Chapter- II
Historical Perspective

2.1 Introduction:

The historical background of the Office of the Governor can be traced since ancient India. Indian civilization dates back to at least 6500 BC, which perhaps makes it the oldest surviving civilization in the world. Earlier in the beginning of the Vedic age people did not have a settled and organized life. They were nomads but with development in agriculture they started to settle down in groups. These groups were mainly called tribal. With the passage of time large kingdoms started to grow. Provinces were present in ancient India as a form of political and administrative units.¹

With the concept of king the concept of Governor also came. It was not possible for the King to rule the empire alone. For the proper functioning of the empire, it became necessary for the King of the large empire to divide their kingdom into Provinces². In ancient times there have been also democratic institutions, though their nature and composition could not be said to be the same as it is today³.

The administration of the Provinces was under the control of the Governor but he was called by different names at different times. And the name, the

¹ Hare Krishna Mishra, Bureaucracy under the Mughals, Amar Prakaashan, Delhi, 1989, p. 128.
office of the Governor was started to be used, when the East India Company was
granted charter for 15 years on December 31st 1600 by Queen Elizabeth.\textsuperscript{4} Before
independence, Governor was mainly appointed by the King/Queen and after the
independence he is appointed by the President on the recommendation of the
Central Government. The Office of the Governor can be traced as under:

\textbf{2.2 \textit{Mauryan Dynasty:}}

The Mauryan Empire was the first large, powerful, illustrious and
centralized administration in the history of India. The Mauryas ruled India from 326
BC to 184 BC. Main rulers of this dynasty were Chandragupta Maurya, Bindusara,
and Ashoka. \textit{Maurya} Empire was divided into a number of Provinces. In each
Province there was a Governor.

The Provincial Governor was directly appointed by the King and
was usually a member of the Royal family. The Princes, when appointed as
Governors were called \textit{Kumar- Mahamatras} while the rest of the Governors were
simply designated as \textit{Mahamatras}. There were the Provinces which were formed as
units of administration after dividing the imperial territories which were under the
direct rule of the Mauryas. Yet there were another type of Provinces. These were
the States, which had accepted the overlordship of the Mauryas but had been left
free to be ruled by their own rulers.

The number of Provinces during the period of Chander Gupta is not
clear but Ashoka had at least four Provinces directly under his rule. Governor
carried on administration under the guidance of the emperor, but it was difficult to

\textsuperscript{4} Raghunath Patnaik, \textit{Powers of the President and Governors in India}, Deep & Deep Publication,
Delhi, 1996, p. 12.
control such a vast empire from a single centre because of the difficulty of communications in those days. They must have enjoyed wide and independent powers.  

2.3 Gupta Dynasty:

The imperial Gupta ruled over an extensive empire which was comprised of the whole of Northern India and a part of Southern India. Fahien wrote that administration was very good and peace and prosperity prevailed everywhere. The empire was divided into many Provinces. The Gupta selected suitable and trusted persons to serve as the provincial heads. Skanda Gupta has described his views about the qualities which go to make a good Governor in the Junagarh Rock Inscription. He selected persons endowed with intellect, modesty, wisdom, wisdom, truth, straight forwardness, nobility and discretion. A Governor was expected to possess sweetness of temper, civility of manner and fame. His mental caliber and honesty should have been tested and found pure. He was expected to have the inborn and natural inclination to discharge the debts and obligations which the State owed to its people. His mind should be occupied with the thought for the welfare of mankind. He should be capable of enforcing lawful acquisition, proper preservation and augmentation of wealth. He should be competent to bear all the burdens, maintain an effective control over the far-flung areas and have the capacity to meet the most difficult situation with competence. We know from the accounts of the reign of Kumara Gupta-I that the post of

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5 Prof. L. Prasad, A Simple History of India, Laksmi Narain Aggarwal Educational Publisher, Agra, pp. 81-82.
6 O.P. Singh Bhatia, the Imperial Guptas, Surjeet Book Depot, Delhi, p. 355.
viceroy, which was so far reserved for members of the royal family, was thrown open to the commoner, if they were found fit.\textsuperscript{7} Des was the largest administrative unit and was large enough to be equivalent to a modern Province.\textsuperscript{8}

The Governors of the Provinces were known as Uparikas. They were appointed by the emperor. When Princes of Royal blood were appointed to these posts they were called Maha-Rajputas or Devabhattaraka. The Provincial Governors enjoyed wide, independent powers. They appointed subordinate officers in their Provinces and could work independently in matters concerning public welfare.\textsuperscript{9} They had to maintain internal order and protect the empire against external enemies’ contiguous territories under their charge.

