UNIT 14: AUTONOMOUS OFFICES UNDER THE CONSTITUTION

UNIT STRUCTURE

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14.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- explain the constitutional status of the Election Commission of India
- discuss the composition, powers and functions of the Election Commission of India
- discuss the electoral reforms in India.

14.2 INTRODUCTION

The Constitution of India has adopted a democratic system of government based on the principle of the universal adult franchise. Since India is considered as the largest democracy in the entire world, election has been one of the largest tasks in India. For the successful conduct of the election, the Constitution provides for an Election Commission in India. Through this unit, an effort will be made to provide basic idea regarding Election Com-

mission in India, its composition, powers and functions and also about Electoral Reforms in India.

14.3 ELECTION COMMISSION OF INDIA

Free and fair elections are at the core for proper functioning of a democratic country. The framers of the Indian Constitution also realised this fact and made provisions in the Constitution of India for the establishment of an independent Election Commission for this purpose. According to Article 324 of the Indian Constitution, the superintendence, direction and control of the preparation of the electoral rolls for the conduct of all elections to Parliament and to the Legislature of every State and of the election to the President and Vice President of India held under this Constitution, shall be vested in the Election Commission. The Election Commission is an autonomous body and the Constitution has incorporated several provisions for keeping it free from interferences of executive, legislature and political party.

- **Constitutional Position:** According to Article 324 of the Indian Constitution, there shall be an independent body viz. Election Commission to supervise the entire procedure and machinery for election and for some other ancillary matters. According to Article 324(2), the Election Commission shall consist of a chief election commissioner and such other commissioners as the President may decide from time to time.
- **Features:** The Constitution of India has emphasised on ensuring the autonomy of the Election Commission and thus keeps it free from political and executive influence. Another feature of the Election Commission is that it is an all India body and has jurisdiction over election to the Parliament, state legislatures, offices of the President and Vice-president of India.

14.3.1 Composition of the Election Commission

The Election Commission of India is a constitutional authority set up in pursuance of Article 324 of the Constitution of India. The

Election Commission of India, according to Article 324 consists of one chief election commissioner and such other commissioner, if any, as the President of India may determine from time to time. In 1994 through an Act the Election Commission was made a three-member body with provision for making decision by majority. All the members of the Commission are appointed by the President of India.

- **Term:** The term of the members of the Election Commission is not fixed by the Constitution. The President has the power to determine the term of the office of the members of the Commission. Generally the Election Commissioner and other members are appointed for a term of 6 years from the date of their appointment. This term can be further extended by one year at a time but in no case extended beyond the age of 65 years of the members.
- **Removal:** Before the expiry of their normal term, the members of the Commission can quit the office by submitting their resignation to the President of India. However, the members of the Commission can also be removed by the President of India on the recommendation of the Parliament. The Parliament can make such recommendation for the removal of the Chairman or members of the Election Commission on the grounds of proved misbehaviour or incapacity. The resolution of removal of the members of the Commission must be adopted with majority of total membership and 2/3rd majority of the members present and voting. The removal process of the members of the Commission has been made complex to ensure the independence of the working of the Election Commission from both the legislature and executive organs of the government.

14.3.2 Powers and Functions of the Election Commission

As the sole body to conduct, superintend and control elections in India, the Election Commission enjoys certain powers and functions which are outlined in Article 324- 328 of theconstitution of India. These powers and functions of the Commission can be mentioned as follows:

- **Preparation of Electoral Rolls:** Preparation of the electoral rolls for the elections of the Parliament and all state legislatures, including the local bodies are made by the Election Commission. It also revises these electoral rolls from time to time in accordance with the provisions of the Constitution and laws enacted by the Parliament or the state legislatures.
- **Delimitation of election constituencies:** According to the provisions of the Delimitation Commission Act, 1952, the delimitation of election constituencies has to be conducted after every Census, completed after every ten years. The Delimitation Commission is headed by the Chief Election Commissioner and the commission is responsible for conducting delimitation of constituencies in due course of time.
- **Supervision of elections:** The Election Commission supervises, directs and controls all the matters relating to the elections of the President and Vice-President of India, Parliament and state legislatures.
- **Advisory function:** The Election Commission provides advice to the President of India and Governor of the states of India on the questions regarding disqualification incurred by members of the Union or State Legislatures.
- **Appointment making power:** The Election Commission has the appointment making power. The Commission appoints election officers for enquiring into the disputes arising out of or connected with the election arrangement.

