the best possible action under the obtaining

circumstances. On 31st October 1984 President Zail Singh took a different step by appointing Rajiv Gandhi within hours of Mrs. Gandhi's assassination on the advice of some very senior Cabinet Ministers. Subsequently, his name was approved by the CPP. Undoubtedly, the language of Art 75 (1) is quite vague in regard to the appointment of the Prime Minister by the President. It simply says that the Prime Minister shall be appointed by the President. It therefore, says nothing about the discretionary authority of the Head of the State in this regard, nor does it lay down anything about the Prime Minister's being a member of the Parliament at the time of appointment. It is further inferable from the said illustration that the President may perhaps be in a position to exercise his individual judgement under abnormal conditions, that is, in case no party secures absolute majority in the Lok Sabha. In fact an examination of the whole arrangement leaves an impression that the President may appoint anyone as the Prime Minister provided (i) he is able to carry the majority of the members of the Lok Sabha with him and (ii) in the event of being the non member of the

Parliament, he is able to get his seat preferably in the Lok Sabha within the period of next six months as happened in the case of P.V.Narasimha Rao.

Term of Office

Generally the Prime Minister stays in his/her office for a period of five years i.e. from one General election of the Lok Sabha till the next Parliamentary election. However, at the time of extraordinary or emergency situation the period may enhance and so accordingly is enhanced the tenure of the Prime Minister. Again if Lok Sabha is dissolved by the President before normal terms of five years then that too brings an end to the tenure of the Prime Minister. In other words, the term of Prime Minister actually depends on the term of the Lok Sabha.

Power and Functions

There is no doubt that the Indian Constitution confers a position of importance upon the Prime Minister but the Constitution does not confer on the Prime Minister of India any specific powers and functions. Actually, the powers and functions of the Prime Minister can be derived

from two major sources. They are firstly, some through the constitutional provisions assigned for the Council of Ministers headed by the Prime Minister and secondly, the norms and conventions of the Parliamentary democracy. To analyse the real powers and functions of the Prime Minister we need to examine the relation which the Prime Minister shares with that of the President, Council of Ministers, Parliament, Political Party to which he belong and the popular masses. For our convenience, let us discuss them in the following manner: -

1. Prime Minister and the President: As a chief advisor the Prime Minister is the leader of the Council of Ministers. By virtue of his position he/she is the chief advisor of the President. On the basis of the advice provided to the President by the Prime Minister the entire administration of the country is carried out. It is on the advice of the Prime Minister that the President makes appointment of several important posts like the Governors of the State, Comptroller and Auditor General, Attorney General, the Chairman of Election Commission and so on. Again, the decision to proclaim an emergency

is also done by the President on the advice of the Prime Minister. Art 74(1) of the Constitution mentioned about the advice of the Council of Ministers but in effect it has virtually turned out to be the advice of the Prime Minister. For instance it was on the advice of Mrs. Indira Gandhi that in 1975 the controversial decision to proclaim an emergency was made.

Prime Minister is the sole channel of communication between the President and his Council of Ministers. The Constitution enjoins upon him to communicate to the President all decisions taken by his cabinet and to furnish him information relating to the administration of the country as well as the proposals for legislation as the President may call for. It indicates that, like the British Monarch, our President has no official means of knowing anything about cabinet's decision except what the Prime Minister may choose to tell him. Infact the President has the right to be kept informed. Though the cabinet meeting is never presided over by the President, it is the duty of the Prime Minister to communicate to the President either personally or through his ministers all

decisions of his Council of Ministers relating to the administration of affairs to the Union and proposals for legislation. It is, indeed, by meeting the ministers individually that the President knows about the decision taken by them relating to the departments and, if he does not agree with any of them, he may ask the Prime Minister to submit a matter for the consideration of the Council of Ministers provided it has not already been considered by it.

