

Chief Election Commissioner – Appointment, Powers and Removal Process

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Chief Election Commission Latest News

- The **Supreme Court** questioned the Centre on excluding the **Chief Justice of India (CJI)** from the panel appointing the **Chief Election Commissioner (CEC)** and **Election Commissioners (ECs)** while hearing challenges to the **CEC and Other ECs (Appointment) Act, 2023**, raising concerns over the independence of the Election Commission.

Office of the Chief Election Commissioner

- The Chief Election Commissioner (CEC) is the head of the Election Commission of India, a constitutional body established under **Article 324** of the Constitution.
- The Commission is responsible for conducting free and fair elections to Parliament, State Legislatures, and the offices of the President and Vice-President.

Appointment of CEC

- The CEC is appointed by the President of India.
- As per the Chief Election Commissioner and Other Election Commissioners Act, 2023, the appointment is made on the recommendation of a selection committee comprising:
 - Prime Minister,
 - Leader of the Opposition in the Lok Sabha, and
 - One Union Cabinet Minister.
- This aims to bring transparency and balance in the selection process.

Tenure

- The CEC holds office for a term of **six years or until the age of 65 years**, whichever is earlier.
- The conditions of service cannot be varied to their disadvantage after appointment, ensuring independence.

Powers and Functions

- The Election Commission, headed by the CEC, enjoys wide-ranging powers under Article 324.
- These include:
 - Superintendence, direction, and control of elections.
 - Preparation and revision of electoral rolls.
 - Conduct of free and fair elections.
 - Monitoring election expenditure and enforcing the Model Code of Conduct.
- The Commission also has plenary powers to act in areas where laws are silent, ensuring the integrity of the electoral process.

Removal Process

- The removal of the CEC is similar to that of a Supreme Court judge.
- Under **Article 324(5)**, the CEC can be removed only on grounds of proved misbehaviour or incapacity. The process requires:
 - A motion passed in both Houses of Parliament.
 - Special majority (majority of total membership and two-thirds of members present and voting).
- This high threshold ensures institutional independence and protects the office from arbitrary removal.

News Summary

- Rajya Sabha Chairman C.P. Radhakrishnan and Lok Sabha Speaker Om Birla rejected notices submitted by Opposition MPs seeking the removal of Chief Election Commissioner Gyanesh Kumar.
- The presiding officers held that the **Opposition failed to provide sufficient proof and that the allegations did not establish a prima facie case of “misbehaviour,”** which is a constitutional requirement for removal.

- The notices were signed by 63 Rajya Sabha members and 130 Lok Sabha members and included seven charges against the CEC. These charges were examined in detail and subsequently rejected.
- The presiding officers stated that the allegations either lacked evidence, related to matters already adjudicated, or were currently under judicial consideration.
- They emphasised that such issues did not meet the “high constitutional bar” required to initiate removal proceedings under **Articles 324(5) and 124(4)**.

Allegations Made Against the CEC

- Several specific allegations were addressed. Claims regarding the CEC’s appointment being “tainted” were dismissed, as the pendency of a legal challenge does not constitute misbehaviour.
- Similarly, allegations of bias or differential treatment between the government and the opposition lacked demonstrable evidence.
- The refusal to share electoral data or provide machine-readable electoral rolls was found to be consistent with legal provisions and Supreme Court directions, including considerations of privacy under the **Puttaswamy judgment**.
- Issues related to the Special Intensive Revision (SIR) of electoral rolls were also examined.

Basis of Rejection of the Allegations

- The presiding officers reiterated that the Election Commission has plenary powers under Article 324 and that the Supreme Court has affirmed its competence in such matters.
- Allegations of contempt of court and lack of institutional independence were rejected as either falling under judicial jurisdiction or being vague and unsupported by evidence.
- Overall, the decision reinforced the constitutional safeguards surrounding the office of the CEC and highlighted the stringent standards required for initiating removal proceedings.

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