



DAILY EDITORIAL ANALYSIS

TOPIC

**INDEPENDENCE OF ECI:
SAFEGUARDING FREE AND FAIR
ELECTIONS**

www.nextias.com

INDEPENDENCE OF ECI: SAFEGUARDING FREE AND FAIR ELECTIONS

Context

- The recent criticism of the Election Commission of India raises questions about legality, accountability and constitutional propriety.

Background

- Electoral Roll Manipulation: Concerns have been raised regarding the Special Intensive Revision (SIR) of voter lists.
 - ♦ Reports of deletion of large numbers of voters, particularly from certain regions, have sparked fears of disenfranchisement.
- Controversy Over Appointment Process: The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Office and Terms of Office) Act, 2023, altered the selection mechanism.
 - ♦ It is argued that exclusion of the judiciary from the selection committee may increase executive influence.

The Election Commission of India (ECI)

- The Election Commission of India (ECI) is a constitutional body established under Article 324 of the Constitution.
 - ♦ It comprises the Chief Election Commissioner (CEC) and such number of Election Commissioners (ECs) as the President may decide.
- ECI is responsible for managing the preparation of electoral rolls and conducting elections to Parliament, State Legislatures, and the offices of the President and Vice-President.
- The Constitution specifies that the President will appoint the CEC and ECs, subject to the provisions of an Act of Parliament.

Constitution of Election Commission

- Draft Article 289 (Article 324, Constitution of India 1950) was discussed in 1949.
 - ♦ It created a single Commission i.e. ECI to deal with the elections to the Central Legislature- Upper and Lower House.
 - ♦ It also stated that each State and province should have their own Election Commission.
- Nature of the Commission: The Chairman of the Drafting Committee, Dr. B.R. Ambedkar emphasised that the ECI should be outside the control of the executive.
 - ♦ The members were conscious of the danger of an election commission being under the control of the government, which would undermine the integrity of the election.
- Three Membered Body: In 1993, the President appointed M.S. Gill and G.V.G. Krishnamurthy as Election Commissioners. Ever since, the commission has been a three-member body.
 - ♦ The President promulgated an Ordinance, later enacted as the Chief Election Commissioner and Election Commissioners (Condition of Service) Amendment Act, with retrospective effect from October 1, 1993.
 - The Act explicitly granted coordinate powers to the Election Commissioners, solving a grey area in the Constitution.

Revision of Electoral Rolls in India

- Section 21 of the Representation of the People (RP) Act, 1950, provides for the preparation and revision of electoral rolls.
 - ♦ The said electoral roll shall be revised in the prescribed manner by reference to the qualifying date:

- before each general election to the House of the People or to the Legislative Assembly of a State;
 - before each by election;
 - and shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission.
- As per the Section 21(3) of The Representation of the People Act, 1950 the Election Commission “may at any time direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit.
 - The revision of rolls can be carried out “either intensively or summarily or partly intensively and partly summarily, as the (ECI) may direct.
 - ♦ In an intensive revision, the electoral roll is prepared afresh and in a summary revision, the roll is amended.
 - SIR has already been done 8 times from 1951 till 2004.

Why is the Independence of the ECI Important?

- Article 326: It provides for universal adult suffrage and the right of eligible citizens to be registered as voters, subject to disqualification under law.
- Ensures free and fair elections: An independent ECI can conduct elections without undue influence from the ruling party or government.
- Protects electoral rights: It helps ensure that eligible citizens are neither arbitrarily excluded from electoral rolls nor subjected to discriminatory electoral procedures.
- Builds public trust: Perceived neutrality and transparent decision-making strengthen citizens' confidence in election results.
- Protects constitutional democracy: Credible elections enable peaceful transfer of political power and ensure that governments derive legitimacy from the electorate.

Important Judgements Related to the ECI

- Indira Gandhi vs Raj Narain (1975): The Supreme Court of India held that free and fair elections are part of the basic structure of the Constitution.
- T. N. Seshan vs Union of India (1995): It validated the multi-member nature of the Commission and clarified that the CEC is “first among equals,” not an absolute authority.
- The Supreme Court in Anoop Baranwal v. Union of India emphasised the importance of a transparent mechanism for appointments to the Election Commission while considering the constitutional framework that governs the institution.
- Lal Babu Hussein v. Electoral Registration Officer (1995): The SC struck down the ECI 1992 and 1994 guidelines that allowed District Collectors and Electoral Registration Officers (EROs) to delete names from electoral rolls based on mere suspicion of foreign origin.
- Md. Rahim Ali v. State of Assam (2024): The SC held that suspicion alone is not sufficient grounds for deleting a name from the voter list.

Way Ahead

- The credibility of an election depends not only on the conduct of polling but also on the integrity of the process through which citizens are included, verified and retained on electoral rolls.
- A robust electoral system must ensure that constitutional authority, statutory procedure and digital infrastructure remain aligned with the fundamental objective of free and fair elections.

Source: TH

