



CEC AND ECS SELECTION ISSUE - GS II MAINS

Q. Critically analyze the provisions of the Bill on Appointing Chief Election Commissioner and Other Election Commissioners. Also, give your opinion on whether the Bill reflects the true ideal pronounced by the recent Supreme Court judgement? (15 marks, 250 words)

News: *Upper House Passes Bill on Appointing Chief Election Commissioner and Other Election Commissioners*

What is in the news?

- Recently, the Rajya Sabha passed the bill on appointing Chief Election Commissioner and other Election Commissioners.

Key provisions of the Bill:

- **Selection Committee for Appointments:**
 - The chief election commissioner and other election commissioners will be appointed by the President based on the recommendation of a Selection Committee comprising the Prime Minister, a Union Cabinet Minister, and the Leader of the Opposition or the leader of the largest opposition party in the Lok Sabha.
- **Validity of Recommendations:**
 - Recommendations made by the Selection Committee will be valid even in case of a vacancy in the Committee.
- **Search Committee:**
 - A Search Committee, headed by the Law Minister will propose a panel of names to the Selection Committee. Eligibility for these posts includes holding (or having held) a post equivalent to the Secretary to the central government.
- **Salary and Conditions of Service:**
 - The salary and conditions of service of the chief election commissioner and other election commissioners will be equivalent to the salary of a Supreme Court Judge.
- **Term and Reappointment:**
 - Members of the Election Commission will hold office for six years or until they attain the age of 65 years, whichever is earlier. They cannot be re-appointed.
- **Removal Process:**
 - The manner of removal of the CEC and ECs is retained as specified in the Constitution {Article 324(5)}.
 - The CEC is removable in the same manner as a Supreme Court Judge and the ECs removable only upon the recommendation of the CEC.



- **Status of CEC and ECs:**
 - They enjoy the status of a judge of the Supreme Court. The Bill has retained that status.
- **Safeguards CEC and ECs from legal proceedings:**
 - It is related to actions taken during their tenure, provided such actions were carried out in the discharge of official duties.
 - The amendment aimed to shield these officials from civil or criminal proceedings related to their official functions.
 - These changes aim to redefine the process of appointment and the service conditions of the election commissioners, impacting the operational dynamics of the Election Commission of India.

Issues:

- **Making EC a puppet:**
 - This composition of the selection panel puts a question mark on the neutrality of the Election Commission (EC) as the selection panel would effectively have two members of the ruling party—the Prime Minister and the Cabinet Minister.
 - The Opposition has been arguing that the replacement of the CJI with a Cabinet Minister in the Bill indicates that the government is trying to make the poll body a puppet.
- **Against the spirit of fundamental rights:**
 - The court judgment says that the right to vote is a fundamental right, effectuated by the Election Commission through the conduct of elections.
 - And therefore, to ensure that this right can be exercised properly, the Election Commission has to be independent of the executive.
 - So, while the Bill, as proposed, follows the letter of the judgment, it does not at all follow the spirit of the judgment.
- **Counter to a recent judgment:**
 - The SC suggested that the least intrusive will be a system where there is a presence of the Chief Justice in the appointment committee.
 - The bill runs counter to this judgment of a Constitution Bench.
 - The judgment was also in line with the recommendations of the Dinesh Goswami Committee in 1990 and the Justice Tarkunde Committee in 1975.

WAY FORWARD:

- The Election Commission of India is a constitutional body that not only conducts elections but also renders a **quasi-judicial role**.
- ECI has played a seminal role in the periodic conduct of elections, which have only seen greater participation from the electorate because of the largely free, fair and convenient nature of the process.



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- The need for a selection process that embodies insulation from executive preponderance makes sense. A non-partisan and independent ECI is a sine qua non for the robustness of electoral democracy.
- The independent V-Dem Institute in Sweden, which compares democracies worldwide, has downgraded India to an “electoral autocracy”, citing the loss in autonomy of the ECI.

