



J&K and Article 54

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Why in News

Recently, in a reply to a **Right to Information (RTI)** query “**if the Union Territory of Jammu and Kashmir will be part of the Electoral College for the election of the President of India**”, the **Election Commission of India (ECI)** has asked to refer to Article 54 of the Constitution of India.

Key Points

- **Article 54 specifically mentions NCT of Delhi and Puducherry** as eligible to be part of the Electoral College. There is **no word about the newly-formed UT of Jammu & Kashmir (J&K)**.
- Under Article 54, the President is elected by an Electoral College, which consists of the **elected members of both Houses of Parliament** and the **elected members of the Legislative Assemblies of all the States** and also of **NCT of Delhi and the Union Territory of Puducherry**.
- Also the **J&K Reorganisation Act**, which came into existence from August 2019, **does not specify anything** about whether the legislature of J&K would be able to vote in the election for a President.
- **Inclusion** of new members in the Electoral College in Article 54 would **require a Constitutional Amendment** to be carried out through two-thirds majority in Parliament and ratification by over 50% of the States.
 - Delhi and Puducherry were included as Electoral College members under Article 54 through the **70th Constitution Amendment Act of 1992**.
 - Before that, Article 54 consisted of only the elected Members of Parliament as well as the Legislative Assemblies of the States.

- However, according to **some experts, Union territory of J&K would be able to participate in the President's elections** even without any Constitutional amendment.

According to **Section 13 of the J&K Reorganisation Act, 2019**, the provisions contained in article 239A, which are applicable to “Union territory of Puducherry”, shall also apply to the “Union territory of Jammu & Kashmir”.

Election of the President of India

- The President **is elected indirectly by members of electoral college** consisting of:
 - the elected members of both the Houses of Parliament;
 - the elected members of the legislative assemblies of the states;
 - the elected members of the legislative assemblies of the Union Territories of Delhi and Puducherry.
- The election is held in accordance with the **system of proportional representation by means of the single transferable vote. Secret ballot** is used in voting.

In the proportional representation system, each voter will have only one vote but a voter can indicate his preference for as many contesting candidates as he likes in order of his/her preference or choice.

- The **President's tenure is for five years** and he is eligible for immediate re-election and can serve any number of terms.
- There is a **uniformity in the scale of representation of different states** as well as **parity between the states as a whole and the Union** at the election of the President.
- All **doubts and disputes in connection with election** are inquired into and decided by the **Supreme Court** whose decision is final.
- If the election of a person as President is declared void by the Supreme Court, acts done by him before the date of such declaration of the Supreme Court are not invalidated and continue to remain in force.
- **Article 324** of the Constitution provides that the power of superintendence, direction and control of elections to parliament, state legislatures, the office of president of India and the office of vice-president of India shall be vested in the election commission.

Source: TH