Provincial Viceroy being often Royal Princes had their own courts and ministers. Viceroy were required to follow the policy of the Central Government as communicated to them either by imperial writs or through special messengers. Communication being difficult they naturally enjoyed considerable autonomy. Like the Provincial Governors of East India Company before Regulating Act, 1773, they declare their own wars and dictating their own peace.\textsuperscript{10}

2.4 Mughal Period:

The Mughal Empire was died into Provinces. Their number was 15 in the time of Akbar. At the head of every Province there was a Governor, whose title in the time of Akbar was Sipah-Salar but under his successors it was changed

\begin{footnotesize}
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\item \textsuperscript{7} Id. at 356.
\item \textsuperscript{8} Id. at 357.
\item \textsuperscript{9} Supra note 5 at 136.
\item \textsuperscript{10} Prof. Anant Sdashiv Altekar, State and Government in Ancient India, Motilal Banarsidas Publication, 1958, p. 211.
\end{itemize}
\end{footnotesize}
into Subedar or Nizam.\textsuperscript{11} Akbar divided his empire into well defined Province and established uniform administration in them. Provinces were not of uniform size or income. They were known as Subas.

The Mughal Provincial system was a ‘Dyarchy’, with two heads, provincial Governor as executive head and diwan as revenue head and both were independent of each other.\textsuperscript{12} Besides the Provinces, there were within the empire many subordinate states which belonged to the chiefs, who had accepted Akbar as their Suzerain.\textsuperscript{13}

Sipah-Salar was commanded a fairly big force and he was popularly called Subehdar and sometimes only suba. In the thirty first year of his region, Akbar found it necessary, after due scrutiny, to appoint two men to each province, one of whom was of course the assistant or joint Governor and was expected to act in case the Chief Governor had to come to Court or be absent owing to some other cause.\textsuperscript{14}

Governor was vicegerent of the emperor and was appointed by him. He was responsible for the welfare of the people of his Province. His main duties were to maintain law and order in his Province, to enforce imperial decrees and help the collection of revenue. He was also administering the criminal justice. He was to appoint reliable and loyal men for police duty and for intelligence service. He was to encourage agriculture and construct works of irrigation, roads, gardens, hospitals,

\begin{thebibliography}{9}
\bibitem{note11} Ashirbadi Lal Srivastava, the Mughal Empire (1526-1803), Shiva Lal Aggarwal & Co. Agra, 1959, p. 514.
\bibitem{note12} Supra note 1 at 132.
\bibitem{note13} Supra note 11 at 193-194.
\bibitem{note14} Supra note 1 at 134.
\end{thebibliography}
wells and similar other works. He was to see that people enjoyed complete religious liberty. He was advised by wazir at the time of his departure, to take charge of a province, to keep himself in touch with important people in his Suba, to recommend worthy officials for promotion, to punish rebellious Zamindars, to send to the court fortnightly reports about notable occurrence in his province. He was also advised to keep his troops in proper trim, to be vigilant, to help the poor and to increase the cultivation by protection husbandmen.\textsuperscript{15} There was no regulation fixing the tenure of the office of Sipah-Salar.\textsuperscript{16}

Under Shahjahan, the entire area was divided into twenty two Provinces. With the exception of Awadh, we get a connected account of appointments of Governors and transfers from one Province to another in the empire. Provincial Governors were chosen from amongst capable military officers, who were also gifted with executive ability.

They were expected to be men of character and integrity. Shahjahan did not tolerate incompetence or abuses in Provincial Governments and never hesitate to remove even his favourite officers from their charge. The Provincial Governor exercised three fold functions that are civil, judicial and military.

