

## The Chief Election Commissioner and Other Election Commissioners Bill 2023

### Why in news?

Recently, the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023, was introduced in Rajya Sabha.

### Current Setup of Election Commission

- Election Commission is a permanent and an independent body established by the Constitution of India directly to ensure free and fair elections in the country.
- Articles (324-329) in Part XV of the Constitution deals with Election.
- **Article 324-** The appointment of the CEC and other ECs shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.
- The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the president may from time to time fix.
- **Appointment-** The Law Minister suggests a pool of suitable candidates to the Prime Minister for consideration.
- The President makes the appointment on the advice of the PM.
- The President may also appoint after consultation with the Election Commission such regional commissioners as he may consider necessary to assist the election commission.
- **Term of office** - CEC and other ECs will hold office for a term of 6 years or until they reach the age of 65 years, whichever is earlier.
- **Conditions of service-** The conditions of service and tenure of office of the election commissioners and the regional commissioners shall be determined by the President.
- **Removal** - The Chief Election Commissioner can be removed from office in a manner similar to that of a Supreme Court judge.
- This is done through an order of the President, based on a motion passed by both Houses of Parliament in the same session by
  - majority support of total membership of each House, and
  - at least two-thirds support from members present and voting
- An EC can only be removed from office on the recommendation of the CEC.

### What are the key features of the bill?

- **Repeal-** It repeals the Election Commission (Conditions of Service of Election

Commissioners and Transaction of Business) Act, 1991.

- **Appointment-** It adds that the CEC and other ECs will be appointed by the President on the recommendation of a Selection Committee.
- **Selection Committee-** The Selection Committee will consist of
  - Prime Minister as Chairperson
  - Leader of the Opposition in Lok Sabha as member,
  - Union Cabinet Minister nominated by the Prime Minister as member.
- If the Leader of Opposition in Lok Sabha has not been recognised, the leader of the single largest opposition party in Lok Sabha will assume the role.
- **Search Committee-** A Search Committee will prepare a panel of 5 persons for the consideration of the Selection Committee.
- The Search Committee will be headed by the Cabinet Secretary.
- It will have 2 other members, not below the rank of Secretary to the central government, having knowledge and experience in matters related to elections.
- The Selection Committee may also consider candidates who have not been included in the panel prepared by the Search Committee.
- **Eligibility for CEC and EC-**
  - Persons who are holding or have held posts equivalent to the rank of Secretary to the Central Government and
  - Persons having expertise in managing and conducting elections.
- **Salary and allowances** - The Bill provides that salary, allowance, and service conditions of the CEC and other ECs will be the same as that of the Cabinet Secretary.
- **Term of office** - The Bill retains the same tenure as mentioned in the 1991 Act. Also, the CEC and other ECs will not be eligible for re-appointment.
- **Conduct of business-** All business of the Election Commission is to be conducted unanimously.
- In case of difference of opinion between the CEC and the other ECs on any matter, it shall be decided through majority.
- **Removal** - The Bill retains the earlier removal procedure.
- **Resignation-** The Bill has the same provision of the 1991 Act in which the CEC and other ECs may submit their resignation to the President.

*In **Anoop Baranwal vs Union of India**, the Supreme Court ruled that the appointment of the CEC and EC by the President will be based on the advice of a 3-member high-level committee (Prime Minister, Leader of Opposition in Lok Sabha, and Chief Justice of India)*

### **What are the implications of the move?**

- **Pros** - It proposes a search committee, headed by the Cabinet Secretary, with 2 other members to prepare a panel of 5 members for the consideration of the Selection Committee.
- Another positive feature of the Bill is that prescribing the qualifications for appointment to the posts.
- **Cons** - The composition of the Selection Committee in the Bill raises questions on whether the process is now independent or still rigged in favour of the Executive.

- With the PM and a Cabinet Minister nominated by the PM in the three-member panel, the LoP is outvoted even before the process begins.

### Appointment norm in major democracies

- **United States**- The 6-member Federal Election Commissioners are appointed by the President and confirmed by the Senate.
- **Canada**- The Chief Electoral Officer is appointed for a 10-year non-renewable term by a resolution in the House of Commons. The person reports directly to the President.
- **United Kingdom**- Speaker's Committee with membership drawn from MPs within the Parliament, oversees the recruitment.
- **France**- The 9-member Constitutional Council oversees the election of the President of the Republic and referenda.

### References

1. [Indian Express- Explained the features of the bill](#)
2. [The Hindu- Government lists bill in Rajya Sabha](#)
3. [PRS- Key highlights of the bill](#)