- **Settlement of disputes:** The Election Commission has the power for the settlement of disputes regarding allotment of election symbols to the parties at the time of elections.
- **Recognition of Political Parties:** The Election Commission recognizes political parties as national or state political parties. The recognition is based on the percentage of vote share in national or state election.
- **Determination of Code of Conduct:** The Election Commission determines the code of conduct to be observed by the political parties and the candidates at the time of the elections.
- **Scrutiny of Expenses:** The Election Commission has the power to scrutinize the election expenses of candidates. The Commission has the power to take action against those who submit incorrect expenses or cross the limit of expenses in election.
- **Notification of Elections:** The Commission notifies dates and schedules of elections and conducts scrutiny of the nomination papers. It also fixes dates for poll, counting of voting etc.
- **Broadcast:** The Commission prepares the order for central broadcasts and telecasts and allocation of days and time to different political parties.
- **Residuary Powers:** The Supreme Court of India has opined that where the enacted laws are silent or make insufficient provision to deal with a given situation in the conduct of elections, the Election Commission has the residuary powers under the Constitution to act in an appropriate manner.
- **Other functions:** Apart from above, the Commission does some other functions like- receiving election related complains, re-poll, publishing reports of recent election etc.

14.3.3 Means to ensure the independence functioning of the Election Commission

With a view to ensure free and impartial election, the Constitution of India has taken numerous steps to ensure the independence functioning of the Election Commission. Let us discuss the constitutional arrangement to ensure impartiality of Election Commission.

- Appointment: The President of India, which is considered as a neutral head of the state, appoints the Chief Election Commissioner and other Election Commissioners. This may ensure the neutrality of the commissioners.
- Removal Procedures: The procedure for removal of Chief Election Commissioner has been made quite difficult. The Chief Election Commissioner can be removed from his office only by the President on the ground of proved misbehaviour or incapacity. The resolution for his removal must be passed by the both Houses of the Parliament with majority of total membership and 2/3rd majority of the members present and voting. This difficult procedure helps in keeping the Commission free from political control.
- Parliamentary Law: The condition of service of the Election Commission cannot be varied to his disadvantage during his term of office. The Constitution have made provisions for their condition of service on the basis of law made by the Parliament.
- Advice of the Chief Election Commissioner: According to Article 324(5) 'other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner'.

These provisions protect the Election Commission from undue interference of the executive and legislative influence.



ACTIVITY 14.1

Try to find out the name of the present Chief Election Commissioner of India.

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CHECK YOUR PROGRESS

Q 1: Which agency issues the notification for elections in India?

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Q 2: Who appoints Chief Election Commissioner of India?

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Q 3: Write the constitutional position of the Election Commission of India.

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Q 4: Mention any two functions of the Election Commission of India.

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Q 5: Briefly write about the removal procedure of the members of the Election Commission.

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14.4 ELECTORAL REFORMS

Since 1952, the Election Commission of India has been conducting elections at both national and state level. The electoral system in India, suffers from several defects. Some of the important shortcomings highlighted by the critics include (a) growing use of corrupt practices and misuse of governmental machinery; (b) role of money and muscle power; (c) role of caste and religion; (d) lack of equal opportunities and resources with the various political parties, which gives a distinct advantage to ruling party; (e) presence of large number of political parties and increasing number of independent candidates; (f) wide-gap between the votes polled and seats captured by the political parties.In view of the shortcomings in the electoral process, demand for electoral reforms has been frequently made in India. In 1974, Jaya Prakash Narayan appointed Tarkunde Committee which recommended a number of electoral reforms, some of which are- (i) the President should appoint the Election Commissioners on the advice of a committee comprising the Prime Minister, Leader of Opposition in Lok Sabha and the Chief Justice of India; (ii) the Election Commission should have three members; (iii) voters councils be formed to ensure free and fair elections. In 1990, Dinesh Goswami Committee was formed which recommended that

- The security deposits for independent candidates and candidates of registered political parties should be increased to reduce the multiplicity of candidates and parties;
- A person should not be permitted to contest elections from more than two constituencies;
- To curb the evil of booth capturing, the returning officers should be authorised to order re-poll or even countermand the elections;
- The Election Commission should be empowered to appoint investigating agencies, prosecuting agencies and special courts;
- In order to eradicate false voting or impersonation during elections, photo identity cards should be introduced;

- Model code of conduct must be strictly enforced and misuse of government machinery and media must be curbed;
- Proper accounts of expenditure during election must be maintained and submission of false accounts should be made an offence;
- The members of the Commission including the Chief Election Commissioner should be appointed by the President in consultation with the leader of the Opposition in Lok Sabha and Chief Justice of India and in case of other members of the Commission, the Chief Election Commissioner must also be consulted.