Under Aurangzeb, the Provincial bureaucracy was well organized. The entire empire was divided into twenty one Provinces and the Subehdar had unlimited powers. His main duties were to keep order and to collect revenue.\textsuperscript{17}

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\item Supra note 11 at 515.
\item Supra note 1 at 135.
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2.5 **British Period:**

The progress of the Office of the Governor during the British period can be divided into following three parts:

1) 1600 AD to 1773 AD

2) 1773 AD to 1858 AD

3) 1858 AD to 1947 AD

2.5.1 **1600 AD to 1773 AD:**

On 31 December 1600, the Queen Elizabeth of England granted a Charter and according to this Charter two hundred and fifteen English knights, aldermen and burgesses headed by George Earl of Cumberland came to East Indies for conducting trade. At that time there object was to make money and which had no statutory warrant either to annex territory or to exercise sovereign rule. The Charter provided for the Office of the Governor. The purpose was to have an integrated and coherent management, control, direction and handling of the business of the Company.\(^\text{18}\) Thomas Smith, aldermen of London was appointed the first Governor.\(^\text{19}\)

Although the first Governor was appointed by Queen Elizabeth, provision was made to elect the Governor annually at a Public Assembly of the Company commonly called the Court.\(^\text{20}\) The Charter was granted for a period of

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\(^\text{18}\) Dr. Purushottam Singh, Governors Office in Independent India, Navyug Sahitya Mandir, Bihar, 1968, p. 2.

\(^\text{19}\) M.S Dahia, Office of the Governor in India, p. 1.

The Governor and the Council were also vested with executive, legislative and judicial powers. Actually these powers were exercised in the Governor because he was the central figure in the Company. The Governor and the Company considered the matters pertaining to trade. They were also instructed to keep always in mind the interests and benefits of the British Kingdom.

The Act of 1600 did not appear to give any special or emergency power to the Governor. The powers entrusted to the Governor and the Company was considered to be in conformity with existing situations and justified for a commercial concern.

Keeping in view of the good government of the Company a change in the management of joint stock type took place by the Charter Act of 1612 and vested the management of the said Company with a Governor and Deputy Governor with twenty four committees (each committee consisting of single member) were elected annually and the Governor was armed with the committee to assemble itself in any convenient place within our dominion or elsewhere and to make, ordain and constitute such and so many reasonable laws, orders and ordinances for good government of the company. The control of the company’s business was democratic in principle. The legislative powers granted to the Governor and his committee did not differ materially from the powers of making bye laws usually exercised by those of ordinary municipal and commercial corporations.

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22 Supra note 19.
23 Supra note 18 at 3.
With the extension of powers of the company by succeeding Charters, the Office of the Governor also became important. The Charter Act of 1615 equipped the Governor with more powers, which further enhanced in 1623 by armed the Governor with the power of controlling and punishing its servants.\textsuperscript{25} The Charter Act of 1661, empowered the Governor and the Council, with the discharge and administering of the British civil and criminal laws and the Company was changed into a territorial power.\textsuperscript{26} The Charter Act, 1694 made a change in the tenure of Office of the Governor. The Governor or his Deputy could not continue in office for more than two years.\textsuperscript{27}

The Charter Act, 1698 gave to the Governor and the Council, the authority to exercise civil and criminal jurisdiction at their settlements and to maintain troops for their defense.\textsuperscript{28} The first major step taken by the Company in exercising the political power purchased the Zamindari of Calcutta. It was felt at that time to make the Governor more leading. The effort to make the Governor more powerful was to protect the commercial and trading interests of the Company owing to the rivalry and conflicts of French and Portuguese trading Company in India and secondly owing to the disintegration of Mughal Empire after the death of Aurangzeb, which has led to the diverting of interests of the Company from the commercial to the territorial gain for consolidating the position in India.

\begin{itemize}
\item \textsuperscript{25} Ibid.
\item \textsuperscript{26} Ibid.
\item \textsuperscript{27} Supra note 18 at 4.
\item \textsuperscript{28} George Chestney, Indian Polity- a View of the System of Administration in India, London, 1870, p. 12.
\end{itemize}
Consequently, the Governor was further armed with the power of civil and military government.\textsuperscript{29}

In the eighteenth century, the East India Company became a great political power. Now the Governor and the Council started living with a navy, a standing army, judges’ etc. But the administrative structure remained the same. In this process the Governor of the three Presidencies played a significant role. They were no doubt independent of one another but at a time of urgency they mutually co-operated. The power was vested in the Governor and the Council jointly and could only be exercised through the majority of votes. Council was consists of the senior civil servants of the Company. The number of members of the Council varied in each Presidency but it was normally between twelve and sixteen. Although the Governor was the head of the Presidency but his position was not appeared to be more than that of ‘Primusinterpares’.\textsuperscript{30}

