

Independence of the Election Commission - Explained

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Election Commission Latest News

- The Independence of the Election Commission has come under debate following allegations of irregularities in electoral roll revisions and a proposed motion to remove the Chief Election Commissioner (CEC).

Importance of Free and Fair Elections

- Free and fair elections form part of the Basic Structure of the Constitution, as recognised by the Supreme Court in *Indira Gandhi vs. Raj Narain* (1975).
- Adult franchise under Article 326 guarantees the right to vote to every citizen above 18 years of age, subject to reasonable restrictions.
- Recent controversies have revolved around alleged “vote theft” and manipulation of electoral rolls during the **Special Intensive Revision (SIR) exercise**.
- It has been claimed that lakhs of names were deleted from voter lists in certain States, raising concerns about procedural fairness and the sanctity of electoral democracy.
- Any perceived dilution in the electoral process directly impacts public trust in democratic institutions.

Constitutional Status of the Election Commission

- Article 324 of the Constitution provides for a permanent **Election Commission of India** (ECI) with powers of superintendence, direction, and control over elections to Parliament, State Legislatures, and the offices of President and Vice-President.
- This constitutional status ensures:
 - Institutional permanence
 - Autonomy from routine executive interference
 - Wide discretionary powers in conducting elections
- The Election Commission may consist of a Chief Election Commissioner and other Election Commissioners. Since 1993, it has functioned as a multi-member body, a structure upheld by the Supreme Court in *T.N. Seshan vs. Union of India* (1995).
- The CEC acts as the Chairperson of the Commission, and decisions are generally taken collectively.

Appointment of the Election Commissioners

- The appointment process became controversial after the enactment of the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Office and Terms of Office) Act, 2023.
- Under the 2023 Act:
 - The CEC and Election Commissioners are appointed by the President.
 - A Selection Committee comprising the Prime Minister, a Union Minister, and the Leader of the Opposition recommends names.
- Critics argue that the exclusion of the Chief Justice of India from the Selection Committee weakens institutional independence.
- This change followed the Supreme Court's 2023 judgment in *Anoop Baranwal vs. Union of India*, which had temporarily mandated the inclusion of the CJI in the selection panel until Parliament enacted a law.
- The validity of the 2023 Act is currently under judicial scrutiny.

Safeguards for Independence

- The Constitution incorporates strong safeguards to protect the Election Commission from executive pressure.
- **Removal of the CEC**
 - Article 324(5) provides that the CEC can be removed only in the same manner and on the same grounds as a Supreme Court judge under Article 124(4). The grounds are:
 - Proved misbehaviour, Incapacity
 - The removal process is rigorous and quasi-judicial:
 - A motion must be signed by at least 100 Lok Sabha members or 50 Rajya Sabha members.
 - The Speaker or Chairman may admit the motion.
 - A three-member inquiry committee is constituted, comprising:
 - A Supreme Court judge
 - A Chief Justice of a High Court
 - A distinguished jurist

- The CEC is given the opportunity to defend themselves, ensuring adherence to principles of natural justice.
- Both Houses of Parliament must pass the motion by a special majority.
- **Removal of Other Election Commissioners**
 - Other Election Commissioners can be removed by the President on the recommendation of the CEC. However, the Supreme Court in *Vineet Narain vs. Union of India (1997)* clarified that such advice should not be arbitrary.
 - These mechanisms create a balance between executive oversight and institutional independence.

Special Intensive Revision and Electoral Concerns

- The recent controversy relates to the Special Intensive Revision (SIR) of electoral rolls. Allegations include:
 - Large-scale deletion of names from voter lists
 - Targeting of specific demographic groups
 - Rushed revision processes
- Since electoral rolls form the foundation of democratic participation, any irregularity in revision exercises can undermine public confidence.
- Challenges to such revisions have reached the Supreme Court.
- The issue highlights the delicate balance between administrative efficiency and constitutional guarantees of universal adult suffrage.

Source: TH

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