2. Prime Minister and the Council of Ministers:

Conventionally, the position of the Prime Minister within the Council of Ministers is usually first amongst equals but in India this is not entirely true. According to Art. 74 of the Indian Constitution the Prime Minister is the leader of the Council of Ministers. So his/her position is at the top. The first and foremost function even the most difficult of all functions, of the Prime Minister relates to the composition of his Council of Ministers. The text of Art 75(1) is very sketchy. It says nothing else than that all ministers shall be appointed by the President on the advice of the Prime Minister. The selection of the names

and the distribution of portfolios among them is a matter of exclusive concern of the Prime Minister and the appointment of the ministers by the President is just lie the observance of a technical formality. In a real sense the function of the President is to accept the lists of the ministers with their portfolios submitted to him by the Prime Minister. While forming the Council of Ministers the Prime Minister enjoys the prerogative of selecting his colleagues so that he can retain his strong position within the party and also preserving comfortable majority in the popular chamber of the Parliament. The Indian Prime Ministers authority in this respect is also circumscribed by various considerations like administrative, political, territorial, religious and the like. Again there are instances when we find the Prime Minister keen to experiment in forming a Cabinet of all talents. Such had happened in India at the initial stages when Pandit Nehru included in his cabinet leading Non- Congressman like Shanmukham Chetty(a man of parochial disposition by virtue of his intimate association with the Justice Party of Madras), Dr. B.R.Ambedkar (a leader of the depressed classes and highly critical of the Congress policies

towards the untouchables), Dr. S.P.Mookerjee (a man of alleged Hindu communalist disposition by virtue of his long association with the Hindu Mahasabha), and John Mathai (an advocate of free enterprise). Again some of the ministers consider and claim themselves to be specially cut out for certain jobs and the Prime Minister has to take their claims into consideration in view of his awareness of the political fact that their exclusion may be a source of embarrassment. Some instances are available in our country like Sardar Patel insisted and got the portfolio of Home in the interim Government. Again, T.T. Krishnamachari declined the offer of Nehru to rejoin the cabinet after the third general elections of 1962 unless he was given the portfolio of Economic Coordination. Further, sometimes even the Prime Minister may be compelled by the demands of the senior members of the Party at a particular situation while forming the Council of Ministers. Infact, Mrs. Gandhi's preparedness to take Morarji Desai as her deputy Prime Minister with the portfolio of Finance instead of Home after the Fourth General election of 1967 may be cited as the most glaring case where a powerful party leader could tighten the

hands of the Prime Minister resulting in the materialization of a package deal after a lot of intense and tough political bargaining. However the authority of the Prime Minister with regard to the selection of his colleagues and distribution of portfolios among them however ought to be studied in a very careful manner. True that the hands of the Prime Minister are sometimes tightened by the factors of party politics, it does not imply that his colleagues may have very much to say about their political assignments at every turn of movement. Authentic evidence illustrates the point that the party stalwarts, who stake their claims are not unaware of the fact that any serious point of difference with the Prime Minister must not be taken to an unpatchable extent as their dropping out from the first selection might entail their exclusion from office not merely for that term of the Parliament but for the good of all.

Now if the Prime Minister enjoys the prerogative of making his Council of Ministers, he has the complementary power, equally discretionary in character

to a quite large extent, of making changes in it subject to the political considerations before him and the circumstances in which he is caught up. He has the undisputed right to get appointed, reshuffled or even removed his colleagues in the interest of his effective and efficient administration. He may keep any department under his control or bifurcate even trifurcate a department to be placed under the charge of a different minister. He may, in a direct or indirect manner, demand the resignation of his ministers or even advise the President to dismiss one if he forfeits his confidence. Further, there may arise a situation when a reluctant minister may have no better course than to resign in order to save the position of the Prime Minister feeling equally reluctant to allow his colleague to go. It happened in the case of Defence Minister Menon in Jan, 1963 when Nehru yielded to the pressure of circumstances in first demoting and then removing his blue eyed son from his government. As the cabinet is a team of very important ministers the Prime Minister carefully includes only those who are his best confidants. Besides, as the element of confidence is quite unstable, changes in the ministerial

assignments take place from time to time. However, this is not applicable to a coalition government in the like manner. The way Morarji Desai and V.P.Singh formed Council of Ministers in two installments' is a clear testimony to this fact that the hands of the leader of a coalition government are very much tied by the tugs and pulls of the intra party politics.

3. **Prime Minister and the Party:** The leader of the political party having a majority in the Parliament is appointed as the Prime Minister of the country. So the party commanding a majority in the Lok Sabha is the very basis of his significant position. Practically the powers of the President and his party are interrelated to each other. The Prime Minister is always very careful in retaining the dignity and image of the party both within the House and also outside it. He plays a special role in preserving the unity and fraternity amongst the party members. The party provides the Prime Minister with the required support and so in return the party expects a responsible leadership and also expects effort to fulfill the promises it had made to the masses before the election.

