

Credibility Concerns with Election Commission

What is the issue?

- The EC has come under the scanner like never before, with increasing incidents of breach of the Model Code of Conduct in the 2019 general elections.
- While nothing bars the EC from asserting its authority, there is a dire need for some institutional safeguards to protect its autonomy.

What is the recent happening?

- The Election Commission of India (EC) is a formidable institution which has led the world in electoral efficiency since its inception.
- But recent incidents involving breach of the Model Code of Conduct, particularly those by the ruling party, have raised serious credibility concerns.
- A group of retired bureaucrats and diplomats recently raised certain issues in this regard in a letter to the President of India.
- They expressed concern over the EC's "weak kneed conduct" and the institution "suffering from a crisis of credibility today".

What are the concerns highlighted?

- **Mission shakti speech** - The letter mentioned the PM's recent announcement of India's first anti-satellite (ASAT) test.
- They described it as a serious breach of propriety amounting to giving unfair publicity to the party in power. Click [here](#) to know more.
- **Media** - Questions were also raised over the launch of NaMo TV without licence.
- The biopic on the life of PM Modi, which was scheduled for release when elections had commenced, was also questioned.
- The group also requested the EC to issue directions to withhold the release of biopics/documentaries on any political personages until the conclusion of the electoral process.
- They asserted that the release of such propaganda amounted to free publicity.
- Hence, they also called for debiting the expenses as election expenditure in the name of the candidate in question.

- The same standards should also apply to other such propaganda, an example being a web series titled “Modi: A Common Man’s Journey”.
- **Other concerns** - Other important issues highlighted in the letter included -
 - i. transfers of top officials
 - ii. voter verifiable paper audit trail (VVPAT) audits
 - iii. violations of the MCC by Rajasthan Governor Kalyan Singh; requesting his removal on account of “grave misdemeanour”
 - iv. UP CM Yogi Adityanath (in his speech he referred to the armed forces as the army of Narendra Modi)
 - v. corrosion of the political discourse in general

What are the drawbacks in EC's structure and functioning?

- **Appointment** - The genesis of the problem lies in the flawed system of appointment of election commissioners.
- It is currently done unilaterally by the government of the day.
- **Protection** - Now, only the Chief Election Commissioner (CEC), and not the other two commissioners, is protected from being removed except through impeachment.
- The other two commissioners having equal voting power in the functioning of the EC can outvote the CEC 10 times a day.
- Here, the uncertainty of elevation by seniority makes them vulnerable to government pressure.
- By this way, the government can control a defiant CEC through the majority voting power of the other two commissioners.
- It is to be noted that the Constitution enabled protection to the CEC as it was a one-man commission initially.
- **Authority** - The EC’s reputation also suffers when it is unable to bring to control the unruly political parties, especially the ruling party.
- This is because the EC only has the registering authority under Section 29A of the Representation of the People Act, 1951.
- It does not have the power to de-register parties even for the gravest of violations.

What are the called-for changes?

- **Appointment** - In its 255th report, the Law Commission recommended a collegium, consisting of the PM, the Leader of the Opposition and the CJI, to select election commissioners.
- But successive ruling dispensations have not given any legal form to this recommendation, fearing of losing their power.
- It is obvious here that political and electoral interests take precedence over

the national interest.

- A public interest litigation was also filed in the Supreme Court in late 2018.
- It called for a fair, just and transparent process of selection by constituting a neutral and independent Collegium/selection committee.
- The matter has been referred to a constitution bench.
- **Powers** - The EC itself has been seeking the power to de-register political parties, among many other reforms.
- The reform was first suggested by the CEC in 1998 and reiterated several times.
- The EC also very recently submitted an affidavit to the Supreme Court on this demand.

What is the way forward?

- Elections are the bedrock of democracy and the EC's credibility is central to democratic legitimacy.
- Hence, the guardian of elections itself needs urgent institutional safeguards to protect its autonomy.
- It is high time that appointments of election commissioners is depoliticised through a broad-based consultation mechanism.
- The EC must also be empowered to de-register parties for electoral misconduct.
- The protection offered to the chief election commissioner must now be extended to other commissioners (added in 1993 and collectively represent the EC) as well.
- While these reforms may continue to be debated, the EC should not be stooped from asserting the ample authority it currently has under the Constitution.
- Exercising this authority is not the EC's discretion but a constitutional mandate and democracy's foundation.

Source: The Hindu