

04-03-2023

Changes in the process of appointment of election commissioners

Why in Newspapers?

In a landmark judgment aimed at protecting the appointment of the **Chief Election Commissioner** and **Election Commissioners** from **executive interference**, the Supreme Court said that **their appointments would be made by the President** on the advice of a **committee** consisting of the **Prime Minister**, the **Leader of the Opposition** in the **Lok Sabha** and the **Chief Justice of India**.

Quick Issue?

- A **five-judge constitution bench** in its **important judgment** on Thursday said that the **appointment of the Chief Election Commissioner** and **Election Commissioners** will be done by the **President** on the advice of a **three-member committee**. The committee will consist of the **Prime Minister**, the **Leader of the Opposition** in the **Lok Sabha** and the **Chief Justice of India (CJI)**. If there is **no Leader of the Opposition in the Lok Sabha**, the **leader of the largest opposition party in the House** will be part of the advisory committee. This system will remain in force till the **Parliament makes a law in this regard**. The apex court said in the **judgment that in a democracy, the purity of elections should be maintained** otherwise it would have disastrous consequences.

Historical Background?

- It was established on **25 January 1950**. It is a **constitutional body**, which **conducts elections in the country**.
- Provision has been made regarding the **Election Commission** from

सुप्रीम कोर्ट ने बदल दिया 70 साल पुराना चुनाव आयोग का नियम !



Other Key Facts?

Recommendations of various committees regarding the appointment of election commissioners

- The **'Tarkunde Committee'** constituted in the year **1975** recommended the **inclusion of the Prime Minister, the Leader of the Opposition in the Lok Sabha and the Chief Justice of India** in the selection committee for the appointment of **Election Commissioners**.
- The **Dinesh Goswami Committee** also reiterated the recommendations of the **Tarkunde Committee**.
- In the **report of the Second Administrative Reforms Commission (2007)**, it was recommended to include **Law Minister and Deputy Chairman of Rajya Sabha** in the committee constituted for the appointment of **Election**



Articles 324 to 329 of the Constitution.

- **Article 324-** Responsibility of the Election Commission to conduct, control, guide, oversee the elections.
- **Article 325-** Provision not to include any particular person in the voter list on the basis of religion, caste or gender and not to disqualify him for voting on the basis of these.
- **Article 326-** Election to the Lok Sabha and the State Legislative Assemblies will be on the basis of adult suffrage.
- **Article 327-** Power of Parliament to make laws regarding provisions related to elections.
- **Article 328-** Power of the Legislature of a State to make laws related to elections.
- **Article 329-** Curb on interference of courts in election related matters.
- **Article-324** of the Constitution has a provision for the establishment of the Election Commission. According to this, the number of Election Commissioners and their tenure is subject to the law made by the Parliament in this regard.
- In the year 1989, the number of Election Commissioners was increased from 1 to 3.
- In 1990 it was again made **single member but in the year 1993** it was again made **3 member, since then the Parliament** has not made any change in the appointment process.
- Presently the **Chief Election Commissioner** and **other Election Commissioners** are appointed by the **President**.
- The President appoints them **on the advice of the Union Council of Ministers** headed by the Prime Minister.
- Their tenure is for **6 years** or **till the age of 65 years** (whichever is earlier).
- The **Chief Election Commissioner** is the **head of the Election Commission** but his powers are also equal to those of the **other Election Commissioners**.
- The **decisions of the Election Commission** are based on the **majority or consensus of the members**.
- The **Chief Election Commissioner** can be removed from office only by a procedure similar to the procedure for the removal of a **Supreme Court Judge from his office**.

चुनाव आयुक्त चुने जाने की अभी क्या प्रक्रिया है?



मुख्य चुनाव आयुक्त और चुनाव आयुक्त की नियुक्ति को लेकर फिलहाल देश में कोई कानून नहीं है। नियुक्ति की पूरी प्रक्रिया केंद्र सरकार के हाथ में है।

अब तक अपनाई जाने वाली प्रक्रिया के मुताबिक सचिव स्तर के मौजूदा या रिटायर हो चुके अधिकारियों की एक सूची तैयार की जाती है।

कई बार इस सूची में 40 नाम तक होते हैं। इस सूची के आधार पर तीनों नामों को एक पैनल तैयार किया जाता है।

इन नामों पर प्रधानमंत्री और राष्ट्रपति विचार करते हैं। इसके बाद प्रधानमंत्री पैनल में शामिल अधिकारियों से बात करके कोई एक नाम राष्ट्रपति के पास भेजते हैं।

इन नाम के साथ प्रधानमंत्री के नोट भी भेजते हैं। इसमें उस शख्स के चुनाव आयुक्त चुने जाने की वजह भी बताई जाती है।

इनका कार्यकाल 6 साल या 65 साल की उम्र जो भी पहले हो तक होता है।

इस प्रक्रिया से चुनाव आयुक्त चुने जाते हैं और इनमें से जो सबसे सीनियर होता है उसे मुख्य चुनाव आयुक्त नियुक्त किया जाता है।

- Other Election Commissioners can be removed by the President whenever he wants on the recommendation of the Chief Election Commissioner.
- Determining the territory of the constituencies of the whole of India on the basis of the Delimitation Commission Act of the Parliament.
- Preparation of electoral roll from time to time and registration of all eligible voters.
- Fixing the date and time-table of the election and examining the nomination papers.
- Granting recognition to political parties and allotting election symbols to them.
- Acting as a court of law to settle disputes relating to recognition of political parties and allocation of election symbols.
- Appointing officer to investigate the dispute related to election system.
- Making code of conduct for parties and candidates at the time of election.

