

# What are the provisions for summoning the legislative assembly?

March 1, 2023

**In news**– Punjab government has moved to Supreme Court over Governor's refusal to give his approval for the Punjab Cabinet's decision to summon a Budget session of Vidhan Sabha from March 3.

## What are the constitutional provisions for summoning the assembly by governor?

- **The Governor has to act according to the aid and advice of the council of ministers.**
- Constitutionally, the office of the Governor has little discretion to not act on the cabinet's advice.
- **Under Article 174, a Governor shall summon the House at a time and place, as she or he thinks fit.**
- **Article 174 (2) (a) says a Governor may from "time to time" prorogue the House** and 174 (2) (b) allows her or him to dissolve the Legislative Assembly.
- **Article 163(1) of the Constitution says that "there shall be a council of Ministers with the Chief Minister at the head to aid and advise the Governor** in the exercise of his functions, except in so far as he is by or under this constitution required to exercise his functions or any of them in his discretion."
- A joint reading of the two provisions leaves the Governor with minimal discretion in summoning the house.
- In 2016, a Constitution Bench of the Supreme Court in ***Nabam Rebia and Bamang Felix vs Deputy Speaker, or the Arunachal Pradesh Assembly case***, expressly said that the **power to summon the House is not solely vested in the Governor.**

## On what grounds has the Punjab Governor refused?

- **Governor Purohit has cited Article 167 of the Constitution, which relates to the duties of the Chief Minister in furnishing information to the Governor.** Governor Purohit's questions to CM Mann on appointments are under this provision.
- The provision states that it shall be the duty of the Chief Minister of each state to communicate to the Governor of the state all decisions of the Council of Ministers relating to the administration of the affairs of the state and proposals for legislation; to furnish such information relating to the administration of the affairs of the state and proposals for legislation as the Governor may call for; and, if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.
- **However, there are a few instances when the Governor can act independently on summoning the House.**
- For example, when the chief minister has lost the support of the House and his strength is debatable, then the Governor need not wait for the advice of the council of ministers to hold a floor test.

## Can the government summon the House without Governor's approval?

- **Procedure as per Article 174 of the Constitution requires the Governor to summon the House.**
- **The council of ministers approves the government's decision of convening the House.** The government then writes to the Governor about the Cabinet's decision and it is then approved.
- Additionally, **Article 175 provides for the right of the Governor to address and send messages to the House.**
- The Governor may address the Legislative Assembly and

may for that purpose require the attendance of members.

- The Governor may send messages to the House, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient dispatch consider any matter required by the message to be taken into consideration.
- **As per Article 176, the Governor has to address the house at the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year.**
- **The government has to make a provision regulating the procedure of the House for the allotment of time for discussion of the matters referred to in such address.**