Governor was not always able to act on his own authority even in emergency, because the Council, which supposed to help the Governor in administration, put obstacles in his way. After becoming the Governor of Bengal, Warren Hastings realized this difficulty and that’s why he complained to the Court of Directors that though the powers of the Governor believed to be great but are “in reality little more than those of any individual in his Council”.\textsuperscript{31} He pleaded for some emergency powers to be vested in the Governor. Therefore, Lord Clive

\textsuperscript{29} Supra note 24.
\textsuperscript{30} Supra note 18 at 5-6.
\textsuperscript{31} Letter to the Court of Directors, November 11, 1773, quoted in A.C. Banerjee, Indian Constitutional Documents, Calcutta, 1945, p. 16.
allowed to delegate, the functions of the Council to a Select Committee of the Court of Directors. Governor was the Commander-in-Chief of the armed forces of Company. He had the exclusive privilege of correspondence with the Secret Committee of the Court of Directors.

2.5.2 1773 AD to 1858 AD:

By 1772, the financial status of the company was such that it could not get a loan from the Bank of England. The corruption was rampant in the affairs of the Company. The British Parliament appointed a Committee of Investigation which made startling disclosure of the present’s received by the Company’s servant. At that time three Presidencies Bengal, Madras and Bombay were acting on its own ways and there was no Central Administration to control them and each Presidency could independently declared war and entered into treaties. All this led to the enactment of the Regulating Act of 1773. 32

This Act was an attempt to reorganize the constitution of the Company and introduce the ‘policy of centralization’ in British India. 33 It brought the Company’s business directly under the control of Crown and Parliament of England. The Office of Governor-General was created and the Presidency of Fort William in Bengal was become the supreme presidency. Warren Hastings was appointed as Governor-General of Bengal. He was the first Governor-General in British India. According to this Act, the Presidency of Madras and Bombay came under the control and supervision of Governor-General of Bengal.

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33 R. Coupland, the Indian Problems, Part-I (London) 1945, p. 9.
The powers of Governors were reduced by this Act. The Governors of Madras and Bombay had to take the prior approval of Governor-General before making treaty and declare war, except in case of emergency or under the direct order from the Director in London. The presidencies were under the obligation to follow the directions given by the Governor-General. They had to send all needful information’s relating to the affairs of the presidencies. And if they disobey the orders and directions received from the Governor-General, he was authorized to suspend the Governors of the subordinate presidencies. This Act, tried to control the authority of the Governors of subordinate presidencies to declare ‘war and peace treaties’. But it could not get success because the exceptions were wide. Philip Woodruff observed this Act, in these words “it established the Office of Governor-General, but gave him so shadowy a control over the Governors of Madras and Bombay that he was little more than first among equals”.

After a decade of the operation of the Regulating Act, the British Parliament put through another Act, known as Pitts India Act, 1784. Now the Governor, though the appointee of the Court of Directors, could be removed or recalled by the King’s Majesty. Apart from receiving orders and instructions from the Governor-General in Council, he could get the same direct from the Court of Directors or its secret committee.

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36 Supra note 18 at 9.
The Parliament Act of 1786 made a significant change and under this Act, Governor was empowered to overrule the decisions of his Council, only in special cases. It did not mean that he could act without the Council. Lord Cornwallis declared the treaty with Tippoo alone, which was declared invalid.\textsuperscript{37} Lord Cornwallis was in favour of giving more powers to the Governors of subordinate Presidencies.

By the Parliament Act of 1793, the position of the Governor made strong to some extent. This Act, vested the discretionary powers to the Governor and he could declare any order or passed any resolution without the assent of his Council, but he was to be held responsible for the same and for its consequences.

The Parliament Act, 1807, clothed the Governors of subordinate Presidencies with legislative powers. Provision was made to get the legislative Acts registered as well as approved by the Supreme Court and the Recorder’s Court respectively.\textsuperscript{38} By the Charter Act, 1833, the Governor-General of Fort William became the Governor-General of India. Now, the Governors of Presidencies were bound to obey the instruction of the Office of the Governor-General. The Provincial Government could be suspended by the Governor-General with the consent of his Council, if the Provincial Government failed to obey the instructions of the Centre Government.

The Act, took away the power of making laws from the subordinate Presidencies. The Governor of a Presidency was prohibited to frame or suspend any regulations, except in case of urgency with the prior permission of the Governor-

\textsuperscript{37} Supra note 28 at 21.

