

Daily Editorial Analysis 9 July 2025

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The Election Commission of India does not have Unfettered Power

Context:

- Ahead of the upcoming Assembly elections in November, the Election Commission of India (ECI) has ordered a Special Intensive Revision (SIR) of electoral rolls in Bihar.
- Opposition parties allege that the move is intended to disenfranchise thousands by questioning their citizenship status. The ECI has rejected these claims, asserting its legal authority to conduct the revision.
- With multiple petitions now before the Supreme Court, the focus has shifted from political motives to the legality and constitutional validity of the ECI's power to initiate such a revision so close to the elections.

Legal Grounds for Voter Disqualification and the Scope of ECI's Powers

- **Constitutional Basis for Voting Eligibility**
 - Article 326 of the Constitution mandates elections based on adult suffrage, allowing every Indian citizen aged 18 or above to vote, unless disqualified on specific grounds.
- **Disqualifications under the Representation of the People Acts**
 - The RPA, 1950 outlines disqualifications such as:
 - Being of unsound mind (as declared by a competent court), and
 - Disqualification under Section 11A of the RPA, 1951.
- **Conditions for Voter Registration**
 - **Section 19 of the RPA** requires a person to be:
 - At least 18 years of age, and
 - Ordinarily resident in the constituency.
 - **Section 20 of the Act** clarifies the meaning of "ordinarily resident."
 - Simply owning or having a house in a constituency does not make someone an ordinary resident there.
 - At the same time, if a person is temporarily away from their usual place of living, they still remain an ordinary resident of that place.
- **ECI's Constitutional Authority**
 - Under Article 324, the Election Commission of India is entrusted with the preparation of electoral rolls and conduct of elections.
 - The Supreme Court calls this a "**reservoir of power**", essential for ensuring free and fair elections—a part of the Constitution's basic structure.

- **Limits on ECI's Powers**

- Despite its broad mandate, the ECI's powers are not unlimited.
- As held in **Mohinder Singh Gill v. CEC (1978)**, the Commission must adhere to existing laws where they apply.
- It can exercise its discretion only in areas not covered by statute, solely to advance the objective of free and fair elections.

Legality of Electoral Roll Revision and the ECI's Powers Under Scrutiny

- **Legal Provisions for Electoral Roll Revision**

- Section 21 of the Representation of the People Act (RPA), 1950 outlines four types of electoral roll revisions:
 - Before Lok Sabha or Assembly elections;
 - Before by-elections;
 - On ECI's annual direction, and
 - Special revision for a constituency or part of it (with the ECI recording reasons for doing so.)
- Revisions under points (1) to (3) must use January 1 as the qualifying date, per Section 14.
- Only special revisions (point 4) can be conducted anytime, but only for a constituency or part thereof, not an entire state.

The Controversial Bihar SIR and Qualifying Date Issue

- The ECI's June 24 order set July 1, 2025 as the qualifying date under Section 21(2)(b).
- However, this contradicts the legal mandate that requires January 1 as the qualifying date.
- Furthermore, the term "Special Intensive Revision (SIR)" does not exist in the RPA.
- Therefore, the current revision in Bihar does not conform to legal provisions, since Section **21(3) allows special revision only for part of a constituency**—not for an entire state.
- **Citizenship Proof and Voter Applications**
 - As per Rule 8 of the Registration of Electors Rules, citizens must submit information "to the best of their ability."
 - Electoral registration officers cannot reject applications solely due to lack of "foolproof" citizenship documents.
 - The ECI is expected to uphold this legal safeguard during the revision process.

Conclusion

- While the Election Commission of India does have the power under Section 21 of the RPA to revise electoral rolls, that power under Section 21(3) is specifically limited to a constituency or part of it—not an entire state.
- Despite the wide powers granted under Article 324, the ECI remains bound by statutory law and is accountable to the principles of natural justice, as affirmed by the Supreme Court.

What the 'Neutral Clean-Up' of Bihar's Poll Rolls Really Is?

Context

- In recent years, **India has witnessed a quiet but profound transformation in how citizenship, belonging, and democratic participation are defined.**
- At the heart of this shift lies a **growing preoccupation with documentation and verification**, especially visible in the domain of electoral politics.
- Nowhere is this more apparent than in Bihar, **where a Special Intensive Revision (SIR) of electoral rolls by the Election Commission of India (ECI)** threatens to disenfranchise millions of eligible voters.
- This **bureaucratic exercise, cloaked in the language of electoral integrity, risks undermining constitutional principles** of equality, justice, and fraternity.

