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## Powers of Election Commission to Delay Polls

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### Why in News

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Recently, various political parties have voiced their concerns over holding elections in Bihar amid **Covid-19 pandemic** and asked to postpone the same.

### Key Points

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- **Election Commission Mandate:**
  - The **Election Commission (EC) of India** is mandated under law to hold elections at any time within **six months before the five-year term** of the Lok Sabha or Legislative Assembly expires.
    - The polls are timed in a way that the new Assembly or Lok Sabha is in place on the day of the dissolution of the outgoing House.
    - For instance, in the case of Bihar, the EC should normally conduct Legislative Assembly elections before the end of its time on 29th November 2020.
  - **In the case of early dissolution**, EC has to ensure a new Lok Sabha or Assembly is in place **within six months of the dissolution**.  
The **six months** is the constitutionally defined limit between two sessions of the House/Assembly (Article 85(1) and Article 174(1) of the Constitution, respectively).

- **Postponement of Election:**
  - An election once called usually proceeds as per schedule. However, in some exceptional cases, the process can be **postponed or even scrapped** after its announcement under extraordinary circumstances.
  - Under **Section 153 of the Representation of the People Act, 1951, read with Article 324 of the Constitution of India**, the EC can extend the time for completing an election, but such extension:
    - Should **not go beyond the six months**.
    - Should not go beyond the date of the normal dissolution of the Lok Sabha or the Assembly.
  - In 1991, the EC postponed the ongoing parliamentary elections for three weeks after Rajiv Gandhi's assassination during his campaign in Tamil Nadu. Recently, in March 2020 elections to 18 Rajya Sabha seats were postponed by the EC due to the Covid-19 pandemic.
- **Grounds for Election Postponement:**
  - **Article 172(1)** states that, **in case of a state of Emergency**, an election can be postponed **for one year at a time in addition to a period of six months** after the Emergency is lifted.
  - There is **no specific legal provision** that specifies the circumstances under which elections can be deferred **in non-Emergency situations**.
  - However, law and order, natural calamities like earthquakes and floods, or any other compelling circumstances which are beyond EC's control **can be the grounds for extension**.
- **Legal Issues Involved:**
  - Powers under Section 153 can be exercised only after an election schedule has been notified.
  - If the EC wants to postpone Bihar elections, it will have to be done through its **extraordinary powers under Article 324**.
    - Under Article 324 the EC will have to inform the government of its inability to hold polls on time.
    - The government can decide the future course – to impose **President's Rule** or allow the incumbent Chief Minister to continue for six more months.

## Way Forward

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- The EC could take into account the successful examples like that of South Korea which took several measures to prepare a proper plan for holding elections.
  - South Korea conducted its election by disinfecting polling centres, and mandating voters practise physical distancing, wear gloves and masks and use hand sanitiser.
  - Voters had their temperatures checked on arrival at the booths. Those who had a temperature above 99.5 degrees Fahrenheit were sent to booths in secluded areas.
  - Covid-19-positive voters were allowed to mail their ballots, while self-quarantined voters were allowed to vote after 6 p.m.
- According to the experts the pandemic will have its effect for at least two years, postponing the election for such a long period will go against the spirit of the democracy.

**Source: IE**