To a great extent the fate of the party depends on his potential to provide able leadership. The power of the party also depends on the personality and dignity of the concern individual who occupies the office of the Prime Minister. In fact the future of the party depends on several issues such as how the Prime Minister carries out the administration of the country, how far he succeeds in fulfilling the promises made before the people, formulating and implementing policies in this regard, how far could he popularize the governmental programmes and so on. He is required to play a lead role in the General Lok Sabha election so that his party could manage to win majority seats and thereby form the Government. Here, it may also be noted that the personality, dignity and popularity of the Prime Minister are used as a means for propaganda for the upcoming elections.

The relationship between the Prime Minister and the Political Party remains incomplete if we do not take into account the relation which the Prime Minister shares with that of the Party President. Although the two great offices

of the President of the Party and the Prime Minister seem to be essentially complimentary in theory, the case is quite different in practice. Sometimes the Party President acts as a king maker. Such an incident was evident when the Congress President Mr. Kamraj played the role of a king maker in selecting Mrs. Indira Gandhi for the candidature of the third Prime Minister. However this trend proved a short lived affair as the influence of Prime Minister Indira Gandhi did not take long to over-shadow the influence of the king maker. It confirmed that the influence of the Congress President will depend upon not only upon his own leadership capacities but also upon the degree to which he enjoys the confidence of the Prime Minister. Again at times the party President surrenders all his authority in favour of the Prime Minister thereby playing the role of an obedient student subservient to the Prime Minister. In this respect, the role played by Congress Party President Mr. Debhanta Barua at the time when Mrs. Gandhi was the Prime Minister of India is worth mentioning. Again, there are times when the Party President and the Prime Minister are found to be in constant confrontation with each other thereby balancing

the political power to a great extent. As an illustration one can cite the relation between Mr. Kripalani and Pt. Nehru, Nehru and Tandon, Indira Gandhi and Nijlingappa and so on. Moreover, there are occasions when the same individual occupies both the post that is the post of the Party President and that of the Prime Minister. For instance Nehru shortly after the defeat of his candidate, Kripalani in the party elections of 1949, by all means became the centre of power in his party as well as in his government after he virtually grabbed the highest office of the party by the apparently unanimous resolve of the A-ICC in its meeting held in New Delhi in Oct, 1951. Mrs. Gandhi in her second phase of Prime Ministership became very influential and established her authority over both the party and the government. Again, Prime Minister Rajib Gandhi also held the post of the President in the Party.

4. **Prime Minister and the Lok Sabha:** By virtue of being the leader of the majority party, the Prime Minister functions as the leader of the Lok Sabha as well. In this regard two practices have developed. First, in case the Prime Minister does not belong to the Lok Sabha (as Mrs.

Indira Gandhi was a member of the Rajya Sabha at the time of her first appointment in Jan. 1966). Second, it has been the practice that during the protracted absence of the Prime Minister as in the event of his going abroad, the minister for Parliamentary Affairs in consultation with the Prime Minister intimates to the Speaker as to who would act as the leader of the House. Thus, the office of the leader of the House has a significance of its own as the Prime Minister is privileged with a dual capacity-- leader of the Parliamentary Party and of the Lok Sabha-- that makes him the central figure in the Parliamentary business.

The functions of the Prime Minister as the leader of the House are very important. He makes proposals for the dates of summoning and proroguing the session for the approval of the Speaker. He has to draw up the programme of official business to be transacted in a session of Parliament- bills, motions, discussions on various important activities of the government and the like. He is the member of the Business Advisory Committee that determines the allocation of time for

official bills and other business on the basis of suggestions made by him from time to time. He shapes the course and content of legislation in as much as often his is the final voice in deciding as to what amendments will be acceptable, what private members bill will receive support of the government and whether question should be left to a free vote or a whip be issued invariably. Though it is true that the President alone can dissolve the House, but it can happen only on the advice of the Prime Minister. However, two important points are taken for consideration by the Prime Minister and the President before resorting to this drastic measure. These are firstly; President must accept the advice of the Prime Minister only when he is not a defeated leader of the Council of Ministers and that there are no prospects of forming an alternative ministry. Second as we have a multi –party system, the President should be guided more by the practices of the Dominions than by the English convention alone.

