

Appointment of Election Commissioners

Why in news?

\n\n

The Supreme Court is hearing a PIL on the appointment of Chief Election Commissioner and Election Commissioners.

\n\n

What is the reason behind?

\n\n

\n

- Article 324(2) of Constitution states that the President shall, with aid and advice of Council of Ministers, appoint CEC and ECs, till Parliament enacts a law fixing the criteria for selection, conditions of service and tenure.

\n

- But a law has not been enacted for the purpose so far.

\n

- Hence a PIL was filed in the Supreme Court seeking a fair and transparent procedure for appointment of CEC and ECs.

\n

- It has pointed out that the process for appointment of the CEC and ECs was different from those for other top constitutional positions.

\n

- The Supreme Court, earlier, acknowledged that till now good persons have been appointed in the poll panel.

\n

- Yet, it has questioned the mandate of the parliament to frame a law for this purpose and has recently referred the matter to the Constitution Bench.

\n

\n\n

How does the electoral system evolve in India?

\n\n

\n

- Electoral democracy in India owes a great deal to the foresight of the Constituent Assembly.

\n

- When the Constituent Assembly debated how free and fair elections should be ensured, three important questions arose.

\n

\n\n

\n

1. *Whether free and fair elections should be made a part of fundamental rights or an independent institution, outside the executive, should be established to conduct the elections?*

\n

\n\n

\n

- The Assembly opted for the latter and created the Election Commission of India.

\n

\n\n

\n

2. *Whether to have a single, centralised body for elections to the Lok Sabha and State legislatures or not?*

\n

\n\n

\n

- One proposal was that the ECI be confined to federal elections, and separate institutions be set up to conduct elections to State legislatures.

\n

- However, with increasing tension among communities, the Assembly feared partisan action in the States and opted for a single national institution, the ECI.

\n

- Originally, the Constitution had provided for tribunals set up by the ECI to hear election petitions.

\n

- But aggrieved parties approached the courts, and the courts decided to hear election petitions.

\n

- Then the ECI itself recommended that election petitions be heard by the judiciary, and in 1966, the law was changed accordingly.

\n

\n\n

\n

3. *How to ensure the independence of the ECI?*

\n

\n\n

\n

- The Assembly provided simply for the CEC to be appointed by the President, leaving it to the legislature to enact a suitable law, which never happened.

\n

- Also on removal, though the CEC is provided with a security of tenure and could only be removed through impeachment, other EC's can be removed on the recommendations of CEC.

\n

- Hence for the ECs, even the safeguard of removal was not provided, which is also a subject matter of the above-mentioned PIL.

\n

\n\n

What has this resulted in?

\n\n

\n

- From 1967 to 1991, the one-party dominance in the national politics was getting faded, political competition intensified.

\n

- The political actors stepped up violence and electoral malpractices.

\n

- The ECI could not arrest this deterioration.

\n

- Several State governments made large-scale transfers on the eve of elections and posted pliable officials in key positions, who sometimes flouted the ECI's orders.

\n

- However, during the 1996 general election, the ECI restored the credibility of the election process.

\n

- It publicly reprimanded politicians for violating the Model Code of Conduct, postponed/ cancelled elections if their credibility was compromised, intensified supervision of elections, and insisted on action against errant officials.

\n

- The ECI has since become an institution of some authority, but still controversies over appointments of ECs, allegations of partisanship, voter bribery and paid news prevail.

\n

\n\n

What should be done?

\n\n

\n

- A selection committee for appointment (CEC and EC) should be made which could involve -

\n

\n\n

\n

1. The prime minister

\n

2. The leader of opposition

\n

3. The speaker (presiding officer of the Lok Sabha)

\n

\n\n

\n

- Thus, though there can be no perfect process, any process involving greater inclusion, representativeness and diversity would be superior to the government of the day making the selection.

\n

\n\n

\n\n

Source: The Hindu

\n\n

\n