

Election Commission of India: Appointment Process under the 2023 Act - UPSC Current Affairs

The **Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023** introduced a statutory framework for appointing the Chief Election Commissioner (CEC) and other Election Commissioners (ECs). The law is important for understanding the independence, accountability and functioning of India's electoral system.

Constitutional Background

The Election Commission of India (ECI) is a constitutional body established under **Article 324 of the Constitution**. It supervises, directs and controls elections to Parliament, State Legislatures, and the offices of the President and Vice-President.

Article 324(2) provides for the appointment of the CEC and other Election Commissioners by the President, subject to any law made by Parliament.

Key Provisions of the 2023 Act

1. Section 5: Qualifications

The CEC and Election Commissioners must be persons of integrity with knowledge and experience in the management and conduct of elections. They must have held a post equivalent to Secretary to the Government of India.

2. Section 6: Search Committee

A Search Committee headed by the Union Minister of Law and Justice, along with two other members not below the rank of Secretary to the Government of India, prepares a panel of five candidates for consideration by the Selection Committee.

3. Section 7: Selection Committee

The Selection Committee recommends appointments to the President. It consists of:

- **Prime Minister:** Chairperson
- **Leader of Opposition in the Lok Sabha:** Member
- **Union Cabinet Minister nominated by the Prime Minister:** Member

The President formally appoints the CEC and other Election Commissioners.

What Changed After the 2023 Act?

In *Anoop Baranwal v. Union of India* (2023), the Supreme Court prescribed an interim appointment mechanism comprising the Prime Minister, the Leader of Opposition and the Chief Justice of India (CJI), until Parliament enacted a law.

The 2023 Act replaced this interim arrangement with a statutory Selection Committee that includes a Union Cabinet Minister nominated by the Prime Minister instead of the CJI.

Why Is the Act Important?

Significance

- Establishes a legislative framework for appointments.
- Clarifies the procedure for selecting Election Commissioners.
- Strengthens institutional clarity in election administration.

Concerns

- The government has two members on the three-member Selection Committee, raising concerns about the balance of influence.
- The exclusion of the CJI has triggered debate over the independence and impartiality of the Election Commission.
- Public confidence depends on transparent appointments and the Commission's ability to act independently.

Way Forward

- Ensure a transparent and merit-based appointment process.
- Strengthen safeguards for the institutional independence of the ECI.
- Promote public disclosure of selection criteria and relevant qualifications.
- Maintain impartial enforcement of election laws and the Model Code of Conduct.

UPSC Examination Relevance

Prelims: Article 324, the 2023 Act, Sections 5, 6 and 7, and the composition of the Selection Committee.

Mains: GS Paper II – Constitutional bodies, electoral reforms, institutional independence and democratic accountability.

Possible UPSC Mains Question:

“Examine the provisions of the Chief Election Commissioner and Other Election Commissioners Act, 2023. Do they adequately safeguard the independence of the Election Commission of India?”

Conclusion

An independent Election Commission is essential for free and fair elections. The 2023 Act provides a statutory appointment framework, but transparency, impartiality and public confidence remain central to strengthening India's electoral democracy.

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