

Welcome students to Unit 2 the post colonial transition.

The focus of today's session will be the Union Territory Act.

The outline will cover two topics, The Constitution, 12th

Amendment Act 1962, as well as the Union Territories Amendment

Act 1963. At the end of the session, the student will be

able to explain the provisions of the acts and also to

comprehend the structure of the government in Goa.

The first topic is The Constitution, 12th Amendment Act

1962. This act brought Goa legally into the Indian Union.

You understand the history of Goa, Goa was under the

Portuguese for 451 years, which eventually ended in 1961 with

the Liberation of Goa by the Indian Army. So this

Constitution Amendment Act was introduced by the Prime Minister

Jawaharlal Nehru in March 19, 1962 in Parliament and it was eventually

passed in June 20th, 1962.

This act incorporated Goa, Daman and Diu as the 8th Union

Territory of India by amending the 1st Schedule of the

Constitution. But the act came into effect retrospectively on

20th of December 1961, that was day after the formal Portuguese

surrender or official surrender to the Indian state. The letter of

surrender was signed on 19th of December and this act came into

force from the 20th of December,

1961. The amendment also changed clause one of Article 240 of the

Constitution, which confers powers on the President to make

regulations for the peace, progress and the good government

of Goa, Daman and Diu. So by virtue of this amendment, Goa

became part of the Indian Union. The next important act was the

Government of Union Territories

Act 1963. Which addressed a number of union territories,

including Goa. Now this act was introduced in the Lok Sabha. By

then home minister, Lal Bahadur Shastri and it was passed on 4th

of May 1963. It is commonly called as the Union Territory

Act 1963 and it extended to Goa, Daman and Diu with effect from

13th of May 1963. This amendment was further changed in 1971.

Additional powers were given to the administrators to

assent Bills, issue ordinances in certain cases.

Now let's look at some of the provisions of this act.

Firstly, the legislative assembly.

According to the Act, the total composition of the Legislative

Assembly of Goa, Daman and Diu was fixed at 30 and the Members

would be elected directly. The Central government could

nominate not more than three persons who were not in

government service. Moreover, seats were also to be reserved

for Scheduled Castes in the Legislative Assembly in

proportion to their population.

The qualifications for membership were similar to those

qualifications essential to be a member of any other

legislature in India, namely, one had to be a citizen of

India and one had to complete 25 years of age and should

possess such other qualifications as may be

prescribed in that behalf by or under any Law of Parliament.

Moreover, a member could be disqualified if he holds an

office of profit under the Government of India or the state

or an Indian Territory, or if he is disqualified under Article

102 of the Indian Constitution, which covers

issues like if a person is declared insolvent or he is a member of any

Other state. The member is disqualified under the 10th schedule of the

Constitution, for example because of defection, or he's

declared to be of unsound mind. So this could be some of the

reasons why a member could lose his membership to

the Legislative Assembly.

A vacancy of seat could also occur if a member is both a

member of both Parliament and the state legislature. If a

Member gets disqualified for the reasons mentioned earlier, if a member on his own accord resigns, or if a member remains absent without permission from legislative meetings for a period of 60 days.

Next the duration of the Assembly, like Parliament, was scheduled to be for five years, but the term could be extended during emergency under Article 352.

Coming to the sessions of the Legislative Assembly, the administrator had the power to summon, prorogue or dissolve the assembly. Now the administrator played the role of a governor that he had to send the summons. He could also end the session whenever advised by the Council, he could also dissolve the assembly. In terms of sessions, a gap of six months should not lapse between two intervening sessions.

Coming to the role of speaker and Deputy speaker. As soon as the assembly was to meet for the first time, the members had to choose two among them as Speaker and Deputy speaker, so they were both elective offices.

A vacancy in the Office of the Speaker or the Deputy Speaker would arise if the individual ceased to be a member of the Assembly that could be as a result of resignation or removal from office.

Now the administrator had certain rights: he could address

the assembly, and he could also send messages to the assembly,

Generally as a sort of precedent, the administrator would address the first session

of the year. The ministers also had certain rights. They had the

right to speak, to take part in Proceedings of the Assembly and

legislative committees. Their Rights were protected and nobody

could question what they spoke in the house, in a court of law.

Some of the powers and privileges of members include: The

members enjoy freedom of speech in the Legislative

Assembly. And they were covered under the immunity

from court proceedings in respect of anything that they

said or any vote that was given by them in the assembly.

The Legislative Assembly had certain powers they could make Laws for

all matters which are enumerated in the state list and the

concurrent list. But there were restrictions also in lawmaking.

Which were imposed by article 286 , 287 ,288. These refer

generally to trading practices, taxes on electricity,

taxes on water, and so on. Moreover, there were restrictions on

the assembly in lawmaking by laws made by Parliament, which

would prevail over the laws made by the Assembly in certain cases

of inconsistency, and finally there was a limitation on

lawmaking because in certain areas sanction of the

administrator was required. For example ,

to bring in certain legislative proposals like finance bills.

So these are some of the provisions of the acts discussed.

For further understanding please refer to the

References given below

. Thank you.