\textsuperscript{38} Supra note 18 at 10-11.
General. The Governors could give their opinion or propose any laws and regulations, which they thought necessary for their respective Presidency.

The British Parliament Act, 1853, made a significant change and strengthened the Unitary Government of India. The Governor-General of Fort William of Bengal was unburdened and the post of Governor was created for Bengal, but at that time a Lieutenant Governor was appointed for the said Presidency. The first war of independence called ‘Sepoy Mutiny’ began in 1857, which had led the British Parliament to introduce a bill by Lord Palmerston on February 12, 1858, which transferred the Government of India from Company to the British Crown.39

2.5.3 1858 AD to 1947 AD:

The Governor, who was appointed by the Court of Directors, now the Act of 1858, made the provision to appoint the Governor by Her Majesty by warrant under her Royal Sign Manual.40 Two executive councilors were also appointed by the crown for the help of the Governor. Governor retained the power to overrule the members of his council under this Act.

The Indian Councils Act, 1861 was made some important changes. It provided India with a framework of government, which lasted up to the present time. This act was the first step towards the provincial autonomy. This Act enhanced the powers and functions of the Governor.

The Governors of the Presidencies were restored with the power of legislation for their Provinces, but they were required to seek the assent on every

39 Supra note 24 at 8-9.
40 Section 29, Government of India Act, 1858.
Bill in order to become an Act from the Governor-General in Council. But the powers of the Governors were limited to the effect that they could not alter the Acts passed by the Centre.

The Governor was authorized to nominate four to eight members to his Council for the purpose of making laws. He was also empowered to preside over its meeting and in case of enacting regulations, if there was a tie in the Council he was empowered to use his casting vote. He was empowered to allow or refuse his assent to a Bill and a Bill passed by the Governor could be disallowed by the Governor-General. Crown was the final authority in case of Provincial legislations.

The Indian Councils Act, 1871, gave new driving force to the Provincial Government by giving authority to the Governor in Council to propose a draft of any regulations for the good government of the Province to the Governor-General in Council. This Act also empowered the Provincial Government to amend and repeal certain laws. The Secretary of State for India was empowered to deprive the Governor of this right. The Indian Councils Act, 1909 provided for the enlargement of Legislative Council of Bombay and Madras Presidencies.

The Governor was also empowered to nominate members in the Legislative Council. The Governor could have a working majority in the Legislative Council at his back and call. For example, there were forty six members in the Legislative Council of Bombay, out of which there were twenty one elected, seven

41 Supra note 24 at 9.
42 Section 41, Indian Councils Act, 1861.
43 Sections 2 &3, Indian Councils Act, 1871.
nominated non-officials and eighteen officials. In this way, the Governor has the
support of twenty five in a House of forty six.

In Bengal, the situation was somewhat different. In a House of fifty
two members the Governor had the support of twenty officials and four nominated
non-officials. Governor had the discretionary powers to act otherwise than in
accordance with the advice of his ministers.\textsuperscript{44} He had the power to certify a grant
refused by the Legislature relating to reserved subjects. Besides the rules made by
the Governor in regard to the discussion on the Annual Financial Statement, matters
of general public interest and the asking of questions, were subject to the sanction
of the Secretary of State and the Legislative Council could not alter or amend them.

The Legislative Council of Province was nothing but advisory body
without any power of effective control over the government.\textsuperscript{45} Governor had the
veto power and he was also empowered to certify any Act, rejected by the
Legislature. Srinivas Ayyanger, while commenting on the powers of the Governor
said that the Governor held the position of a dictator by any definition.\textsuperscript{46} The
Provincial Legislature were under the control of the Central Government and the
Governor had to secure the assent of the Governor-General on the Bills passed by
his Council, which has left the Governors of the Provinces more or less as ‘an agent
of the Government of India’.\textsuperscript{47}

\textsuperscript{44} Section 4(3), Government of India Act, 1909.
\textsuperscript{45} Supra note 19 at 16.
\textsuperscript{46} Congress Presidential Address of Srinivas Ayyanger, Gauhati, 1926.
\textsuperscript{47} Supra note 24 at 11.
The Government of India Act, 1919, laid down for the first time in definite terms the British Government’s policy towards India that Britain was pledged not only to good government in India, but also to responsible government, before 1919, this principle was altogether unknown to the structure of the British rule in India.\textsuperscript{48} This Act was a major attempt to introduce responsible government in the Provinces and a great responsibility devolved on the Governor for attaining this objective.