The Unsettling Nature of the 'Routine' and Its Impact

- **The Unsettling Nature of the 'Routine'**
 - On paper, **the SIR in Bihar appears to be a routine administrative update** but in practice, however, it marks a dramatic departure from precedent.
 - **Nearly 4.74 crore voters, approximately 60% of Bihar's electorate, are now required to provide new documentation** to prove their eligibility.
 - Unlike earlier processes where self-declaration was accepted as sufficient, **voters must now present hard-to-obtain documents such as birth certificates, land deeds**, or school-leaving certificates.
 - This **new threshold ignores the ground realities** in a state where access to such documentation is limited, especially in rural and marginalized communities.
 - **The burden of proof is now squarely on the individual**, despite the state's historic failure to provide widespread, accessible civil documentation.
- **Disproportionate Impact on Marginalised Communities**
 - The **implications of this overhaul are deeply uneven**. Migrant workers, the poor, and Muslims, groups already marginalised, are likely to be disproportionately affected.
 - **Migrants, who make up about 20% of Bihar's population**, may be away from their homes during the 30-day verification period, coinciding with the monsoon season that floods much of the state.
 - **Many of them lack the required documentation, despite possessing widely accepted government-issued IDs** such as Aadhaar or MGNREGA cards, which are now being rejected.

The Debate on Legality vs. Legitimacy of the Revision

- The **ECI justifies the revision as an effort to remove duplicate entries** and include newly eligible voters, tasks well within its legal mandate.
- However, **questions of legality must also contend with issues of practicality and fairness**. The scale, speed, and method of the Bihar revision are highly problematic.
- There is **neither enough time nor sufficient infrastructural support to carry out a verification process** of this magnitude without compromising accuracy and inclusiveness.

- Moreover, **the ECI's decision to not accept its own voter ID cards as valid documents raises serious questions** about institutional consistency and credibility.

Broader Implications of the Exercise

• A Democratic Encroachment

- By engaging in what amounts to a citizenship verification drive, **the ECI is encroaching upon responsibilities** constitutionally vested in the judiciary and designated tribunals.
- **Electoral Registration Officers (EROs) may now refer individuals suspected of being foreigners to appropriate authorities**, a power previously outside the Commission's remit.
- This **shift is alarming not only because it violates established legal boundaries but also because it introduces a punitive, exclusionary logic** into what should be an inclusive democratic process.
- The **Supreme Court has, in the past, warned against placing the burden of proof on individuals** already listed on electoral rolls.

• National Implications and the Threat of Precedent

- What is unfolding in Bihar **may not remain confined to the state**. ECI officials have indicated that **similar revisions are being considered in Assam, Kerala, Tamil Nadu, Puducherry, and West Bengal**.
- If adopted widely, **this document-heavy model of verification could be institutionalised across India**.
- This **would represent a systemic shift in electoral policy**, one that favours exclusion over inclusion and bureaucratic rigidity over democratic access.
- **Critics have rightly described the Bihar revision as a subtler form of gerrymandering**. It does not redraw constituency lines but alters the demographic landscape by determining who gets to vote.
- This **threatens not just electoral fairness but the very fabric of Indian pluralism, particularly by casting suspicion** on the loyalty of certain communities, most notably Muslims, whose political power is already under strain.

Conclusion

- The **Bihar voter roll revision is currently under judicial scrutiny** for violating fundamental rights such as the right to vote, equality before law, and human dignity.
- If allowed to proceed unchecked, **it could disenfranchise lakhs, distort electoral outcomes, and severely damage public trust in democratic institutions**.
- What is **at stake is not merely the technical accuracy of electoral rolls** but the foundational principle of inclusive democracy.

What the 'Neutral Clean-Up' of Bihar's Poll Rolls Really Is? FAQs

Q1. What is the main concern with the voter roll revision in Bihar?

Ans. The main concern is that it could lead to the wrongful exclusion of lakhs of eligible voters, undermining the democratic process.

Q2. Who is most affected by the new documentation rules?

Ans. Migrant workers, Muslims, and economically disadvantaged citizens are most affected, as they often lack the required documents.

Q3. Why is the voter ID card now seen as inadequate?

Ans. The Election Commission of India is no longer accepting voter ID cards as valid proof of citizenship, despite having issued them.

Q4. What larger political concern does this revision raise?

Ans. The revision raises concerns that it could be politically motivated to influence election outcomes by excluding opposition-leaning voters.

Q5. How does this process threaten democracy?

Ans. This process threatens democracy by restricting access to voting, thereby violating constitutional values of equality and fair representation.

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