Role of ECI in Freezing the Election Symbols

Why in news?

In an interim order, the Election Commission of India (ECI) has temporarily frozen the ‘bow and arrow’ election symbol of the Shiv Sena.

What is the background of the case?

- The Shiv Sena is a recognised state party in the state of Maharashtra.
- The two factions of the Shiv Sena, led by Uddhav Thackeray and Eknath Shinde are engaged in a bitter fight for recognition as the 'real' Shiv Sena.
- They have staked claim to the exclusive use of the name and the ‘bow and arrow’ symbol.
- The Election Commission asked both factions to furnish documentary proof to support their claims over the election symbol.
- The ECI forbid both groups to use the party name and the symbol in any election or by-election until further orders.
- The ECI said both the groups would be known by different names of their choosing and would be allotted alternate symbols from the list of free symbols notified by the ECI for the current by-polls.

Why is election symbol important?

- An electoral symbol is a standardised symbol allocated to a political party.
- They can be easily identified, understood, acknowledged and recognised by the voters.
- The election symbol of a party provides instant brand recall among the voters.
- These are generally objects of everyday use or items that are easily identifiable by the common man.

The Election Commission has stopped allotting animals as symbols. The only exceptions are the lion and the elephant.

How are election symbols alloted?

- The **Election Symbols (Reservation and Allotment) Order, 1968** empowers the ECI to recognise political parties and allot symbols.
- Under Paragraph 15 of the Order, the ECI is the only authority to decide issues on a dispute or a merger.
- **Recognised parties**- ECI can decide disputes among rival groups or sections of a recognised political party staking claim to its name and symbol.
- The decision of the Commission shall be **binding** on all such rival sections/groups.

- This applies to disputes in recognised national and state parties.
- The Supreme Court upheld its validity in *Sadiq Ali and another vs. ECI* in 1971.
- **Unrecognised parties**- For splits in registered but unrecognised parties, the ECI usually advises the warring factions to resolve their differences internally or to approach the court.
- **Testing the majority**- In almost all disputes decided by the ECI so far, a clear majority of party delegates/office bearers, MPs and MLAs have supported one of the factions.
- The EC allocated the symbol to the group that secured this majority.
- Whenever the EC could not test the strength of rival groups based on support within the party, it relied on testing majority only among elected MPs and MLAs.
- **Claiming for same symbol**- In the case of two or more parties vying for the same symbol, the ECI breaks the tie on a first come first serve basis, but there have been exceptions.

Who can apply for election symbols?

- Before 2009, for a political party to be eligible for an election symbol, it had to prove itself a "serious party" by contesting at least 2 elections.
- Only recognised national and state-level parties were entitled to a symbol.
- However, in 2009, following a Supreme Court ruling directing the ECI to allot a symbol to a registered but unrecognised political party, the criterion was amended in 2011.
- ECI can now give symbols to a new party, provided that they are big enough and can put up candidates in 10% of the constituencies.

As of September 23, 2021, there are 197 free election symbols.

What about the group that doesn't get the parent party's symbol?

- The ECI in 1997 did not recognise the new parties as either state or national parties.
- The ECI introduced a new rule under which the splinter group (other than the group that got the party symbol), had to register itself as a separate party.
- It could lay claim to national or state party status only on the basis of its performance in state or central elections after registration.

References

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Quick facts

- **Reserved symbol-** It is a symbol which is reserved for a recognised political party for exclusive allotment to contesting candidates set up by that party.
- **Free symbol-** It is a symbol other than a reserved symbol.
- **Recognized National Parties-** A nationally recognized party has a standard symbol throughout the country.
- That symbol will not be allotted to any other party or individual by the ECI.
- The recognized national parties in India includes
    - All India Trinamool Congress
    - Bahujan Samaj Party
    - Bharatiya Janata Party
    - Communist Party of India
    - Communist Party of India (Marxist)
    - Indian National Congress
    - Nationalist Congress Party

- **Recognized State Parties-** State parties are allocated certain symbols that no other party can use the symbol in that particular state.
- Different parties from different states can use the same symbol.

