

# ELECTION COMMISSION

## MODULE 6

# APPOINTMENT AND TENURE

- The Chief Election Commissioner and the Election Commissioner are appointed by the President of India.
- Each of them holds their offices for a period of 6 years or up to the age of 65 years, whichever comes first.
- They receive the same perks and pay as Supreme Court Judges.
- The only way a Chief Election Commissioner can be removed from office is upon an order of the President supported by the Parliament.
- The Election Commissioner or Regional Commissioner can only be removed from office by the Chief Election Commissioner.

# ADVISORY AND QUASI JUDICIARY

- The Election Commission of India has advisory jurisdiction in terms of post-election ineligibility of sitting members of the Parliament and State Legislature.
- Cases where an individual is found guilty of malpractice at elections by the Supreme Court or High Courts are referred to the ECI for its opinion of the said person's disqualification. In such cases, the judgement passed by the ECI is final and binding on the President of India or the Governor as per jurisdiction.
- The Election Commission of India also has the power to ban any candidate who has not lodged an account of election expenses by the deadline and as per the law.
- ECI can also remove or reduce the period of disqualification as per the law.

# POWERS?

- **Administrative Powers**
- Allotting territorial areas for electoral constituencies in the country
- Organize and amend electoral rolls and register eligible voters
- Inform dates and schedule of elections and scrutinize nomination papers
- Give recognition to political parties and assign election symbols to them.
- ECI appoints the following seats:
  - Chief Electoral Officer
  - District Election Officer
  - Returning Officer
  - Electoral Registration Officer

# FUNCTIONS

- **Functions of the Election Commission of India**
- ECI is responsible for a free and reasonable election
- It ensures that political parties and candidates adhere to the Model Code of Conduct
- Regulates parties and registers them as per eligibility to contest in elections
- Proposes the limit of campaign expenditure per candidate to all parties and monitors the same.
- It is mandatory for all political parties to submit annual reports to the ECI in order to be able to claim the tax benefit on the contributions.
- Guarantees that all political parties regularly submit audited financial reports.

# DUTIES

- The **main duties** of the Election Commission are:
- Supervise, control and conduct all elections to Parliament and State Legislatures
- Set general rules for election.
- Prepare electoral rolls
- Determine territorial distribution of constituencies
- Give credit to political parties.
- Allot election symbols to political parties or candidates
- Appoint tribunals for the decision of doubts and disputes arising out of an election to Parliament and State Legislatures.

# MODE OF CONDUCT

- EC first issued a Model Code of Conduct for political parties at the time of the fifth general elections, held in 1971. Since then, the Code has been revised from time to time and lays down guidelines as to how political parties and candidates should conduct themselves during elections.
- A provision was made under the Code that from the time the elections are announced by the Commission, Ministers and other authorities cannot announce any financial grant, make promises of construction of roads, carry out any appointments in government and public undertakings which may have the effect of influencing the voters in favor of the ruling party.

# MODE OF CONDUCT

- Despite the acceptance of the Code of Conduct by political parties, cases of its violation have been on the rise. It is a general complaint that the party in power at the time of elections misuses the official machinery to further the electoral prospects of its candidates.
- The misuse of official machinery takes different forms, such as issue of advertisements at the cost of public exchequer, misuse of official mass media during election period for partisan coverage of political news and publicity regarding their achievements, misuse of government transport including aircraft/helicopter, vehicles.



# APPOINTMENT OF STATE ELECTION COMMISSION

- The State Election Commissioner shall be appointed by the Governor for a term of 4 years and confirmed by a majority of the members elected to the Senate. Until such appointment and confirmation the State Auditor shall serve as the State Election Commissioner without additional compensation. In the event of a vacancy in the office, the Governor shall appoint a successor to fulfill the unexpired term and said successor shall be confirmed by a majority of the members elected to the Senate.
- The salary of the State Election Commissioner shall be as provided in the Budget Act.
- The State Election Commissioner shall serve in this capacity on a full-time basis and the State Election Commissioner's powers and duties prescribed by this title shall remain with the Election Commissioner and shall not be delegated to any other individual or group.

# APPOINTMENT OF STATE ELECTION COMMISSION

- The State Election Commissioner shall not hold or be a candidate for any:
- Elective office or position of a political party nor shall the State Election Commissioner be an appointed official to any federal, state, city or incorporated municipality, commission or administrative body. This limitation shall not apply to persons selected to serve on or appointed to the Election Assistance Commission's Standards Board or Board of Advisors.
- The State Election Commissioner shall not directly or indirectly use or seek to use the State Election Commissioner's authority or official influence to control or modify the political action of another person or at any time participate in any political activities or campaigns.

# GENERAL POWERS

- The Commissioner shall have the following powers and duties:
- To furnish, by purchase, lease, or otherwise, such equipment, supplies and services that may be required in order to conduct the Commissioner's own powers and duties prescribed in this title;
- To order any department, board, commission or agency of this State to transfer to the Commissioner any equipment or supplies to the Commissioner's custody that are owned by the State and not in use by the department, board, commission or agency concerned, which may be used by the Commissioner in conducting the functions of the Commissioner's office;
- To select and maintain in the City of Dover, preferably in a building owned by the State, suitable office space;

# GENERAL POWERS

- To make reasonable rules and regulations with respect to the functions of the Commissioner's office and with respect to the manner of making entries in registration and election records to be followed by the Department and all registration and election officers;
- To have the sole responsibility for the security of the records in the Commissioner's office which shall not be delegated to anyone;
- To prescribe the form of the registration and election records which under this title are to be uniform throughout this State so long as they are not in conflict with this title;
- To supply necessary instruction and assistance to the Department and all registration and election officers in order to ensure uniform operation of this title throughout the State.

# GENERAL POWERS

- In addition, the Commissioner may develop standards and operating procedures for the purpose of having a statewide uniform election system. These standards shall be directed toward ensuring consistency in the redistricting process, the use of technology and the conduct of general, primary special and school elections. The Commissioner shall collaborate with the Department in developing additional standards or amending or revising existing standards;
- Such other powers and duties as may be necessary in order for the Commissioner to carry out the Commissioner's own functions under this title;
- To be an ex officio member of the State Board of Elections;

# NEW INITIATIVES

- **In order to bring about various improvements and reforms in the election procedure, the ECI has taken numerous steps. Some of them are as follows:**
- Electronic Voting Machines (EVMs) were introduced to improve reliability and efficiency. With the help of EVMs, chances of any discrepancies in terms of counting of ballots are almost nil. Moreover, the introduction of technology has just made a quick verdict possible as it just takes three to four days to declare the results.
- The website of the ECI was launched on February 28, 1998 to provide accurate information and instant results of the elections.
- Electoral Photo Identity Cards (EPICs) were issued in 1993 to prevent electoral fraud. From the 2004 elections, these were made mandatory.

# BUDGET AND EXPENSES

- The Election Commission of India and the Union Finance Ministry finalize the budget for the former's Secretariat, which is liable for an independent budget. The recommendations of the Election Commission are generally upheld by the Ministry of Finance. The concerned states and the Union Territories have to manage the expenses of elections being held, but it is the Union Government who bears the expenses of the Lok Sabha (parliamentary) elections entirely. In case of the legislative assembly elections, the concerned State bears the expenses. If the Lok Sabha (Parliamentary) and the assembly elections are taking place at the same time, the gross expenditure is equally shared amongst the Union Government and the concerned state(s).