As the leader of the House, he deals with the procedural matters relating to the business of the House, and

advises the House in moments of some difficulty or crisis. He can request the Speaker to fix a date for the closed session of the House or move a resolution that a seat of such a member be declared vacant under clause (4) of Art 101. Or that the proceedings of the House of a secret session be no longer treated as secret. Two important points should be noted in this direction. First while acting as the leader of the House, the Prime Minister not merely behaves like the leader of the majority party, it is also expected that he should behave like the leader of the House having other parties as well. Thus, the words of the leader of the House are sometimes taken as the voice of the mouthpiece of the whole House. Second, the Prime Minister by virtue of being the leader of the House, in a way becomes the guardian of the legitimate rights of the Opposition. He is expected to see as to what the Opposition leaders are really striving for and how far their demands can be conceded.

It is therefore, clear that the Prime Minister by virtue of holding the office of the leader of the House functions vis-à-vis three important counts namely The Speaker, the

government and the Opposition. He assists the Speaker in maintaining order and discipline in the House so that parliamentary business is conducted smoothly.

5. **The Prime Minister and the People:** The Prime Minister is the real chief of the executive in India. In this respect he is recognized as the mass leader. It is his responsibility to realize and understand the public mind and accordingly control it in his favour. It is through print and electronic media that propaganda regarding the personality, dedication to truth, bravery and popularity of the Prime Minister is highlighted. Accordingly, the image of the Prime Minister is brightened. All these campaigns create a feeling of trust and attraction towards the Prime Minister. His political activity, public speeches, comments over various issues even his dress code, attitude creates an impression in the minds of the people. The success and popularity of the Government to a great extent depends on the role played by the Prime Minister. His ability to lead the country at critical juncture of crisis helps him to strengthen his position as the Prime Minister. Infact, it is on the popularity of the Prime

Minister that the popularity of his Government and his political party depends. As such he is always eager to create a favourable image for his Government as well as for his political party. The Prime Minister uses the mass media to meet this end. Through television, radio and public meetings the speeches of the Prime Minister reaches the masses. The Prime Minister made the people aware over important governmental socio economic policies of the country. At the time of socio-economic or political crisis the governmental concern over the issues, effort taken at the governmental level to resolve it and employment of governmental mechanisms in this regard is intimated to the public so that they are not panic stricken and feel relieved. Practically, it is the sole responsibility of the Prime Minister to communicate to the people the governmental opinion over important national and international issues.

Position of the Prime Minister:

The powers and responsibility of the Prime Minister are quite wide in a Parliamentary democratic system of India.

In reality it is the Prime Minister who is the leader of the people. The success and failure of the Indian Government to a great extent depends on the leadership provided by the Prime Minister. It is argued that over the years the powers and position of the Prime Minister has been enhanced with the centralization of bureaucracy which is placed mainly at the disposal of the Prime Minister. As such many were of the opinion in calling Indian administrative system, instead of a cabinet system as the Prime Ministerial Government. However in this regard it is also essential to point out that the Indian Prime Minister cannot convert himself and herself into a dictator since not only the constitutional provisions but there are certain political limitations of his powers and authority as well. First of all, public opinion can serve as an important check on the powers of the Prime Minister. The Prime Minister cannot ignore the desires and demands of the citizens since it is on their electoral support that the future existence to political power will depend on. Again, the interest and pressure groups of our country are also eager in carrying out the demands in their favour. Similarly, the criticisms of the governmental policies by

the Opposition and Mass media further checks and balance the powers and authority of the Prime Minister. What are perhaps more interesting lies in the fact that since nineties, due to the formation of coalition government at the centre the role played by the regional parties has assumed a greater significance. Infact, these regional parties has opened a new vista of an era of political bargain which further restricted the powers of the Prime Minister.

Conclusion:

Despite such limitations, the Prime Minister need not always be constrained and guided by the political situation of a time. Infact much depends on the personal equation of the holder of the office of the supreme ruler along with the nature of the prevailing political situation. In case the Prime Minister has been able to establish his legitimacy independently of his constitutional and institutional power structure he would be in a safe position to exercise more powers than a person whose support structure is coterminous with the legal and

constitutional boundaries of the political system. Keeping in view the position of Mrs. Indira Gandhi, to conclude, one may observe that in case the Prime Minister succeeds in earning legitimacy from the people and establishes a sort of direct rapport with them then he/she would enjoy a comfortable situation of less constraints over his/her authority.

