



CURRENT AFFAIRS



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SECURITY OF TENURE OF CHIEF ELECTION COMMISSIONERS

Relevance for Prelims: Tenure of Chief Election Commissioner and Election Commissioners

Relevance for mains: Election Commission of India, Article 324 of the Indian Constitution.

News:

A constitution bench of the Supreme Court of India is currently having an ongoing hearing regarding the necessity for an impartial process for the nomination of Election Commissioners, while raising significant concerns about the functional independence of the election body.

Issues pertaining to the tenure of CECs(Chief Election Commissioners):

- According to Justice K.M. Joseph, heading the Bench, compared to recent times, Chief Election Commissioners (CEC) in the past had fairly long tenures.
- Since 1993, the ECI has expanded to include two Election Commissioners(EC) and a CEC(chairman). Presently, ECs are appointed and promoted to CEC status based on seniority. In reality, EC appointments need to be scrutinized because there is a room for personal whimsy to enter the scene.
- The CEC has a six-year term, but is required to retire when they turn 65. The Court has raised concerns about the practice of choosing CECs who are close to that age and giving them a short tenure.
- The Court appears to want to create an independent system, perhaps a selection committee that includes the Chief Justice of India.
- Although it could be claimed that even Chief Justices have short terms in office, this does not call into question their independence. The Government argues that the whole member's time in the ECI, and not only their time serving as CEC, should be taken into account.

Scope for correction:

- There is not much doubt that having an independent body for the selection process will increase the ECI's independence, but the Court must decide whether or not it wishes to specify the makeup of the independent body or leave that decision up to Parliament.

Significance of CEC:

- The position has always played a crucial role in the Indian political system, but during T.N. Seshan's tenure, who served from 1990 to 1996, it attracted a lot of public attention. Seshan is largely acknowledged for making an ardent attempt to stop electoral fraud and corruption in India.

Suggested Reforms:

- In June 2012, Lal Krishna Advani, a veteran politician and former Deputy Prime Minister of India (as well as former Leader of the Opposition in the Indian Parliament), proposed that the Prime Minister, the Chief Justice of India, the Law Minister, and the Leaders of the Opposition in the Lok Sabha and the Rajya Sabha make the appointments for the CEC and the Comptroller and Auditor General of India (CAG), to make it free of partisan.

Concluding Argument:

The main rationale is tenure security, which may result from operational independence and space. Only the CEC has the same status as Supreme Court judges, who may only be removed by Parliament through an impeachment process. On the advice of the CEC, the ECs may be dismissed. Regardless of the appointment procedure used, there is a solid rationale for giving the ECs the same tenure security.

About the Election Commission of India:

- The administration of Union and State elections in India is the responsibility of the Election Commission of India (ECI), an autonomous constitutional authority
- It was established on 25th January, 1950, in accordance with the Constitution. The Commission's secretariat is in New Delhi.
- The body oversees elections for the President and Vice President of India as well as the Lok Sabha, Rajya Sabha, and State Legislative Assemblies.

Structure of Election Commission of India:

- The Election Commission Amendment Act of 1989 changed the commission from being a single-member body to one with multiple members.
- The Election Commission shall consist of the Chief Election Commissioner (CEC) and such number of other election commissioners, if any, as the President may from time-to-time fix.
- There are two Election Commissioners and the CEC in it presently.
- The Chief Electoral Officer, an IAS rank Officer, assists the electoral commission at the state level.

Further Readings:

- Article 324 of the Indian constitution
- Election Commission of India.
- Powers and Functions of ECI
- Model Code of Conduct

Prelims Question:

Question: Consider the following statements:

- 1.) Election commission of India consists of a five member body.
- 2.) The Union Ministry of Home Affairs establishes the election schedule for both general and bye-elections.
- 3.) Disputes involving the splitting or merging of recognized political parties are settled by the Election Commission.

Which of the statements given above is/are correct?

- a) 1 and 2
- b) 2 only
- c) 3 and 2
- d) 3 only

Mains Question:

Question : Issues pertaining to the security of tenure of Chief election Commissioner of India should be addressed adequately. Discuss.