In addition to the various committees and commissions, the Election Commission has also suggested certain electoral reforms from time to time. In 1994, the Election Commission issued a notification which recommended the political parties to elect their respective office bearers as per their constitutions within four months.

During the tenure of T.N. Sheshan as Chief Election Commissioner (1991-1996), the Election Commission adopted several measures to ensure free and fair elections. These measures includes:

(a) video coverage of polling booths to curb booth capturing and other malpractices,
(b) the introduction of photo identity cards,
(c) engraining serial number in the ballot box to eradicate its substitution,
(d) confiscation of arms and ammunition during the poll period and,
(e) closure of liquor shops and tables on anti-social elements and known offenders.

These reforms, however, did not find favour with the government and various political parties.

In 1997, the Election Commission announced that 40 MPs and 700 MLAs of the then Parliament and state legislatures had criminal records. Therefore the Commission issued a directive that any person convicted by a court under section 8 of the Representative of People's Act would be debarred from contesting elections. It also demanded several other changes in the existing election law. These changes included: (i) while calculating

the election expenses of the candidates, the expenses incurred on him by the political party must also be counted; (ii) the ceiling on polling expenses should be raised to 15 lakhs for the Lok Sabha poll and Rs. 6 lakhs for the assembly poll; (iii) the Election Commission should be authorised to amend these limits for smaller or larger constituencies; (iv) the Election Commission should have power to punish the government employees on poll duty; (v) it should be obligatory for all state governments, state-run firms, banks and statutory bodies to make available their employees to the Election Commission for election duty; and (vi) a candidate should be allowed to contest the Rajya Sabha polls from any parliamentary constituency in the country so long as he or she is a valid voter. In 1998, the security deposit for the candidates contesting electionswas increased from Rs. 500 to Rs. 10,000 for general constituencies and Rs. 250 to Rs. 5,000 for the reserved constituencies.

In the wake of Supreme Court judgement of May 2, 2002 which stated that it should be made mandatory for persons filing nominations for elections to disclose information about their wealth, education and criminal background, the Election Commission issued an order under Article 324 on June 28, 2002. The representatives of 21 political parties which met in New Delhi on 8 July, 2002 rejected the Election Commission's order and urged the government to introduce a comprehensive law at the earliest so that the incongruities in the Election Commission's order could be effectively dealt with.

While summing up, we can say several important committees like the Tarkunde Committee Report of 1975, the Goswami Committee Report of 1990, the Election Commission's recommendations in 1998 have produced a comprehensive set of proposals regarding electoral reforms. Based on all these, the Election Commission has introduced several reforms in Indian election system. Some of these are mentioned below—

- Reform related to Age: The qualifying age for voting has been lowered from 21 years to 18 years and this has helped in increasing the number of votes. In 1988, the voting age was reduced from 21 to 18 by the 61st amendment to the Constitution.



14.5 LET US SUM UP

- Article 324 of the Indian Constitution provides for the establishment of Election Commission in India.
- Presently the Election Commission of India consists of one Chief Election Commissioner and two other commissioners.
- The President of India appoints the Chief Election Commissioner and other Election Commissioners according to the law made by the parliament. Generally the Election Commissioner and other members are appointed for a term of 6 years from the date of their appointment. This term can be further extended by one year at a time but in no case extended beyond the age of 65 years of the members.
- The members of the Election Commission can be removed by the President of India on the recommendation of the Parliament. The Parliament can make such recommendation for the removal of the Chairman or members of the Election Commission on the grounds of proved misbehaviour or incapacity.
- The Election Commission of India enjoys lot of powers and functions such as preparation of Electoral Rolls, notification of election, superintendence of all election matters, giving recognition to the political parties, allotment of symbols to political parties, delimitation of election constituencies, advisory functions, appointment of officers for the purpose of conducting elections, settlement of election related disputes, determination of code of conduct, scrutiny of expenses, residuary functions etc.
- The electoral system of India suffers from several defects, some are-use of corrupt practices and misuse of governmental machinery, role of money and muscle power and caste and religion, lack of equal opportunities and resources among political parties, wide-gap between the votes polled and seats captured by the political parties etc.

