

# The Election Commission of India and the Regulation and Administration of Electoral Politics: A Review

Alliya Fir douse

Assistant professor, Department of Human Resource Development, School of Sciences, B-II, Jain (Deemed to be University), JC Road, Bangalore-560027.

Email Id- f.aliya@jainuniversity.ac.in

M. Sudhakar Reddy

Associate professor, Department of Physics, School of Science, Jain (Deemed to be University), JC Road, Bangalore-560027, India.

Email Id- r.sudhakar@jainuniversity.ac.in

**ABSTRACT:** *India's Election Commission has since Independence played a key role in governing and conducting electoral politics. It has broadened its remit and depth of action since the 1990s. Using a series of case studies, this article explores the mechanism of regulatory development in current Indian politics, beholding first at measures that have attempted to limit the timing, conduct in addition to reporting of elections, and secondly at efforts to regulate voter, candidate and party immersion in the electoral process. This article assesses the consequences of this legislative extension for Indian electoral policy practice. While extremely political in terms of the implications of its judgments, the Election Commission has gained and maintained a public image as an independent entity that gives it the power to intervene with and regulate the conduct of elections. The aim of this article is to examine the basis for the usefulness of India's electoral commission in terms of its composition and remit, but also to investigate the degree to which it can be seen as extending its constitutional role. The provision of public benefits in a circumstance where governmental or electoral interference might have resulted in less desirable outcomes was known as a politically neutral entity*

**KEYWORDS:** *Election commission, Electoral College, Electoral process, Representation of people act.*

## INTRODUCTION

After independence in 1947 India's Election Commission has played a critical role in consolidating democratic politics. The gradual transition to universal franchise-based electoral politics, in which the electoral process was universally recognized as free and fair, helped maintain government legitimacy. The Election Commission, although highly political in terms of the consequences of its decisions, has established and preserved a public reputation as an autonomous body that gives it the authority to interfere and regulate the conduct of elections. This article aims to explore the basis for the Election Commission of India's effectiveness in terms of its structure and remit, but also to investigate the degree to which it can be seen as expanding its constitutional position. It has been recognized as a politically neutral agency to provide public benefits in a situation where governmental or electoral intervention may have resulted in less satisfactory results. India's election commission has earned a reputation for independence and effectiveness, with the highest ranking of public confidence and trust among a number of key political institutions. The Commission has carried out its electoral process regulation within a narrow legal framework consisting of specific constitutional precepts and frequently antiquated legislative prescriptions [1].

Linked to the tenure of T, since the 1990s. As Chief Electoral Commissioner, N. Seshan, the Election Commission responded by an assertive regulatory intervention system to that restricted legal framework. This regulatory assertion policy has seen the Election Commission taking on an increasingly interventionist role in administering and supervising elections through new policies to monitor the conduct of election campaigns and voter, candidate and party involvement. This article explores mechanism of regulatory development in modern Indian politics, first looking at reforms that have attempted to limit the timing, conduct and reporting of elections,

second at measures to regulate voter, candidate and party engagement in the electoral process. This artifact is not intended to mount a full-fledged critique of the position of the Commission. Rather it raises questions and concerns about its expanding authority, which may end up losing the high degree of public reputation it enjoys [2].

### **THE CONSTITUTIONAL ROLE AND STRUCTURE OF THE ELECTION COMMISSION**

There is growing literature on the role and value of electoral administration in promoting democracy stabilization, and the Indian Election Commission is known as an example of a politically independent electoral regulator. It has been noted that the Election Commission has a crucial place as an institution at the core of the Indian State's new regulatory system. A much-neglected consideration in understanding the progress or failure of the democratization process has been the role of the institutional framework for electoral management. Although most of the Election Commission's tasks are academic, the electoral administration process can have significant ideological consequences, and decisions need to be taken where political prejudice or prejudice interpretation can weaken electoral politics' credibility [3].

