

# Election Commissioners Bill 2023

## Everything You Need To Know

### Why In The News?

- The Special Session Of Parliament Scheduled This Week Will Witness The Discussion On A Bill That Seeks To Regulate The **Appointment, Service Conditions, And Office Terms** Of The Chief Election Commissioner (CEC) And Other Election Commissioners.
- Although The Chief Election Commissioner And Other Election Commissioners (Appointment, Conditions Of Service And Term Of Office) Bill, 2023, Was **Passed In The Rajya Sabha On August 10**, It Has Now Finally Made Its Way To The Lok Sabha For Passage.
- Significantly, The Bill Attempts To Alter Constitutional Provisions That Equate ECs With Supreme Court Judges. It Also Seeks To Undo The Top Court's Recent Ruling In '**Anoop Baranwal Vs. Union Of India**'.



### Anoop Baranwal Vs. Union Of India

- In **January 2015**, Anoop Baranwal Filed A PIL On The Ground That The Current System For Appointing Members Of The Election Commission Of India (ECI) Is Unconstitutional. Currently, The **Executive Enjoys The Power To Make Appointments**, Which The PIL Contends Has Degraded The ECI's Independence Over Time.

- In That Order, The Supreme Court Held That The Selection Of The CEC Must Be Done By A Three-member Committee Comprising:
  - **The Prime Minister (PM)**
  - **The Leader Of Opposition**
  - **The Chief Justice Of India (CJI)**
- However, The Supreme Court Itself Noted That This Arrangement Was Temporary, Until Parliament Passed A Law In This Regard.



## What Does The Constitution Say In This Regard?

- **Clause 2 Of The Article 324 Of The Constitution Vests The Power Of Appointment Of The CEC And Other Election Commissioners In The President, Subject To Any Law That Parliament Might Make.**
- However, The Parliament Didn't Pass Any Law Which Effectively Made The President's (i.e., The Executive's) Powers Permanent **To Appoint CEC And ECs.** The Supreme Court Then Found In The Aforesaid Case That Giving The Executive The Power To Appoint The CEC Was **Incompatible With The Independence Of ECI.**



## What Does New Election Commissioners Bill Say?

- **Provides Executive Supremacy:** The Election Commissioners Bill Replaces The CJI With A Cabinet Minister Nominated By The PM. Which Again Gives The Executive A Clear Majority And, Therefore, A Decisive Say In The Appointment Of The Election Commissioners. Now, The Selection Committee Will Consist Of:
  - **The Prime Minister (Chairperson)**
  - **The Leader Of Opposition In The Lok Sabha (Member)**
  - **A Union Cabinet Minister Nominated By The Prime Minister (Member)**

## What Else Does The Bill Say?

- The Bill Proposes To Revise The **Salary, Allowance, And Service Conditions** Of The Chief Election Commissioner (CEC) And The Two Election Commissioners, To Bring It **At Par With Those Of A Cabinet Secretary**.
- Until Now, Election Commissioners Were At Par With Supreme Court Judges In This Regard, Under The **Election Commission Act, Of 1991**. However, The Bill's Passage Will Result In The **1991 Act's Repeal**.
- Although The Stipulated Salary Of A Supreme Court Judge And The Cabinet Secretary Is Nearly The Same, Top Court Judges Are Entitled To **Additional Post-retirement Benefits**, Including Domestic Help And Lifetime Provision Of Drivers.
- But The Issue Is That This Move Seeks To Bring Election Commissioners Under The **Ambit Of The Bureaucracy**, Which In Turn Could Stifle Their Authority And Independence.
- The EC's Primary Task Is That Of Superintendence, Direction, And Control Of Elections, As Laid Down Under **Article 324**. However, This Control Of Elections Is Likely To Shift If The Election Commissioner, Who Will Now Be Equivalent To The **Rank Of A Cabinet Secretary Tries To Discipline A Union Minister** For Electoral Violations.

