# Dissent is not Dysfunction

***Mains: GS II - Polity***

## Why in News?

*Recently, An investigation revealed that two of India's three Election Commissioners had formally recorded objections at least 14 times over a 10-month period against decisions made by Chief Election Commissioner.*

## What is the constitutional and statutory framework governing multi-member collegiate bodies?

- **Role of Deliberation and Dissent –** Deliberation, debate, and internal dissent form the lifeline of any functional constitutional democracy.
- **Core Principle of Collegiate Jurisprudence –** While deliberation and dissent represent the intellectual process, it is the final outcome that constitutes the binding decision.
- **Statutory Framework of the ECI (Section 18) –**
- Under Article 324 of the Constitution and subsequent statutory frameworks, the mechanics of collegiate decision-making are explicitly structured.
- Section 18 of the statutory enactment governing the Election Commission of India (ECI) provides that while it should endeavour to act unanimously, in the event of any difference of opinion, matters must be decided according to the opinion of the majority.
- An order delivered by even a 2:1 split does not suffer from any constitutional or legal infirmity; in the eyes of the law, the majority verdict is the sovereign verdict of the ECI.

## What key judicial precedents define the validity of majority decisions in collegiate institutions?

- **T N Seshan v. Union of India Case (1995) –**
- A landmark five-judge Constitution Bench ruling led by Chief Justice A M Ahmadi put to rest the legal fiction that *collegiate bodies require absolute*

*unanimity.*

- The then-CEC challenged the conversion of the ECI from a single-member entity to a multi-member collegiate body, claiming absolute primacy and asserting that collegiate decision-making would impair institutional efficiency.
- The Supreme Court dismissed the challenge, holding that "*the function of the Election Commission is to take decisions through the process of collective deliberation, and in the event of a difference of opinion among the members, by a majority... the view of the majority is the view of the body.*"
- **Judicial Parallel in the Supreme Court –** The apex court operates under the identical constitutional premise.
- For instance, the *Kesavananda Bharati judgment*, which established the Basic Structure doctrine, was delivered via a *7 –6 majority* and continues to govern the Republic of India.

## What historical precedents of institutional challenges are highlighted in the article?

- **The Navin Chawla Appointment and Shah Commission Findings –**
- During the UPA regime, files for critical appointments to the electoral watchdog were cleared through party channels, leading to the appointment of Navin Chawla as Election Commissioner in 2005.
- Decades earlier, the **Justice J C Shah Commission** (established to investigate Emergency excesses) found Chawla "*unfit to hold any public office*" due to documented abuse of administrative power.
- **Rejection of Article 324(5) Recommendation –** Sitting CEC N Gopalaswami invoked his constitutional prerogative under Article 324(5), submitting a detailed note to the President seeking Chawla's removal on grounds of institutional bias and political partisanship.
- The government rejected the recommendation and later elevated Chawla to CEC.

## How is true institutional integrity maintained in a constitutional democracy?

- **Rejecting Manufactured Consensus –** Challenging an institution's legitimacy simply because its internal deliberations reflect divergent viewpoints or lack absolute unanimity is legally unlettered and damages institutional integrity.
- **Adherence to Constitutional and Statutory Mandates –** Institutional integrity is preserved not by manufactured consensus, but by faithful adherence to the Constitution, statutory mandates, and respect for collegiate outcomes.

## Reference

[Indian Express | ECI]

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