This Act established some sort of provincial autonomy by the devolution authority in the provincial matter on the Provincial Government. A new device knows as ‘Dyarchy’ was introduced in the Provinces.\textsuperscript{49} According to this Act the Governors of Bengal, Madras and Bombay were continued to be appointed by the British crown for a period of five years but in case of other Governors, they were to be appointed after the consultation with the Governor-General. The Governor enjoyed a supreme position in the Provincial administration. He was empowered to appoint ministers from the Legislative Council and the ministers were to hold the office during his pleasure. The Governor was also clothed with the legislative powers, though he was not a member of the Legislature but was given the right to address the Council and to nominate one person having special knowledge in the case of Assam and not more than two in the case of other Provinces for the purpose of introducing or considering the bills in the Legislature.


\textsuperscript{49} Supra note 19 at 18.
No Bill could become a law in the Province without the assent of the Governor and the assent of the Governor-General to such Bills was also compulsory.

The Governor was also empowered to reserve a Bill for the consideration of the Governor-General. The Governors of the Provinces were given the powers of overruling the decisions of the majority of their Councils, if in their opinion, the safety, tranquility or interest of his Provinces or any part thereof were essentially affected. The transferred subjects are to be considered by the Governor on the advice of his ministry but the Governor had the right to disregard the advice tendered by the ministers and to act as he deemed fit and the ministers on the other hand had the option of resigning.

The instrument of instructions issue to the Governors did not require the Governors of a Province to consult the ministers together or to convene Cabinet meetings of ministers and the ministers appointed by the Governor were to be responsible individually to the Legislature. It was entirely left to the discretion of the Governor, whether to choose his ministers from members of one political party or from members of more than one political party or even from gentleman who belonged to no political party at all.\footnote{Supra note 24 at 12-13.} If there was any difference in allocation of revenues and balances between the reserved and the transferred subjects, the Governor had the final say. British Parliament appointed a Commission under the chairmanship of Sir John Simon in 1927, which submitted its report in 1930. Commission recommended the introduction of Provincial autonomy. British Government passed the Government of India Act, 1935, which was based on the
report of the Simon Commission. This Act introduce a federal form of government in place of unitary form of government and its provisions envisaged federation to which native States to India were to accede.

The Act provided for the division of power between Centre and its constituent units. The Provincial Government has the sole right to legislate with respect to matter contained in the provincial list.\(^{51}\) Under this Act, the whole executive powers of the Province were vested with the Governors.\(^{52}\) The Provincial Government was consisted of the Governor and the Council of Ministers headed by a Chief Minister to aid and advice the Governor, who had the power to appoint and dismiss the Chief Minister. The Governor was appointed by his majesty on the advice of Secretary of State for India under the royal sign manual.\(^{53}\)

The Governor was to exercise on the advice of the Council of Ministers except in the matters, in which he was authorized to act under this Act, in his discretion. The discretionary powers of the Governor were not clear and they were so wide that Governor could interfere in the day to day administration of the government. And the Governor himself determined the scope of his interference, as the discretionary powers were vague and wide. If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Act required to act in his discretion or to exercise his individual judgement, the decision of the Governor in his discretion shall be final and the validity of any thing done by the Governor shall not be called in question on the ground that he ought or ought

\(^{51}\) Rish Pal Nainta, Governor under the Indian Constitution, Deep & Deep Publication, 1992, pp. 6-7

\(^{52}\) Supra note 31 at 279.

\(^{53}\) Section 48(1), Government of India Act, 1935.
not to have acted in his discretion or exercised in his individual judgement. The Governor had the power to override the advice given by the Council of Ministers in regard to the matters involving the special responsibility of the Governor. In the exercise of his functions, the Governor had the following special responsibilities:

i) The prevention of any grave menace to the peace and tranquility of the Province and any part thereof;

ii) The safeguarding of the legitimate interests of the minorities;

iii) The securing to members of the public service of any right provided for them by or under this Act;

iv) The securing in the sphere of executive action of the purposes which the provisions of this Act, Chapter III of Part IV are designed to secure in relation to legislation;

v) The securing of peace for good government of areas which by or under the provision of this Act;

vi) Protection of the rights of any Indian States;

vii) The securing of the execution of orders of directions lawfully issued to him under Part VI of this Act by the Governor-General in his discretion.\(^5^4\)

The Governor was authorized to preside over the meetings of the Provincial Cabinet in his discretion. He had the power to appoint the members of the Public Service Commission. He was empowered to issue ordinances, in condition that if it appears to the Governor of a Province that peace and tranquility

\(^{54}\) Supra note 24 at 16-17.
of the Province is endangered, in such circumstances this Act empowered him to issue ordinances when the Legislature is in session.

