

## Indian Polity Notes Part 16 in English

### 16. Relation Between Union And States Notes

#### Part - XI

#### Article 245 {Extent of laws made by Parliament and by the Legislatures of States}

- Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.
- No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

#### Article 246 {Subject-matter of laws made by Parliament and by the Legislatures of States}

- Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").
- Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").
- Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").
- Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

#### Article 247 {Power of Parliament to provide for the establishment of certain additional courts}

- Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing law with respect to a matter enumerated in the Union List.

#### Article 248 {Residuary powers of legislation}

- Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.
- Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

#### Article 249 {Power of Parliament to legislate with respect to a matter in the State List in the National interest}

- Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.
- A resolution passed under clause (1) shall remain in force for such period not exceeding one year
- A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

**Article 250 {Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation}**

- Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.
- A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

**Article 251 {Inconsistency between laws made by Parliament under articles 249 and 250 and laws made by the legislatures of States}**

- Nothing in articles 249 and 250 shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State, shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.

**Article 252 {Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State}**

- If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

#### **Article 253 {Legislation for giving effect to international agreements}**

- Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

#### **Article 254 {Inconsistency between laws made by Parliament and laws made by the Legislatures of States}**

- If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

#### **Article 255 {Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only}**

- No Act of Parliament or of the Legislature of a State, and no provision in any such Act, shall be invalid by reason only that some recommendation or previous sanction required by this Constitution was not given, if assent to that Act was given -
- Where the recommendation required was that of the Governor, either by the Governor or by the President;
- Where the recommendation required was that of the Rajpramukh, either by the Rajpramukh or by the President;
- Where the recommendation or previous sanction required was that of the President, by the President.

### **Chapter II {Administrative Relations}**

#### **Article 256 {Obligation of States and the Union}**

- The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may, appear to the Government of India to be necessary for that purpose.

#### **Article 257 {Control of the Union over States in certain cases}**

- The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.
- The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of the railways within the State.

#### **Article 257A {Assistance to States by deployment of armed forces or other forces of the Union}**

- {Repealed by 44th amendment,1978}

#### **Article 258 {Power of the Union to confer powers, etc., on States in certain cases}**

- Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.
- A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorize the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.
- Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

#### **Article 258A {Power of the States to entrust functions to the Union}**

- Notwithstanding anything in this Constitution, the Governor of a State may, with the consent of the Government of India, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the exclusive power of the State extends.

#### **Article 259 {Armed Forces in States in Part B of the First Schedule}**

**Article 260 {Jurisdiction of the Union in relation to territories outside India}**

- The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such agreement shall be subject to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

**Article 261 {Public acts, records and judicial proceedings}**

- Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.
- Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.

**Article 262 {Adjudication of disputes relating to waters of inter-State rivers valleys}**

- Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.
- Notwithstanding anything in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).

**Article 263 {Provisions with respect to an inter-State Council}**

- If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of -
- Inquiring into and advising upon disputes which may have arisen between States;
- Investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest e.g. Research in agriculture, forestry.
- Making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject, it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organization and procedure.

**Part – XII****Article 264 {Interpretation}**

- In this Part, "Finance Commission" means a Finance Commission constituted under article 280.

**Article 265 {Taxes not to be imposed save by authority of law}**

- No tax shall be levied or collected except by authority of law.

#### **Article 266 {Consolidated Funds and public accounts of India and of the States}**

- Subject to the provisions of article 267 and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of India", and all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of the State".

#### **Article 267 {Contingency Fund}**

- Parliament may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of India" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the President to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorization of such expenditure by Parliament by law under article 115 or article 116.

#### **Article 268 {Duties levied by the Union but collected and appropriated by the States}**

- Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected -
- The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State.

#### **Article 269 {Taxes levied and collected by the Union but assigned to the States}**

- The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2), namely: -
  - Duties in respect of succession to property other than agricultural land;
  - Estate duty in respect of property other than agricultural land;
  - Terminal taxes on goods or passengers carried by railway, sea or air;
  - Taxes on railway fares and freights;
  - Taxes other than stamp duties on transactions in stock-exchanges and futures markets;
  - Taxes on the sale or purchase of newspapers and on advertisements published therein;
  - Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

- Taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

**Article 270 {Taxes levied and collected by the Union and distributed between the Union and the States}**

- Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2).
- Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories or to taxes payable in respect of Union emoluments, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed.

**Article 271 {Surcharge on certain duties and taxes for purposes of the Union}**

- Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

**Article 272 {Taxes which are levied and collected by the Union and may be distributed between the Union and the States- Repealed by the eightieth Constitution amendment Act}**

- Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India, but, if Parliament by law so provides, there shall be paid out of the Consolidated Fund of India to the States to which the law imposing the duty extends sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among those States in accordance with such principles of distribution as may be formulated by such law.

**Article 273 {Grants in lieu of export duty on jute and jute products}**

- There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Assam, Bihar, Orissa and West Bengal, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States, such sums as may be prescribed.
- The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as any export duty on jute or jute products continues to be levied by the Government of

India or until the expiration of ten years from the commencement of this Constitution, whichever is earlier.

