Credibility Concerns with Election Commission

What is the issue?

- The EC has come under the scanner like never before, with increasing incidents of breach of the Model Code of Conduct in the 2019 general elections.
- While nothing bars the EC from asserting its authority, there is a dire need for some institutional safeguards to protect its autonomy.

What is the recent happening?

- The Election Commission of India (EC) is a formidable institution which has led the world in electoral efficiency since its inception.
- But recent incidents involving breach of the Model Code of Conduct, particularly those by the ruling party, have raised serious credibility concerns.
- A group of retired bureaucrats and diplomats recently raised certain issues in this regard in a letter to the President of India.
- They expressed concern over the EC's "weak kneed conduct" and the institution "suffering from a crisis of credibility today".

What are the concerns highlighted?

- **Mission shakti speech** - The letter mentioned the PM's recent announcement of India's first anti-satellite (ASAT) test.
- They described it as a serious breach of propriety amounting to giving unfair publicity to the party in power. Click here to know more.
- **Media** - Questions were also raised over the launch of NaMo TV without licence.
- The biopic on the life of PM Modi, which was scheduled for release when elections had commenced, was also questioned.
- The group also requested the EC to issue directions to withhold the release of biopics/documentaries on any political personages until the conclusion of the electoral process.
- They asserted that the release of such propaganda amounted to free publicity.
- Hence, they also called for debiting the expenses as election expenditure in the name of the candidate in question.

- The same standards should also apply to other such propaganda, an example being a web series titled “Modi: A Common Man’s Journey”.
- **Other concerns** - Other important issues highlighted in the letter included -

i. transfers of top officials
ii. voter verifiable paper audit trail (VVPAT) audits
iii. violations of the MCC by Rajasthan Governor Kalyan Singh; requesting his removal on account of “grave misdemeanour”
iv. UP CM Yogi Adityanath (in his speech he referred to the armed forces as the army of Narendra Modi)
v. corrosion of the political discourse in general

What are the drawbacks in EC's structure and functioning?

- **Appointment** - The genesis of the problem lies in the flawed system of appointment of election commissioners.
- It is currently done unilaterally by the government of the day.
- **Protection** - Now, only the Chief Election Commissioner (CEC), and not the other two commissioners, is protected from being removed except through impeachment.
- The other two commissioners having equal voting power in the functioning of the EC can outvote the CEC 10 times a day.
- Here, the uncertainty of elevation by seniority makes them vulnerable to government pressure.
- By this way, the government can control a defiant CEC through the majority voting power of the other two commissioners.
- It is to be noted that the Constitution enabled protection to the CEC as it was a one-man commission initially.
- **Authority** - The EC’s reputation also suffers when it is unable to bring to control the unruly political parties, especially the ruling party.
- This is because the EC only has the registering authority under Section 29A of the Representation of the People Act, 1951.
- It does not have the power to de-register parties even for the gravest of violations.

What are the called-for changes?

- **Appointment** - In its 255th report, the Law Commission recommended a collegium, consisting of the PM, the Leader of the Opposition and the CJI, to select election commissioners.
- But successive ruling dispensations have not given any legal form to this recommendation, fearing of losing their power.
- It is obvious here that political and electoral interests take precedence over

the national interest.

- A public interest litigation was also filed in the Supreme Court in late 2018.
- It called for a fair, just and transparent process of selection by constituting a neutral and independent Collegium/selection committee.
- The matter has been referred to a constitution bench.
- **Powers** - The EC itself has been seeking the power to de-register political parties, among many other reforms.
- The reform was first suggested by the CEC in 1998 and reiterated several times.
- The EC also very recently submitted an affidavit to the Supreme Court on this demand.

What is the way forward?

- Elections are the bedrock of democracy and the EC's credibility is central to democratic legitimacy.
- Hence, the guardian of elections itself needs urgent institutional safeguards to protect its autonomy.
- It is high time that appointments of election commissioners is depoliticised through a broad-based consultation mechanism.
- The EC must also be empowered to de-register parties for electoral misconduct.
- The protection offered to the chief election commissioner must now be extended to other commissioners (added in 1993 and collectively represent the EC) as well.
- While these reforms may continue to be debated, the EC should not be stooped from asserting the ample authority it currently has under the Constitution.
- Exercising this authority is not the EC's discretion but a constitutional mandate and democracy's foundation.

Source: The Hindu

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