India's Election Commission is constituted as an autonomous, centralized body, with wide-ranging powers deriving from its constitutional remit that stretches across India's federal structure to every level of government. Article 324 of Constitution delivers for role and structure of India's electoral commission:

- The superintendence, direction and supervision of the planning and execution of all elections to Parliament and Legislature of each State besides of the elections to the offices of President in addition to Vice-President held underneath this Constitution shall be assigned to Commission.
- Election Commission shall involve of Election Commissioner, where appropriate, such number of other Election Commissars as President can from time to time fix in addition to the appointment of the Chief Election Commissioner and other Election Commissars shall be made by the President, subject to requirements of any law completed in Assembly.

The Article goes to claim primacy of Chief Commissioner, his role would be on same base as a Supreme Court Judge, and who would be given ample regional commissars and administrative help to fulfill the responsibilities outlined. The Election Commission's wider functions are constitutionally delineated by a series of documents, including Documents 54–71, setting out the style of presidential and vice-presidential elections; Articles 79–104, outlining the parliamentary framework; and Articles 168–193, setting out the composition and electoral basis of the state legislatures. This constitutional structure was consolidated through the 1950 and 1951 Representative of the people Acts (RPA), which includes the detailed guidelines for the delimitation of constituencies, the administrative specifics of the election process and the electoral system's basis [4].

The commission for election conduction is a results of the constitution measure and election commission is a constitutional body which is responsible for every work related to the election . It providing for a central framework, but one that was sufficiently flexible to evolve in line with the demands that would arise and the response. In comparable terms, India's election commission is based in categorizations of electoral administrative bodies alongside other entirely autonomous electoral commissions, Distinguished from government agencies operating under independent supervision and controlled political/partisan bodies.

Regarding judicial independence, it is noted that there is often a gap between institutional independence and functional independence, especially under Westminster government systems in which the doctrine of division of powers is restricted. Controversies over the Commission's administrative structure and the tenure and selection of Commissioners can be seen as indirect political fights over the election commission's authority. Originally structured around the Chief Election Commissioner's office, a multi-member commission with selection powers assigned to a committee was called for in the 1970s.

In January 2009, when Chief Election Commissioner Gopala swami transcribed a letter to President urging dismissal of Election official Navin Chawla, the issue of political control over appointments erupted in a blaze of controversy. Gopala swami accused Chawla of partisanship, illustrating the Bharatiya Janata Party (BJP) president's allegations claiming Chawla supported the Congress party. Pratibha Patil, president, has declined to act on recommendation. The controversy exposed two structural flaws in electoral commission's structure: a government's propensity for partisan nominations, and a gap in tenure protection for Chief Election Commissioner in addition to Election Commissioners [5].

An expansionist Election Commission has understood "superintendence, direction in addition to control. The comportment of all elections', particularly since the 1990s, as authority for executive and quasi-judicial powers. The lack of detail with respect to the extent of the position of the Election Commission resulted in an extension of its range of roles and control of executive authority during campaigns. It has taken on a quasi-judicial role in controlling appointments and candidacy; it has interfered in hiring and posting civil servants and police; and it has prosecuted individuals suspected to be involved in disrupting elections. The Commission has been increasingly interested in governing and managing political parties, from a situation in which the main function was to distribute electoral symbols (and originally colored ballot boxes) to one in which party constitutions must be approved.

Public appreciation of the independence and procedural competence of the Election Commission has allowed it to extend its constitutional remit. Since the creation of the Election Commission in January 1950, its performance in conducting what was seen as free and fair elections on a universal franchise helped to entrench democratic politics in Independent India. In addition, the Election Commission played an important role in the post-emergency era, through efforts to protect the legitimacy of the democratic process during a time when populism and partisans destabilized many other government bodies. While not free from allegations of political favoritism, there was growing friction with government authority that reflected a willingness to stand up for electoral politics' credibility [6].

Evidence of strong public support is one indicator that the Election Commission has retained its position as a largely neutral authority. The role of public opinion in legitimizing bureaucratic interference in a situation of suspicion about the intentions and tactics of more ideological actors has been emphasized, indicating that "in the sense of electoral law, citizens may well establish a presumptive preference for policymaking by a politically isolated entity". In the Indian sense, that appears to be the case. Evidence of public expectations of the Electoral Commission's results indicates it has succeeded in serving out its duties while preserving public trust. The Election Commission has been reported to have the highest level of communal trust / self-confidence among the major political institutions: sophisticated than judiciary, army, and political parties in addition to the police. This segment set out the Election Commission's constitutional and legislative role and framework, and highlighted some problems and controversies that have followed its institutional growth. For the following discussion of the regulatory expansionism phase, which can be seen to have defined the election commission since the 1990s, certain elements of this development are significant. Second, the very specific regulatory remit, and the very general statutory and legislative precepts outlining the Commission's administrative framework. Second, since its establishment the Election Commission's functional potential has grown exponentially, reflected in the scale of the bureaucracy and the budget [7].

