

UPSCprep Free Daily Answer Writing Initiative

Subject: GS 2

Syllabus: Indian Polity and Constitution

Questions

Q1. Explain the grounds for disqualification of a Member of Parliament in India. Also, evaluate the possibilities and conditions for reversing the disqualification of a Member of Parliament.

(150 words)

10

Q2. Did the Indian Constitution inherently embody principles and provisions promoting secularism prior to the inclusion of the term 'secular' through the 42nd Amendment?

(150 words)

10

Model Structures

Q1. Explain the grounds for disqualification of a Member of Parliament in India. Also, evaluate the possibilities and conditions for reversing the disqualification of a Member of Parliament. (10 Marks)

Introduction

- The disqualification of a Member of Parliament (MP) in India is governed by Article 102 of the Indian Constitution, the Representation of the People Act, 1951, and the rules and procedures of the respective houses of Parliament.

Main Body

Grounds for disqualification of a Member of Parliament

1. **Holding Office of Profit:** Under Article 102 (1)(a), a person shall be disqualified from being an MP if they hold any office of profit under the Government of India or the government of any state other than an office declared by Parliament by law not to disqualify its holder.

2. **Unsound Mind:** Article 102 (1)(b) states that a person will be disqualified if they are of unsound mind and stand so declared by a competent court.
3. **Undischarged Insolvent:** According to Article 102 (1)(c), a person is disqualified if they are an undischarged insolvent.
4. **Not a Citizen of India:** If a person ceases to be a citizen of India, voluntarily acquires the citizenship of a foreign state, or is under any acknowledgement of allegiance or adherence to a foreign state, as per Article 102 (1)(d), they are disqualified.
5. **Disqualification under the Representation of People Act, 1951:** The Act specifies other grounds for disqualification, including a conviction for certain offenses, promoting enmity between different groups, a conviction for offenses related to hoarding or black marketing, etc.
6. **Disqualification for Defection:** The Tenth Schedule (Anti-Defection Law) provides for disqualification of an MP if they voluntarily give up the membership of their party or if they vote or abstain from voting in their house contrary to the directions of their party.

Reversal of Disqualification:

Reversal or rescission of disqualification of an MP, though not explicitly mentioned in the Constitution, can occur in certain circumstances.

- **Change in Circumstances:** If the grounds for disqualification no longer exist, the disqualification can be reversed.
- **Court Intervention:** Disqualification can be **reversed** if a higher court grants a stay on the conviction or decides the appeal in favour of the convicted lawmaker. In 2018, in ‘**Lok Prahari v Union of India**’ case, the SC clarified that the disqualification would not operate from the date of the **stay of conviction by the appellate court**.
- **Removal of Disqualification by Law:** Parliament can make laws to declare certain offences not leading to disqualification, which can result in the reversal of disqualification. However, the constitutionality of such a law will depend on the provisions of the law.

Conclusion

- Therefore, the disqualification of MPs is a significant constitutional provision aimed at preserving the sanctity of parliamentary democracy, and its reversal can happen under specific circumstances and conditions.
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Q2. Did the Indian Constitution inherently embody principles and provisions promoting secularism prior to the inclusion of the term 'secular' through the 42nd Amendment?

Justify.

(10 Marks)

Introduction

- The term 'secular' was explicitly included in the Preamble of the Indian Constitution through the 42nd Amendment in 1976. However, the principles and provisions promoting secularism have been embedded in the Constitution since its inception.

Main Body

Indian Constitution and Secular Principles and Provisions

1. **Religious Freedom:** Articles 25-28 provide the right to freedom of religion to all citizens. These articles ensure that everyone can follow, practice, and propagate a religion of their choice.
2. **Equality before Law:** The Constitution ensures that there is no discrimination on the grounds of religion. Article 14 guarantees equality before the law, and Article 15 prohibits discrimination on religious grounds, promoting the principle of equal citizenship, irrespective of religion.
3. **Abolition of Untouchability:** Article 17 abolishes untouchability. This signifies the Constitution's attempt to reform regressive religious practices.
4. **No Religious Instructions in State-funded Institutions:** Article 28 prohibits the imparting of religious instructions in any educational institution wholly maintained out of State funds. This ensures that the State does not promote any particular religion.
5. **Cultural and Educational Rights:** Articles 29 and 30 provide minorities with the right to conserve their language, script, and culture and establish and administer educational institutions, which effectively ensures the protection of cultural and religious diversity.

6. **Directive Principles of State Policy:** The Constitution, through various Directive Principles of State Policy, like Article 44 advocating for a Uniform Civil Code, envisages a society where religious scripts do not determine laws but are the same for every citizen, irrespective of religion.

Conclusion

- While the explicit mention of 'secular' was introduced through the 42nd Amendment, the essence of secularism was always a part of the Indian Constitution. **The inclusion of 'secular' in the Preamble merely made explicit what was already implicit.**



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