Chief Election Commissioner of India

Mains: *GS II - Appointment to various Constitutional Posts, Powers, Functions and Responsibilities of various Constitutional Bodies*

Why in News?

Recently, the opposition parties said that they were considering to move a motion of removal of the Chief Election Commissioner (CEC) during the ongoing session of Parliament.

What is constitutional basis of election commissioner?

- **Chief election commissioner**– The chief election commissioner of India (CEC) heads the Election Commission of India.
- **Constitutional source** – *Article 324, part XV* of the Constitution.
- **Statutory backings** – CEC and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023.
- They lay down provisions regarding the appointment, tenure, and removal of the CEC.

How they are appointed?

- **Appointing authority** – The CEC and election commissioners are appointed by the President of India.
- **Recommendation** – Appointment is based on the recommendation from a 3 member selection committee.
- **Selection committee** – The Prime Minister, the Leader of the Opposition (LoP), and 1 member of the Union Cabinet.
- **Qualifications** – No specific qualifications prescribed by the Constitution.
    - But according to the 2023 act those appointed should have previously held secretary-level positions in the Government.
    - They should be persons of integrity, who have knowledge of and experience in management and conduct of elections.
- **Tenure** – The appointments are made for a tenure of 6 years or until the age of 65 years, whichever comes first.
- **Allowances and benefits** – The CEC enjoys the same services and monetary benefits that are extended to justices of the Supreme Court.
- **Reappointment** – The CEC of India is not eligible for reappointment after completing their term, according to a 2023 bill.

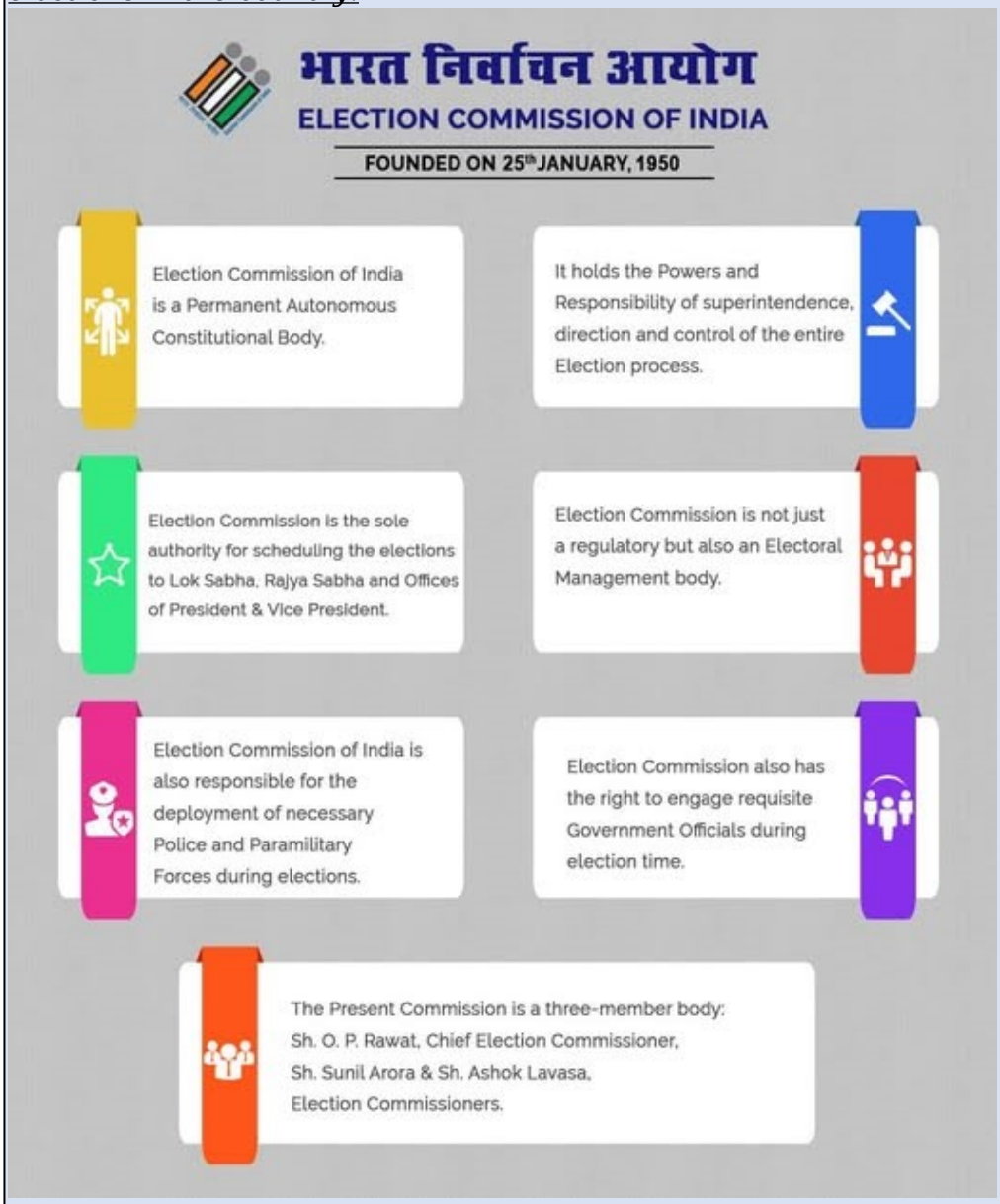
How they are removed?

- **Article 324(5) of the Constitution** – It states that the CEC can be removed from office only in like manner and on the *like grounds as a Judge of the Supreme Court.*
- This framing can *also be found in Section 11(2) of the 2023 Act*.
- The article further states that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.
- With the view of shielding the ECI from political pressures, the bar for removing the CEC is purposefully set to be very high.
- **Article 124(4) of the Constitution** – It contains the process for removing a Supreme Court judge, *removal can only be on the ground of proved* ***misbehaviour*** *or* ***incapacity*****.**
- **Misbehaviour** – It can comprise *any corrupt practices or abuse of office*.
    - Over the years, courts have interpreted this to include actions which are incompatible with the office of the CEC or the CEC's failure to discharge her official duties.
- **Incapacity** – It refers to a situation where the officer is unable to perform his/her duties.
- **Notice of motion** – To initiate the removal of the CEC, *members of both houses must bring a notice of motion* explicitly alleging misbehaviour or incapacity.
- **Enquiry** – After the motion is admitted, an enquiry is conducted to examine the validity of the charges.
- This involves *forming a committee to investigate* evidence of misbehaviour or incapacity.
- **Passing of motion** – The motion for removal then *needs to be passed by a two-thirds majority* present and voting in both the houses of Parliament.
- **Removal of CEC** – Upon successful passage in the House, the President orders the removal of the CEC.
- There is no discretion once the constitutional requirements are met, since the President acts on the advice of Parliament in this context.

Quick facts

Election commission of India

• **Election commission of India** – The Election Commission of India (ECI) is an *autonomous constitutional authority* responsible for administering election processes in India.
• **Duty** – The ECI is entrusted with the responsibility of *conducting free and fair elections in the country.*



Reference

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