Foreign Contribution Regulation Act (FCRA)

Why in Newspapers?

The Center on Monday (February 27, 2023) suspended the Foreign Contribution Regulation Act (FCRA) license of the Center for Policy Research (CPR).



Quick Issue?

- Oxfam India and Independent and Public-Spirited Media Foundation (IPSMF) as well as CPR (non-profit organizations) were surveyed by the Income Tax Department.

Historical Background?

- The FCRA was enacted during the Emergency in 1976 amid apprehensions that 'foreign powers were interfering in India's affairs by sending money into the country through independent organisations'.

Other Key Facts?

How is FCRA registration granted?

- NGOs who want to receive foreign funds have to apply online in a prescribed format along with required documents.
- FCRA registration is granted to individuals or associations that have definite cultural, economic, educational, religious and social programmes.
- After the application by the NGO, the Ministry of Home Affairs inquires into the antecedents of the applicant through the Intelligence Bureau and processes the application accordingly.
- Under FCRA, the applicant should not be fictitious or benami and should not have been prosecuted or convicted for indulging in activities aimed at conversion from one religious' faith to another, directly or indirectly through inducement or force.



- The law sought to regulate foreign donations to individuals and associations so that they could function 'consistent with the values of a sovereign democratic republic'.
- An amended FCRA was enacted under the UPA government in 2010 to 'strengthen the law' on the use of foreign funds and 'restrict' their use for 'any activity prejudicial to the national interest'.
- In 2020 the law was again amended by the present government, giving the government strict control and checks on the receipt and use of foreign funds by NGOs.
- FCRA requires every person or NGO receiving foreign donations to (i) be registered under the Act, (ii) to open a bank account for receipt of foreign funds in the State Bank of India, Delhi and (iii) To use those funds only for the purpose for which they have been received and prescribed in the Act. They are also required to file annual returns and should not transfer funds to any other NGO.
- The Act prohibits the receipt of foreign funds by candidates for elections, journalists or newspaper and media broadcasting companies, judges and public servants, members of legislatures and political parties or their office-bearers, and organizations of a political nature.
- In July 2022, the Ministry of Home Affairs made changes in the FCRA rules and increased the number of compoundable offenses from 7 to 12 under the Act. Among other major changes, contributions below Rs 10 lakh have been exempted from reporting to the government, earlier this limit was Rs 1 lakh.
- Under the new rules, political parties, members of legislatures, election candidates, judges, government employees, journalists and media houses can be penalized if they receive foreign contributions from relatives abroad and fail to inform the government within 90 days. All others would be barred from receiving foreign contributions.



'Whip' in the House

Why in Newspapers?

Recently, the Supreme Court said in a hearing that if any MLA of a political party who is a part of the ruling coalition says that he will not go with the coalition or obey his whip, then his membership can also be lost.

Quick Issue?

- Membership of Uddhav Thackeray faction MLAs in Maharashtra may be in danger if they defy the





whip. This important comment has been made by the Supreme Court.

- The court said that **it is the duty of all concerned legislators** to obey the whip in the House. On the other hand, if any MLA of the political party who is a part of the ruling coalition says that he will not go with the coalition or will not accept his whip, then his **membership can also go away**.
- **CJI Chandrachurna** said that **after the formation of the government**, no group of legislators can say that **they will not go with the coalition**. The court said that as long as you are there, **you are bound to vote for your party**. However, **this rule will not apply in case of merger**. At present, this bench has been constituted to hear the **battle of Uddhav Thackeray vs Eknath Shinde in the Supreme Court**.

Historical Background?

- It is a **written order issued by a political party** which the members of the party have to obey compulsorily.
- In this, **the assembly or parliament members associated with the party are ordered** that they have to be present in the house on a certain occasion and **vote in a particular party only**.
- The **concept of 'whip' has come out of the British rule**.
- The name '**Cachetak**' has **not been mentioned in the constitution**.
- According to the **anti-defection law**, a political party has a **constitutional right to issue 'alerts' to its MLAs**. Most parties appoint a whip **whose job it is to ensure discipline among party members on the floor of the House**.
- The **anti-defection law** allows the **Speaker/Chairman to disqualify such a member**; The only exception is when legislators
- There are three types of alerts-
 1. **One Line Alert** - One Line Alert is issued to the members to inform them about voting.
 2. **Two-Line Alert** - Two-Line Alert is issued to instruct members to remain present in the House at the time of voting.
 3. **Line Alert** - Line Alert is issued to instruct the members to vote according to the party line.

Other Key Facts?

Importance Of Whip In Political System

- The **role of a whip** is very important in a democracy. It is the **work of the whip to maintain attendance, discipline and order**.
- In a parliamentary form of government, the whips of the various political parties are an important link in the **internal organization of the parties** within the legislatures.
- The efficient and smooth functioning of Parliament and State Legislatures depends to a **great extent on the office of the Whip**.
- **Whips can be called managers of parties within legislatures**.