The Governor could suspend the working of the Constitution at any time. He could issue a proclamation of emergency and assume to himself all or any of the functions exercised by any provincial authority, when he has satisfied that the administration of the Province otherwise could not be carried on according to the provisions of the Act. The Governor could retain a Bill passed by the Legislature for reconsideration on the lines suggested by him and he could also withhold his assent or reserve a Bill for the consideration of the Governor-General and the King. In financial sphere also he possessed large powers. Budget of Provinces were prepared under his supervision. He was the appointing authority for the ministers and they shall be summoned and be sworn in by him and shall hold office during his pleasure. He was empowered to make rules for the more convenient transaction of the business of the provincial government and the Governor by virtue of the powers vested in him make or amend any rules or orders related to any force and shall exercise his individual judgement. Due to the huge powers vested in the Governor, this Act of 1935 was greatly criticized by almost all parties in India.

The Governors in the Provinces became the real rulers of their respective Provinces, subject to control of Governor-General and Secretary of State for India. And no section 93 was enforced in the non-congress ruled provinces. Similarly, after sometime the promulgation of section 93 of the Act was withdrawn

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55 Section 93, Government of India Act, 1935.
in Sind and NWFP as the Governor of these Provinces succeeded in installing non-
congress ministries.\textsuperscript{56}

In the year 1942, the British Government realized that, it was
difficult to remain indifferent towards the Indian problem any longer and therefore,
sent Sir Stafford Cripps to negotiate with Indian leaders and to secure their co-
operation in the prosecution of war. Indian leader rejected the proposal of the
mission. In 1946 Labour party assuming the Office in England and they sent a
Cabinet Mission in India.

The recommendations of the Cabinet Mission were accepted by the
Indian leaders and as a result of which popular ministries formed again in all
Provinces and allowing the Governors to put an end to their rule. With the passing
of Indian Independence Act, 1947, the British rule in India came to an end and India
became an independent and sovereign country. This Act brought significant
became operative, all the Governors had submitted their resignations to the
Governor-General to be effective from 15\textsuperscript{th} August 1947. Persons holding the
Office of the Governor in Madras, Bombay and Assam were re-appointed. For the
remaining Provinces in India, the fresh appointments were made. The appointment
of these Governors was approved by the King. But in reality, appointments were
made by the Congress High Command in consultation with the Prime Ministers of
Provinces.

\textsuperscript{56} Supra note 24 at 16-19.
In accordance with the provisions of Section 8c of the Indian Independence Act, 1947 and the Indian (Provisional Constitution) Order, 1947, the Governor became the constitutional head.\textsuperscript{57} And there was a Council of Ministers to aid and advice the Governor in all his functions. Now the Governor was required to go by the advice of the Council of Ministers in all matters. The special responsibilities of the Governor that existed under the Government of India Act, 1935, began to disappear speedily from the Indian political system. And the full responsibilities devolved on the Prime Ministers of the Provinces, as the head of the Provincial Administration.\textsuperscript{58}

No significant changes took place in the Office of the Governor from the days of Indian Independence in August 1947 to the 26 January 1950.\textsuperscript{59} The Constitution of India came into force on 26 January 1950, which introduced tremendous changes in the Office of the Governor.

**To Sum Up:**

The Office of the Governor has its identity since the ancient India. In ancient India the Kings’ used to appoint the Governors for the proper administration of their Provinces, though they were known by different names. The powers of the Governors at that time were very wide. The word Governor was used in India during the British period. The functions of the Governor during British period were not the same as those at present time. At present, in Parliamentary System of Government in India, the Governor is appointed by President on the

\textsuperscript{57} Supra note 18 at 32.

\textsuperscript{58} Supra note 19 at 27.

\textsuperscript{59} Supra note 18 at 33.
recommendations of the Central Government. The Governor acts under the Constitution of India on the aid and advice of his Council of Ministers except in exceptional cases, where he acts in his discretion.