



State Election Commission Appointment Issue

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Why in News

The **Supreme Court** ruled that **servicing bureaucrats must not** be appointed as **election commissioners** to ensure that the **independence of the office of the election commissioner is not compromised**.

Key Points

- **Background:**
 - A Bench of the Supreme Court was hearing an appeal by the Goa government against an order of the **Bombay High Court**.
 - The Bombay High Court had earlier castigated the **State Election Commission (SEC)** for not acting independently to ensure that the mandate of the Constitution was followed before issuing an election schedule.
 - Also, the Court had issued a **stay on certain municipal election notifications issued by the Goa State Election Commission**.
 - The territorial jurisdiction of Bombay High Court extends to **Maharashtra, Goa, Dadra and Nagar Haveli and Daman and Diu**.
 - During the proceedings it came to notice that the **law secretary of the Goa state** was given '**additional charge**' of the **State Election Commission**.
- **Supreme Court's Ruling:**
 - **Independent persons and not government employees** should be appointed Election Commissioners.
 - Giving government employees additional charge as Election Commissioners is a **mockery of the Constitution**.
 - Directed States to comply with the **constitutional scheme of independent and fair functioning of election commissions**.
 - If they hold any such office (under the state government), then they have to **resign before taking charge of the office of the election commissioner**.
 - Ordered all state governments to **appoint whole-time election commissioners** who will act independently and fairly.

- **About State Election Commissions (SECs):**

- The State Election Commission has been entrusted with the function of conducting **free, fair and impartial elections to the local bodies in the state.**
- **Article 243K(1):** It states that the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, **all elections to the Panchayats** (Municipalities under Article 243ZA) shall be vested in a State Election Commission consisting of a **State Election Commissioner to be appointed by the Governor.**
- **Article 243K(2):** It states that the **tenure and appointment** will be directed as per the **law made by the state legislature.** However, State Election Commissioner shall not be removed from his/her office except in like manner and on the like grounds as a Judge of a High Court.

Suggestions

- **Second Administrative Reforms Commission Recommendation (2nd ARC):**
 - **Constitution of the State Election Commission:** According to **2nd ARC**, the State Election Commissioner (SEC) **should be appointed by the Governor on the recommendation of a collegium**, comprising the Chief Minister, the Speaker of the State Legislative Assembly and the Leader of Opposition in the Legislative Assembly.
 - **An institutional mechanism should be created** to bring the Election Commission of India and the SECs on a common platform for coordination, learning from each other's experiences and sharing of resources.
- **Law Commission 255th Report on Electoral Reforms:**
 - It **recommended, to add a new sub-clause to Article 324** of the Constitution to provide for a **separate independent and permanent Secretariat for the Election Commission of India (ECI)** along the lines of the Lok Sabha/Rajya Sabha Secretariats under Article 98 of the Constitution.
 - Similar provisions can also be made for the State Election Commissions to ensure autonomy, and free and fair local body election.

Source:TH