



# Powers of Election Commission to Delay Polls

## Why in News

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

### ▪ 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

- 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**

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