- In this article, the expression "prescribed" has the same meaning as in article 270.

#### **Article 274 {Prior recommendation of President require to Bills affecting taxation in which States are interested}**

- No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to Indian income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

#### **Article 275 {Grants from the Union to certain States}**

- Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that

#### **Article 276 {Taxes on professions, trades, callings and employments}**

- Notwithstanding anything in article 246, no law of the Legislature of a State relating to taxes for the benefit of the State or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

#### **Article 277 {Savings}**

- Any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament by law.

#### **Article 278 {Agreement with States in Part B of the First Schedule with regard to certain financial matters}**

#### **Article 279 {Calculation of "net proceeds", etc.}**

- In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Comptroller and Auditor-General of India, whose certificate shall be final.
- Subject as aforesaid, and to any other express provision of this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

#### **Article 280 { Finance Commission}**

- The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.
- It shall be the duty of the Commission to make recommendations to the President as to (a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds; (b) the principles which should govern the grants in aid of the revenues of the States out of the Consolidated Fund of India; (c) any other matter referred to the Commission by the President in the interests of sound finance
- The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them

#### **Article 281 {Recommendations of the Finance Commission}**

- The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.

#### **Article 282 {Expenditure defrayable by the Union or a State out of its revenues}**

- The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.

#### **Article 283 {Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts}**

- The custody of the Consolidated Fund of India and the Contingency Fund of India, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of India, their payment into the public account of India and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by Parliament, and, until provision in that behalf is so made, shall be regulated by rules made by the President.

#### **Article 284 {Custody of suitors' deposits and other moneys received by public servants and courts}**

All moneys received by or deposited with -

- Any officer employed in connection with the affairs of the Union or of a State in his capacity as such, other than revenues or public moneys raised or received by the Government of India or the Government of the State, as the case may be, or
- Any court within the territory of India to the credit of any cause, matter, account or persons, shall be paid into the public account of India or the public account of State, as the case may be.

#### **Article 285 {Exemption of property of the Union from State taxation}**

- The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a State or by any authority within a State.
- Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable, so long as that tax continues to be levied in that State.

#### **Article 286 {Restriction as to imposition of tax on the sale or purchase of goods}**

- No Law of a State shall impose, or authorize the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place -
- Outside the State; or
- In the course of the import of the goods into, or export of the goods out of, the territory of India.

#### **Article 287 {Exemption from taxes on electricity}**

- Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorize the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is -
- Consumed by the Government of India, or sold to the Government of India for consumption by that Government; or

- Consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, etc.

#### **Article 288 {Exemption from taxation by States in respect of water or electricity incertain cases}**

- Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley. Explanation: The expression "law of a State in force" in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

#### **Article 289 {Exemption of property and income of a State from Union taxation}**

- The property and income of a State shall be exempt from Union taxation.
- Nothing in clause (1) shall prevent the Union from imposing, or authorising the imposition of, any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State, or any operations connected therewith, or any property used or occupied for the purposes of such trade or business, or any income accruing or arising in connection therewith.
- Nothing in clause (2) shall apply to any trade or business, or to any class of trade or business, which Parliament may by law declare to be incidental to the ordinary functions of Government.

#### **Article 290 {Adjustment in respect of certain expenses and pensions}**

- Where under the provisions of this Constitution the expenses of any Court or Commission, or the pension payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India or after such commencement in connection with the affairs of the Union or of a State, are charged on the Consolidated Fund of India or the Consolidated Fund of a State, then, if –
- In the case of a charge on the Consolidated Fund of India, the court or Commission serves any of the separate needs of a State, or the person has served wholly or in part in connection with the affairs of a State; or
- In the case of a charge on the Consolidated Fund of a State, the court or Commission serves any of the separate needs of the Union or another State, or the person has served wholly or in part in connection with the affairs of the Union or another State, there shall be charged on and paid out of the Consolidated Fund of the State or, as the case may be, the Consolidated

Fund of India or the Consolidated Fund of the other State, such contribution in respect of the expenses or pension as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

#### **Article 290A {Annual payment to certain Devaswom Funds}**

- A sum of forty-six lakhs and fifty thousands rupees shall be charged on, and paid out of the Consolidated Fund of the State of Kerala every year to the Travancore Devaswom Fund; and a sum of thirteen lakhs and fifty thousand rupees shall be charged on, and paid out of the Consolidated Fund of the State of Tamil Nadu, every year to the Devaswom Fund established in that State for the maintenance of Hindu temples and shrines in the territories transferred to that State on the 1st day of November, 1956, from the State of Travancore-Cochin.

#### **Article 291 {Privy purse sums of Rulers}**

- {Rep. by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 2.}

#### **Chapter II {Borrowing}**

#### **Article 292 {Borrowing by the Government of India}**

- The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.

#### **Article 293 {Borrowing by States }**

- Subject to the provisions of this article, the executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.
- The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 292 are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.
- A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or by its predecessor Government, or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.
- A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.