

Election Commission of India and reforms needed

April 18, 2019

Manifest Pedagogy

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

17th Lok Sabha elections

Placing it in the syllabus

Powers, functions and responsibilities of various Constitutional Bodies.

Static dimensions

- History
- Composition
- Powers and functions

Current dimension

- Reforms needed in election commission

Content

History

- India's Election Commission (ECI), a constitutionally

mandated body was set up in 1950 to foster India's democratic process. It is headquartered in New Delhi.

- The election commission functioned as a **single member body** consisting of the Chief Election Commissioner since its inception in 1950 and **until October, 1989**.
- **In October 1989, the president appointed two additional election commissioners** to cope with the election commission's increased work due to the reduction of the voting age from 21 to 18 years.
- Thereafter, the Election Commission functioned as a **multimember body** consisting of **three election commissioners**. However, the **two posts of election commissioners were abolished in January 1990 and the Election Commission was reverted to the earlier position**.
- **The President again appointed two more election commissioners in October 1993**. The Election Commission has functioned as a multi – member body consisting of three election commissioners since then and until today.
- The chief election commissioner and the two other election commissioners have equal powers and receive equal salary, allowances and other perquisites, which are similar to those of a judge of the Supreme Court

Composition

The following provisions have been made in **Article 324** of the Constitution regarding the composition of the election commission:

- The election commission shall consist of the **chief election commissioner** and, if any, such number of **other election commissioners as may be fixed from time to time by the president**.
- The President will appoint the chief election commissioner and other election commissioners.
- When any other election commissioner is so appointed, the chief election commissioner shall act as the

chairman of the election commission.

- The President may also appoint such regional commissioners as he may deem necessary to assist the election commission after consultation with the election commission.
- The President shall determine the conditions of service and tenure of office of the election commissioners and the regional commissioners.

Powers and functions

The Election Commission's powers and functions with regard to parliamentary elections, state legislatures and presidential and vice – presidential offices can be classified into three categories:

1. Administrative
2. Advisory
3. Quasi-Judicial

Following are powers and functions of ECI in detail:

- To determine the territorial areas of the electoral constituencies across the country in accordance with Parliament's Delimitation Commission Act.
- To prepare and periodically revise electoral rolls and to register all eligible voters.
- To notify the dates and schedules of elections and to scrutinise nomination papers.
- To grant recognition to political parties and allot election symbols to them.
- To act as a court for settling disputes related to granting of recognition to political parties and allotment of election symbols to them.
- To appoint officers for inquiring into disputes relating to electoral arrangements.
- To determine the code of conduct to be observed by the parties and the candidates at the time of elections.

- To prepare a roster for publicity of the policies of the political parties on radio and TV in times of elections.
- To advise the president on matters relating to the disqualifications of the members of Parliament.
- To advise the governor on matters relating to the disqualifications of the members of state legislature.
- To cancel polls in the event of rigging, booth capturing, violence and other irregularities.
- To request the president or governor to have the staff required to conduct elections requested.
- To oversee the election machinery across the country to ensure free and fair elections.
- To advise the president whether elections can be held in a state under president's rule in order to extend the period of emergency after one year.
- Registering and granting political parties the status of national or state parties on the basis of their polling performance

The Election Commission is assisted by deputy election commissioners. They come from the civil service and are appointed by the tenure system commission. In turn, they are assisted by the secretaries, joint secretaries, deputy secretaries and secretaries posted to the commission's secretariat.

Reforms needed in election commission

Although the commission has brought some reforms in the electoral process, it is need of the hour to bring reforms in other areas, they are;

- The Goswami Committee in its Report on Electoral Reforms in 1990 recommended that the "protection of salary and other allied matters relating to the Chief Election Commissioner and the Election Commissioners should be provided for in the Constitution itself on the analogy of the provisions in respect of the Chief Justice and

Judges of the Supreme Court. Pending such Election measures being taken, a parliamentary law should be enacted for achieving the object.”

- The current wording of Article 324(5) is “inadequate” and requires an **amendment to bring the removal procedures of Election Commissioners on par with the CEC** to provide them with the **“same protection and safeguard[s]”** as the Chief Election Commissioner
- Presently, the administrative expenditure of the Commission is a voted expenditure. However, the expenditure of other independent constitutional bodies similar to the Commission i.e. the Supreme Court, Comptroller & Auditor General, Union Public Service Commission are charged/ non-votable expenditure. **The expenditure of the Commission should be charged on the Consolidated Fund of India.** The Commission is of the opinion that a **charged budget would be a symbol of the independence of the Commission** and will secure its unconstrained functioning.
- Currently, the Election Commission of India has a separate secretariat of its own, with the service conditions of its officers and staff being regulated by the rules made by the President under Article 309 of the Constitution which is similar to other departments and ministries of the Government of India in connection with union matters. **The independence of the Commission can be strengthened further if the Secretariat of the Election Commission consisting of officers and staff at various levels** are also insulated from the interference of the Executive in the matters pertaining to their appointments, promotions, etc.
- **Other important reforms required in electoral process are:** bringing 33% women representation in all levels, preventing criminals from contesting the elections, attracting young generations to contest elections as the political system in India is mainly represented by elders, etc.