Source: The Hindu

Article: Space, not time: On Election Commissioner tenures

Kajal

ANALYSIS OF THE RIGHT TO INFORMATION IN INDIA

Relevance for Prelims: Article 19 of the Indian Constitution, Fundamental Rights

Relevance for mains: Transparency and accountability in Right to Information, Chief Information Commissioner, Right to Information Act, 2005.

Issues pertaining to the Right To Information Act:

- No one should be a judge in their own cause, according to one of the fundamental principles of natural justice. However, there are instances of the commission permitting, or rather wanting the Ministry itself to act as the judge in their own case and determine if a disclosure is required. This is despite the Ministry being accused of breaking the RTI Act.
- The CIC's refusal to consider the Internet Freedom Foundation's appeal of the fresh non-disclosure order issued by the Home Ministry in the phone tapping case led to a similar circumstance.
- In a case that was looking for a disclosure of documents relating to the making of the Unlawful Activities (Prevention) Amendment Act, 2019, the commission has decided to keep the matter pending for final order for a period of more than three months now, something which is unheard of.
- Bureaucrats reject RTIs without any fear, knowing well that they are protected by the Information Commissioners and are not subject to the harsh penalties stipulated in Section 20 of the RTI Act.

About Right to Information:

- Any public body has to accept requests from citizens under the Right to Information Act and citizens are guaranteed to get a response from the Public Information Officer of that body within a time period of 30 days.
- The citizen may file an appeal at the departmental level and then a second and final appeal with the Information Commission in the event of a non-response or disagreement with the response. The State Information Commission in each State hears second appeals involving State agencies.
- It is the Central Information Commission (CIC), at the Centre level.

Right to Information Act, 2005:

- It provides with the rules and procedures with regard to citizens' Right to information.
- The previous Freedom of Information Act of 2002 was replaced by it.
- This law was passed to strengthen the fundamental right, 'freedom of speech ' guaranteed in the Indian Constitution. RTI is an implied fundamental right because it is included in the Right to Freedom of Expression under Article 19 of the Indian Constitution.

Some of the important provisions of RTI Act are:

- Section 4 of the RTI Act requires suo moto disclosure of information by each public authority.
- Section 8 (1) discusses exemptions against furnishing information under RTI Act.
- Section 8 (2) provides for disclosure of information exempted under Official Secrets Act, 1923 if larger public interest is served.

Before the 2019 amendment:

Before the 2019 amendment to the RTI Act, Information Commissioners (ICs) that were appointed to the CIC had an equal status with that of the Chief Election Commissioner, and of a Supreme Court judge. Their term of service was fixed to Five years.

Post 2019 Amendment:

Following the 2019 revisions, the Centre granted itself the authority to alter and decide upon the tenure of Election commissioners whenever it pleased, undermining the commission's and its personnel's independence.

RTI's role a few years back:

- It pronounced that political parties were under the ambit of RTI Act, and hence were accountable to the public
- It boldly declared that information regarding the Reserve Bank of India's list of willful loan defaulters and the present Prime Minister's educational background are within the purview of the RTI Act
- The commission was a strong proponent of transparency in public life.

Way Forward:

Citizens must exert significant pressure on the government to take action and designate trustworthy commissioners. Lawyers must assist willing citizens in bringing cases to court and pursuing justice. India will lose its valued right to know if proper steps are not taken.

Further Readings:

Fundamental Rights

Article 19 of the Indian constitution

Freedom of Information Act of 2002

Right to Information Act, 2005

Amendment to RTI Act

Prelims Question

Question: In which section are the rights and functions of the Central Information Commission mentioned?

- 1) 18 and 19
- 2) 20 and 25
- 3) 12 and 17
- 4) 13 and 15

Which one of the following is the correct option?

- a) 1 and 2
- b) 2 and 3
- c) 3 and 4
- d) 4 and 1

Mains question

Question: Critically examine the importance of the Right to Information (RTI) as a tool of transparency and accountability in governance.

Source: The Hindu

Article: India is losing its cherished right to know

Kajal

