

## 42 Election Commission

**T**he Election Commission is a permanent and an independent body established by the Constitution of India directly to ensure free and fair elections in the country. Article 324 of the Constitution provides that the power of superintendence, direction 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. Thus, the Election Commission is an all-India body in the sense that it is common to both the Central government and the state governments.

It must be noted here that the election commission is not concerned with the elections to panchayats and municipalities in the states. For this, the Constitution of India provides for a separate State Election Commission<sup>1</sup>.

## COMPOSITION

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

1. The Election Commission shall consist of the chief election commissioner and such number of other election commissioners, if any, as the president may from time to time fix.
2. The appointment of the chief election commissioner and other election commissioners shall be made by the president.
3. When any other election commissioner is so appointed, the chief election commissioner shall act as the chairman of the election commission.
4. The president may also appoint after consultation with the election commission such regional commissioners as he may consider necessary to assist the election commission.
5. The conditions of service and tenure of office of the election commissioners and the regional commissioners shall be determined by the president.

Since its inception in 1950 and till 15 October 1989, the election commission functioned as a single member body consisting of the Chief Election Commissioner. On 16 October 1989, the president appointed two more election commissioners to cope with the increased work of the election commission on account of lowering of the voting age from 21 to 18 years.<sup>2</sup> Thereafter, the Election Commission functioned as a multimember body consisting of three election commissioners. However, the two posts of election commissioners were abolished in January 1990 and the Election Commission was reverted to the earlier position. Again in October 1993, the president appointed two more election commissioners. Since then and till today, the Election Commission has been functioning as a multi-member body consisting of three election commissioners.

The chief election commissioner and the two other election commissioners have equal powers and receive equal salary, allowances and other perquisites, which are similar to those of a

judge of the Supreme Court.<sup>3</sup> 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 majority.

They hold office for a term of six years or until they attain the age of 65 years, whichever is earlier. They can resign at any time or can also be removed before the expiry of their term.

## INDEPENDENCE

Article 324 of the Constitution has made the following provisions to safeguard and ensure the independent and impartial functioning of the Election Commission:

1. The chief election commissioner is provided with the security of tenure. He cannot be removed from his office except in 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 special majority, either on the ground of proved misbehaviour or incapacity. Thus, he does not hold his office till the pleasure of the president, though he is appointed by him.
2. The service conditions of the chief election commissioner cannot be varied to his disadvantage after his appointment.
3. 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, viz.,

1. The Constitution has not prescribed the qualifications (legal, educational, administrative or judicial) of the members of the Election Commission.
2. The Constitution has not specified the term of the members of the Election Commission.
3. The Constitution has not debarred the retiring election commissioners from any further appointment by the government.

## POWERS AND FUNCTIONS

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,

1. Administrative
2. Advisory
3. Quasi-Judicial

In detail, these powers and functions are:

1. To determine the territorial areas of the electoral constituencies throughout the country on the basis of the Delimitation Commission Act of Parliament.<sup>4</sup>
2. To prepare and periodically revise electoral rolls and to register all eligible voters.
3. To notify the dates and schedules of elections and to scrutinise nomination papers.
4. To grant recognition to political parties and allot election symbols to them.
5. To act as a court for settling disputes related to granting of recognition to political parties and allotment of election symbols to them.
6. To appoint officers for inquiring into disputes relating to electoral arrangements.
7. To determine the code of conduct to be observed by the parties and the candidates at the time of elections.
8. To prepare a roster for publicity of the policies of the political parties on radio and TV in times of elections.
9. To advise the president on matters relating to the disqualifications of the members of Parliament.
10. To advise the governor on matters relating to the disqualifications of the members of state legislature.
11. To cancel polls in the event of rigging, booth capturing, violence and other irregularities.
12. To request the president or the governor for requisitioning the staff necessary for conducting elections.

13. To supervise the machinery of elections throughout the country to ensure free and fair elections.
14. To advise the president whether elections can be held in a state under president's rule in order to extend the period of emergency after one year.
15. To register political parties for the purpose of elections and grant them the status of national or state parties on the basis of their poll performance<sup>5</sup>.

The Election Commission is assisted by deputy election commissioners. They are drawn from the civil service and appointed by the commission with tenure system. They are assisted, in turn, by the secretaries, joint secretaries, deputy secretaries and under secretaries posted in the secretariat of the commission.

At the state level, the Election Commission is assisted by the chief electoral officer who is appointed by the chief election commissioner in consultation with the state government. Below this, at the district level, the collector acts as the district returning officer. He appoints a returning officer for every constituency in the district and presiding officer for every polling booth in the constituency.

## **VISION, MISSION AND PRINCIPLES<sup>6</sup>**

### **Vision**

The Election Commission of India strives to be an Institution of Excellence by enhancing active engagement, participation; and deepening and strengthening electoral democracy in India and globally.

### **Mission**

The Election Commission of India maintains independence, integrity and autonomy; ensures accessibility, inclusiveness, and ethical participation of stakeholders; and, adopts highest standards of professionalism for delivering free, fair, and transparent elections to strengthen the trust in electoral democracy and governance.

### **Guiding Principles**

The Commission has laid down for itself guiding principles of good governance:

1. To uphold the values enshrined in the Constitution viz, equality, equity, impartiality, independence; and rule of law in superintendence, direction and control over the electoral governance;
2. To conduct elections with highest standard of credibility, freeness, fairness, transparency, integrity, accountability, autonomy and professionalism;
3. To ensure participation of all eligible citizens in the electoral process in an inclusive voter centric and voterfriendly environment;
4. To engage with political parties and all stakeholders in the interest of electoral process;
5. To promote awareness about the electoral process and electoral governance amongst stakeholders namely, voters, political parties, election functionaries, candidates and people at large; and to enhance and strengthen confidence and trust in the electoral system of this country;

6. To develop the human resource for effective and professional delivery of electoral services;
7. To build quality infrastructure for smooth conduct of electoral process;
8. To adopt technology for improvement in all areas of electoral process;
9. To strive for adoption of innovative practices for achieving excellence and overall realization of the vision and mission;
10. To contribute towards the reinforcement of democratic values by maintaining and reinforcing confidence and trust of the people in the electoral system of the country.

## NOTES AND REFERENCES

1. Vide 73rd and 74th Constitutional Amendment Acts of 1992.
2. By the 61st Constitutional Amendment Act of 1988, which came into force in 1989.
3. In 2018, the salary of a judge of the Supreme Court had been fixed at ₹2.50 lakh per month.
4. The Parliament has made the Delimitation Commission Acts in 1952, 1962, 1972 and 2002.
5. For details in this regard, see [Chapter 69](#) (Political Parties).
6. Strategic Plan 2016–2025, Election Commission of India, pp. 8–9.