

# Rajya Sabha Passes Bill On Appointment Of CEC & EC's

## Why In News

- The **Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service And Term of Office) Bill, 2023**, was introduced in the Rajya Sabha on August 10, 2023 and moved for consideration and passage by law minister Arjun Ram Meghwal in the upper house.



- Rajya Sabha passed a bill **to regulate the appointment and service terms** of Chief Election Commissioner and election commissioners as the Opposition MPs objected and protested against its provisions and staged a walkout.
- The Minister said that the Election Commission will continue to **“work independently”** and the bill was introduced following a Supreme Court judgement.

## What is this Bill

- **March 2 this year**, a **five-judge Constitution Bench of the Supreme Court** had ruled that the **Chief Election Commissioner (CEC)** and **Election Commissioners (ECs)** should be appointed by a committee comprising the Prime Minister, Leader of Opposition in Lok Sabha, and the Chief Justice of India (CJI).
- The Constitution lays down **no specific legislative process** for the appointment of the CEC and ECs.



- As a result, the **central government has a free hand** in appointing these officials. The President makes the appointments on the advice of the Union Council of Ministers headed by the Prime Minister.
- The Supreme Court, however, made it clear that its order would be “**subject to any law to be made by Parliament**”.



- Consequently, the government brought The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023, which proposed a committee comprising the **PM, Leader of Opposition and, instead of the CJI, a Cabinet Minister nominated by the PM.**
- The Bill would replace The Election Commission (**Conditions of Service of Election Commissioners and Transaction of Business**) Act, 1991.

## Changes Done

- The Bill Passed **Replaced The CJI** In selection committee With A **Cabinet Minister** Nominated By The Prime Minister, In Effect, Giving The Centre A Greater Say In The Appointment Of EC's.
- The search committee shall be headed by the **Union law minister** and comprise **two more persons** not below the rank of secretary to the Government of India.
- They **shall nominate five candidates** "holding or have held a post equivalent to the rank of secretary to the Government of India and shall be persons of integrity, who have knowledge of and experience in management and conduct of elections" to the selection committee.



- The **selection committee**, however, will not be bound to choose from the nominees of the search committee and "may also consider any other person than those included in the panel".
- The biggest concession made by the government is to **retain the status** of the CEC and the ECs on par with judges of the Supreme Court.

### CEC and other EC

### (Appointment, Conditions of service and Term of office) Bill 2023

- The government proposed some amendments to the Bill, which repeals the **Election Commission (Conditions of Service of Election Commissioners and**

**Transaction of Business) Act, 1991** to provide for the appointment process and conditions of services for the chief election commissioner (CEC) and two election commissioners (ECs).

- The biggest concession made by the government is to **retain the status of the CEC and the ECs on par with judges of the Supreme Court**, following protests by opposition parties and former chief election commissioners.
- A new clause has been added to the **Bill protecting the officers against civil or criminal proceedings**, something that was omitted earlier.
- The courts are “prohibited from entertaining civil or criminal proceedings against a current or an ex-CEC or EC for acts done, or words spoken in the discharge of official duty or function”, the new clause says.
- But it was protection from political interference that opposition MPs were more concerned about.
- While the CEC has the immunity of a Supreme Court judge as far as removal from office is concerned, the two ECs can be removed at the orders of the CEC.

## What the new bill proposes



### WHAT THE LAW IS RIGHT NOW

CEC, ECs are appointed by the PM and council of ministers, under the seal of the President.

### WHAT DID SC SAY ON MARCH 2?

A bench headed by justice KM Joseph said ECs and CECs will be chosen by a panel comprising PM, LoP and CJI, till Parliament passes a law.



### THE PLAN AHEAD

The government tabled the Chief Election Commissioner and other Election Commissioners (Appointment Conditions of Service and Term of Office) Bill, 2023 that says:



- Search panel, led by the law minister with 2 secy as members, to shortlist five names.
- Selection committee - comprising PM, LoP and a Union cabinet minister - to review names and recommend appointments; the panel can also consider other names.
- President to ratify appointments.

“Functioning of ECI was and will remain impartial and transparent, and the govt is committed to ensuring that.”  
— Arjun Ram Meghwal,  
Union law minister