- To overcome all these defects several important committees like Tarkunde Committee 1974, Dinesh Goswami Committee of 1990, the Election Commission's recommendations of 1998 etc have produced a comprehensive set of proposals regarding electoral reforms in India.



14.6 FURTHER READINGS

1) Avasthi, Amreswar, &Avasthi, Anand Prakash (1999). *Indian Administration.* Agra: Lakshmi Narain Agarwal.

2) Bhagwan, Vishnoo, &Bhushan, Vidya.(2007). *Public Administration*. New Delhi:S. Chand & Company Ltd.

4) Maheshwari, S.R. (2003). *Indian Administration*. New Delhi:Orient Longman.

5) Sharma, Dr.M.P. ,&Sadana, Dr.B.L. (2000). *Public Administration in Theory and Practice.* Allahabad: Kitab Mahal.



14.7ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: Election Commission

Ans to Q No 2: The President of India

Ans to Q No 3: According to Article 324 of the Indian Constitution, there shall be an independent body viz. Election Commission to supervise the entire procedure and machinery for election and for some other ancillary matters. According to Article 324(2), the Election Commission shall consist of a chief election commissioner and such other commissioners as the President may decide from time to time.

Ans to Q No 4: (i)Preparation of Electoral Rolls: Preparation of the electoral rolls for the elections of the Parliament and all state legislatures, including the local bodies are made by the Election Commission. It also revises these electoral rolls from time to time in accordance with

the provisions of the Constitution and laws enacted by the Parliament or the state legislatures.

(ii) Supervision of elections: The Election Commission supervises, directs and controls all the matters relating to the elections of the President and Vice-President of India, Parliament and state legislatures.

Ans to Q No 5: The members of the Election Commission can be removed by the President of India on the recommendation of the Parliament. The Parliament can make such recommendation for the removal of the Chairman or members of the Election Commission on the grounds of proved misbehaviour or incapacity. The resolution of removal of the members of the Commission must be adopted with majority of total membership and 2/3rd majority of the members present and voting. The removal process of the members of the Commission has been made complex to ensure the independence of the working of the Election Commission from both the legislature and executive organs of the government.

Ans to Q No 6: Jaya Prakash Narayan

Ans to Q No 7: 1990

Ans to Q No 8: Electronic Voting Machine

Ans to Q No 9: The Indian electoral systems suffers from certain defects, such as-(a) growing use of corrupt practices and misuse of governmental machinery; (b) role of money and muscle power; (c) role of caste and religion; (d) lack of equal opportunities and resourceswith the various political parties, which gives a distinct advantage to ruling party; (e) presence of large number of political parties and increasing number of independent candidates; (f) wide-gap between the votes polled and seats captured by the political parties.

Ans to Q No 10: (i) The security deposits for independent candidates and candidates of registered political parties should be increased to reduce the multiplicity of candidates and parties.

(ii) A person should not be permitted to contest elections from more than two constituencies



14.8 MODEL QUESTIONS

A) Very Short Questions

Q. 1: At present the Election Commission is composed of how many members?

Q. 2: Who can remove the members of the Election Commission from office?

Q. 3: By which Amendment Act of the Indian Constitution the voting age was reduced from 21 to 18 years?

B) Short Questions (Answer each question in about 150 words)

Q. 1: Write a short note on the composition of the Election Commission of India.

Q. 2: Explain briefly the term and removal procedure of the members of the Election Commission.

Q. 3: Write briefly about the defects of electoral system of India.

Discuss how the independence of the Public Service Commission is maintained.

Q. 2: Discuss the recommendations of the Administrative ReformsCommission (1966) regarding composition of the Public Service Commissions.

C) Long Questions (Answer within 300-500 words)

Q. 1: Discuss the powers and functions of Election Commission in India.

Q .2: Examine the electoral reforms in India.

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