

Election Commission of India

For
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Basic Introduction

- Regular and Periodic Election is one of the important feature of Representative Democracy, where it is contingent upon to renew the mandate every 5/6/7 years in order to have legitimate sanction of the people for their government. In this series we take upon the investigation of the Statutory instt. Of Election Commission of India(ECI) in all perspectives.

ECI:Role and Responsibilities

- The major aim of election commission of India is to define and control the process for elections conducted at various levels, Parliament, State Legislatures, and the offices of the President and Vice President of India.
- Sh.Sunil Arora is the present Chief Election Commissioner of India.
- In recent times we see the preeminent role goes to ECI.

Appointment and removal of ECI

- The President appoints the Chief Election Commissioner and Election Commissioners.
- They have tenure of **six years**, or up to the age of **65 years**, whichever is earlier.
- They have the same status and receive pay and perks as available to Judges of the Supreme Court of India.
- The Chief Election Commissioner can be removed from office only through the same procedure as prescribed in the case of Supreme Court Judge, ie. impeachment.
- Election commissioner or a regional commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

Constitutional Position

- Article 324 of the Constitution provides that the President or the Governor of a state is obliged to provide all “such staff as may be necessary” for the EC to conduct elections, not just in the state concerned, but outside as well.
- In other words ECI is empowered to solicit the services of certain categories of staff to streamline the electoral process.

Article 324 of the Indian Constitution

- “under Article 324 of the Constitution, superintendence, direction and control of elections are bestowed upon the Commission and it is the duty of the Commission to take necessary measures to create a level playing field and provide a conducive electoral environment to all the stakeholders.”

Functions and powers

- The Election Commission of India is considered the guardian of free and reasonable elections.
- It **issues the Model Code of Conduct in every election** for political parties and candidates so that the decorum of democracy is maintained.
- It **regulates political parties and registers them for being eligible to contest elections.**
- It publishes the allowed limits of campaign expenditure per candidate to all the political parties, and also monitors the same.
- The **political parties must submit their annual reports to the ECI** for getting tax benefit on contributions.
- It guarantees that all the political parties regularly submit their audited financial reports.

How it works

The electoral machinery in the field is headed by the Chief Electoral Officer (a senior government official) and consists mainly of

- district election officers (usually a district magistrate);
- electoral registration officers (sub-divisional magistrate);
- assistant electoral registration officers (tehsildar);
- returning officers (district magistrate);
- assistant returning officers (additional magistrate) and booth-level officers (government schoolteachers, *anganwadi* workers, postmen etc).

Closer to an election, when the *electoral roll* is prepared, hundreds of thousands of government workers are drafted in to perform duties as enumerators, presiding officers, polling officers and counting assistants, and others.

Functioning of ECI

- The EC has a separate secretariat headquartered in Delhi, but this set-up is not enough to conduct elections, especially on the scale of the Lok Sabha polls.
- The EC secretariat has roughly 400 officers at the level of deputy election commissioners, director general, director, senior principal secretary, principal secretary, under secretary and section officers, among others. While officers at the level of deputy election commissioner, director general and director are normally appointed on deputation from civil services, other positions are occupied by the permanent staff of the Commission.

Exceptions from Election Duty

There are 10 categories of government officers and employees that are exempted from election duty.

- These are senior officers of the Indian Forest Service;
- doctors and compounders working in veterinary hospitals;
- Grade B officers of veterinary hospitals; medical staff including doctors and nurses;
- territorial staff of the forest departments;
- All India Radio employees;
- Doordarshan employees,
- operational/technical staff of UPSC,
- BSNL and educational institutions;
- officers/staff of commercial banks located in rural areas which happen to be a single-officer branch; and
- a person retiring in six months.

