

UPSC Civil Services Examination

Political Science & International Relations

Topic: - Election Commission Of India- Indian Polity Notes

Election Commission Of India

The Constitution of India has established a permanent and an independent body to ensure free and fair elections in the country known as the **Election Commission**.

The Constitution also provides it with the power of direction, superintendence and control of elections to parliament, state legislatures, the office of president of India and the office of vice-president of India shall be vested in the election commission. [as stated in Article 324].

The Election Commission is an all-India body that is common to both the Central government and the State governments. It must be noted here that the commission does not deal with the elections to the Municipalities and Panchayats in the states. Hence, a separate State Election Commission is provided by the Constitution of India.



Constitutional Appointment

Since its inception in 1950 and till 15 October 1989, the election commission was as a one-member body with only the Chief Election Commissioner (CEC) as its sole member.

- On 16 October 1989 the voting age was changed from 21 to 18 years. So, two more election commissioners were appointed by the president in order to cope with the increased work of the election commission.
- Since then, the Election Commission was a multi-member body which consisted of 3 election commissioners.

- Later on, the two posts of election commissioners were eliminated in January 1990 and the Election Commission was reverted to the previous position.
- This was repeated again later in October 1993 when the president appointed two more election commissioners. Since then, the Election Commission functions as a multi-member body comprising of 3 commissioners.
- The chief and the two other election commissioners have the same powers and emoluments including salaries, which are the same as a Supreme Court judge.
- In case of difference of opinion amongst the Chief Election Commissioner and/or two other election commissioners, the matter is decided by the Commission by a majority.
- Office is held by them for a term of 6 years or until they attain 65 years, whichever happens first. They can also be removed or can resign at any time before the expiry of their term.

Independence of the Election Commission

Article 324 of The Constitution mentions the provisions to safeguard and ensure the independent and impartial functioning of the Election Commission which are as follows.

- The chief election commissioner is provided with security of tenure. He cannot be removed from his office except in the same manner and on the same grounds as a judge of the Supreme Court. In other words, he can be removed by the President on the basis of a resolution passed to that effect by both the Houses of Parliament with a special majority, either on the ground of proved misbehaviour or incapacity.
- Thus, he does not hold his office until the pleasure of the president, though he is appointed by him.
- The service conditions of the chief election commissioner cannot be varied to his disadvantage after his appointment.
- Any other election commissioner or a regional commissioner cannot be removed from office except on the recommendation of the chief election commissioner.
- Though the constitution has sought to safeguard and ensure the independence and impartiality of the Election Commission, some flaws can be noted, ie:
 - The Constitution has not prescribed the qualifications (legal, educational, administrative or judicial) of the members of the Election Commission.
 - The Constitution has not specified the term of the members of the Election Commission.
 - The Constitution has not debarred the retiring election commissioners from any further appointment by the government.

Powers, Functions and Responsibilities of Election Commission

Among the major Constitutional Bodies in India, Election Commission is a permanent Constitutional Body. It was established in accordance with the Constitution on 25th January 1950.

- The Constitution has vested to this body superintendence, direction and control of the entire process for conduct of elections.
- The Commission's functions and powers with respect to elections to the offices of the President, the Vice President, the state legislators and the Parliament is divided under three headings:
 - Administrative
 - Advisory
 - Quasi-judicial

In details, these powers and functions are:

- Determining the Electoral Constituencies' territorial areas throughout the country on the basis of the **Delimitation Commission Act of Parliament**.
- Preparing and periodically **revising electoral rolls** and **registering all eligible voters**.
- Notifying the **schedules and dates of elections** and scrutinising nomination papers.
- Granting recognition to the various political parties and **allocating them election symbols**.
- Acting as a court to settle **disputes** concerning the granting of recognition to political parties and allocating election symbols to the parties.
- **Appointing officers** for inquiring into disputes concerning electoral arrangements.
- **Determining the code of conduct** to be followed by the political parties and candidates during elections.
- **Preparing a program for publicising the policies of all the political parties** on various media like TV and radio during elections.
- Advising the President on matters concerning the **disqualification of MPs**.
- Advising the Governor on matters concerning the **disqualification of MLAs**.
- **Canceling polls** in case of booth capturing, rigging, violence and other irregularities.
- Requesting the Governor or the President for **requisitioning the staff** required for conducting elections.
- **Supervising the machinery of elections** throughout the country for ensuring the conduct of free and fair elections.
- Advising the President on whether elections can be held in a state that is under the President's rule, in order to extend the period of emergency after 1 year.

- Registering political parties and granting them the status of national or state parties (depending on their poll performance).

The Commission is aided in its function by deputy election commissioners. The deputy ECs are taken from the civil services and they are appointed by the Commission. They have a fixed tenure. They are aided by the secretaries, deputy secretaries, joint secretaries and under-secretaries posted in the commission's secretariat.

Composition of Election Commission

Article 324 of the Constitution has made the following provisions with regard to the composition of election commission:

- The President appoints the Chief Election Commissioner and other election commissioners.
- When any other EC is so appointed, the CEC acts as the Election Commission's Chairman.
- The President can also appoint regional commissioners to assist the Commission, if necessary after consulting with the Election Commission.
- The tenure of office and the conditions of service of all the commissioners shall be determined by the country's President.

UPSC Questions related to Election Commission of India

What are the powers of the Election Commission in India?

- The powers and functions of the Election Commission with regard to elections to the Parliament, state legislatures and offices of President and Vice-President can be classified into three categories, viz, • **Administrative • Advisory • Quasi-Judicial**

Who elects the members of the election commission?

- The President appoints the Chief Election Commissioner (CEC) and the other Election Commissioners.

What are the articles related to ECI?

- The following articles of the Constitution of India are related to ECI:
 - **Art 324:** Superintendence, direction and control of elections to be vested in an Election Commission.
 - **Art 325:** No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.
 - **Art 326:** Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.

- **Art 327:** Power of Parliament to make provision with respect to elections to Legislatures.
- **Art 328:** Power of Legislature of a State to make provision with respect to elections to such Legislature.
- **Art 329:** Bar to interference by courts in electoral matters.

