

Election Commission and Article 324

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UpSC has many a times given questions on constitutional institutions their relevance and the reforms needed in them the best example of which is the question on CAG. This election year the institution which is continuously in news is the election commission of India and the reforms needed to further strengthen its neutrality and independence.

In news

Article 324 was invoked in Bengal

Placing it in the syllabus

Constitutional bodies

Static dimensions

- What is article 324
- Various Acts which give powers to ECI

Current dimensions

- Importance of using article 324

Content

What is Article 324?

- Article 324 in the Indian Constitution gives power to the Election Commission to direct, control, and conduct elections to all Parliament, to the Legislature of every state and of elections to the offices of the President

and Vice President held under the Constitution.

- Article 324 of the Constitution vests the “superintendence, direction and control of elections” in an Election Commission consisting “of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix”.
- Under this clause for the first time in Electoral history of India **ECI has issued orders to bar all candidates and parties from holding any public meeting in West Bengal** owing to the recent clashes between TMC and BJP.

Various Acts which give powers to ECI

ECI mainly gets powers under the following:

1. Model Code of Conduct – An agreement by parties
2. Election Symbols Order 1968
3. RPA acts 1950, 1951
4. Powers under Article 324

(The above order is important as the power of ECI increases with each rung)

Model Code of Conduct

It is a set of guidelines issued by the Election Commission of India for the conduct of political parties and candidates during elections mainly with respect to speeches, polling day, polling booths, portfolios, election manifestos, processions, and general conduct. These set of norms have been evolved with the consensus of political parties who have consented to abide by the principles embodied in the said code in its letter and spirit. The Model Code of Conduct comes into force immediately on announcement of the election schedule by the commission for the need of ensuring free and fair elections.

Election Symbols Order 1968

As per the Election Symbols (Reservation and Allotment) Order, 1968, the Election Commission allots symbols for anyone contesting in polls. A person contesting on behalf of a recognized political party will inherit the party's symbol. An independent candidate or someone contesting on behalf of an unrecognized political party has to approach the Commission and get a symbol allotted from the list of 'free' symbols available.

A candidate will have to provide three symbols from the free list at the time of submission of nomination papers, one of which will be allocated to him/her. Any choice other than from the EC's list will be summarily rejected.

In the case of a recognized political party, the Commission allows it to 'reserve' a symbol. For example, if a political party recognized in a particular State wishes to contest in elections in another State, it can 'reserve' the symbol being used by it.

RPA acts 1950,1951

These acts were enacted by the Parliament of India to provide a detailed framework around free and fair elections in the country. The 1950 act makes provisions for allocation of seats in Lok Sabha and Legislative Assemblies, Delimitation of Constituencies, Qualifications of voters, Manner of filling the seats of Rajya Sabha by Union Territory representatives, etc. And the 1951 act makes provisions for the conduct of elections to Parliament and state legislatures, Qualifications and disqualifications, various offences, various doubts, and disputes, etc. Both acts also define and enlarge the powers of the commission.

Importance of using article 324

- The Supreme Court of India in **Mohinder Singh Gill & Anr**

vs The Chief Election Commissioner, New Delhi (1977)

held that Article 324 “operates in areas left unoccupied by legislation and the words ‘superintendence, direction, and control’ as well as ‘conduct of all elections’ is the broadest terms”. The Constitution has not defined these terms.

- The Court also said that Article 324 is a plenary provision vesting the whole responsibility for national and State elections in the ECI and, therefore, the necessary powers to discharge that function.
- Article 324 gives ECI residual powers to take care of surprise situations. The power of superintendence, direction, and control has a wider connotation and goes much beyond mere logistics. Its most important task is to ensure that elections are free and fair, thus the ECI has used this power.
- Article 324 protects ECI.
- Invoking powers under article 324 of the Constitution has more weight than under MCC or RPA.