Power and functions

“The disciplinary functions of the Election Commission of India over officers, staff and police deputed to perform election duty during election period shall extend to:

- (a) suspending any officer/police personnel for insubordination or dereliction of duty;
- (b) substituting any officer / official / police personnel by another such person, and returning the substituted individual to the cadre to which he belongs, with appropriate report on his conduct;
- (c) making recommendation to the competent authority for taking disciplinary action for any act of insubordination or dereliction of duty while on election duty, with such recommendation being promptly acted upon by the disciplinary authority. Such action taken will be communicated to the Election Commission within six months from the date of the EC’s recommendations; and
- (d) the Government of India will advise the State governments that they too should follow the above principles and decisions, since a large number of election officials are under their administrative control.”

Model Code of Conduct

- Model Code of Conduct is a set of guidelines issued by the Election Commission of India for conduct of **political** parties and candidates during elections mainly with **respect** to speeches, polling day, polling booths, portfolios, election manifestos, processions and **general** conduct.
- The purpose and intention is create a level playing field for all the candidates contesting election without fear or favour.

Model Code of Conduct Violation

- Ministers and other authorities cannot announce any financial grant, make promises of construction of roads, carry out any appointments in government and public undertakings which may have the effect of influencing the voters in favour of the ruling party.
- In June 2002, the EC on the direction of the Supreme Court, issued an order under Article 324 that each candidate must submit an affidavit regarding the information of his/her criminal antecedents; assets (both movable and immovable) of self and those of spouses and dependents as well; and qualifications at the time of filing his/her nomination papers for election to the Lok Sabha, the Rajya Sabha and the State Legislative Assemblies.
- Furnishing of wrong or incomplete information shall result in the rejection of nomination papers, apart from inviting penal consequences under the Indian Penal Code.

General Conduct

- No party or candidate shall include in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic
- Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. Parties and Candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided.
- There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.
- All parties and candidates shall avoid scrupulously all activities which are “corrupt practices” and offences under the election law, such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.

General Conduct

- The right of every individual for peaceful and undisturbed home-life shall be respected, however much the political parties or candidates may resent his political opinions or activities. Organizing demonstrations or picketing before the houses of individuals by way of protesting against their opinions or activities shall not be resorted to under any circumstances.
- No political party or candidate shall permit its or his followers to make use of any individual's land, building, compound wall etc., without his permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc.
- Political parties and candidates shall ensure that their supporters do not create obstructions in or break up meetings and processions organized by other parties. Workers or sympathisers of one political party shall not create disturbances at public meetings organized by another political party by putting questions orally or in writing or by distributing leaflets of their own party. Processions shall not be taken out by one party along places at which meetings are held by another party. Posters issued by one party shall not be removed by workers of another party

Reforms

- The contestants are also required to give details of expenditure within 30 days of the declaration of the election results.
- Introduction of Electronic Voting Machine(EVM) to conduct election
- Computerization of electoral roll and possibility of linking Voter I.D. With Adhar Card is also seriously discussed.
- A person cannot have more than one voter card and it has been made criminal activity.
- Introduction of “None of the Above (**NOTA**) in the ballot box to allow person to exercise the right not to have choice
- Disenfranchising upto 6 yrs for furnishing wrong information or violating MCC.

Independence and impartiality of ECI

- **security of tenure.** He holds office for a term of 6 years from the date he assumes office or till he attains the age of 65 years, whichever is earlier.
- **Rigorous process of removal** :Art. 324(5) lays down that the CEC cannot be removed from his office except in like manner and on like grounds as a Judge of the Supreme Court i.e. he can be removed by the president on the basis of a resolution passed to that effect by both the Houses of Parliament with special majority, either on the ground of *proved misbehaviour* or *incapacity*.
- Any other election commissioner or a regional commissioner cannot be removed from office except on the recommendation of the CEC
- The service conditions of the CEC cannot be varied to his disadvantage after his appointment

criticisms

- No qualification as such has been prescribed for appointing the members of the Election Commission.
- Further, there is no restriction on the government not to reappoint these commissioners, thereby the chances of pleasing the government of the day may arise.
- The administrative expenses of the EC or the salaries, allowances, and pensions of the CEC and ECs are not charged on the Consolidated Fund of India.