### **THE REGULATORY EXPANSIONISM OF THE ELECTION COMMISSION**

This segment provides a collection of case studies of areas in which since the 1990s the Election Commission has been extending its administrative remit. First, it discusses cases where the Election Commission has adopted new rules for managing the involvement of voters, candidates and parties, investigates new mechanisms for recognizing voters and testing the electoral position, new procedures for nominating candidates and attempts to formalize political party regulation. Second, it investigates situations where the Election Commission has tried

to interfere in the pace, conduct, and coverage of election campaigns, proposing legislation to restrict the time spent on campaigning, contacting politicians, and coverage on elections in the media. Such cases can be seen as going beyond the procedural roles usually associated with electoral administration bodies to govern the wider political climate in which elections are conducted. Such examples are not intended to be an exhaustive account of the Election Commission's latest measures, but highlight circumstances where the remit and authority seem to have been greatly spread out. The goal is to explain and explore new areas of administrative interference from a strategic perspective that aims to decide where the limits on regulatory growth and an independent regulatory body's executive powers will lie [8].

### 1. *The Election Commission and Voter Registration:*

The Election Commission's core functions may seem rather boring, including the electoral process's general administration. The drawing up of electoral rolls is, according to law scholars, a "significant yet tedious feature of the Election Commission." The accuracy of voter registration will play a key role in both encouraging voter to use democratic rights to avoid corruption. At first General Election, held in 1951–52, Election Commission faced with problem that there were no clear explanation of who a citizen of India, an especially acute problem following the massive migration after partition. A versatile approach was followed to enroll those who announced their intention of permanently residing in India. Concerns over electoral roll accuracy have continued to increase.

### 2. *The Election Commission and the nomination of candidates:*

The Election Commission, under Part V of the RPA 1951, plays a supervisory role in nominating candidates for election. In 1997, the government issued an Ordinance at the request of the Election Commission which increased the criteria for nomination of candidates, raising the security deposit of candidates (from Rs (rupees) 500 to 10,000 in "General" seats). It was an effort to reduce number of applicants for elections, and it managed to dramatically decrease number of contestants. In 2001 elections to Tamil Nadu Legislative Assembly, ex-Chief Minister Jayalalitha's candidacy was dismissed on grounds of multiple candidacy and (more controversially) her conviction on charges of corruption. The action was not adequate to save Jayalalitha from once again becoming chief minister.

Election Commission launched a campaign in contradiction of 'criminalization' of elections,' arguing that no applicant should be allowable to challenge an voting if they have been sentenced of a crime, even though conviction has been brought before them. One pithily Commissioner observed that "no law-breaker can always be a law-maker.'" While the question of criminalizing politics remains a serious problem, many saw this as a misguided and excessively comprehensive Commission attempt at reform. one scholar has stated this as Although criminalization of politics is a matter of great anxiety, it should be no accurate records of many MLAs or MPs were criminals in recent past. An individual may be criminal in eyes of law if he was engaged in public actions that were described as unlawful, but those acts are often applauded by the common people. Agitations, gheraos, protests on things that affect people at large are a regular occurrence in politics for people. In a nation where special attention is granted to "freedom fighters" who battled in addition to were imprisoned for establishment of democracy in a war against one government, the question of civil disobedience should not be so effortlessly subsumed into a dialog of political delinquency [9].

The proliferation of party and independent candidates seeking election has had deleterious effects on the functioning of India's electoral system. Besides the logistical challenges of designing ballots for districts contesting over a hundred candidates, the presumption was that many candidates stood solely for the intent of getting the right to be present at counting stations, hoping to bully officials and manipulate the result. The advent of electronic voting machines, which removed the need to count ballot papers, was a positive technological solution in eliminating a possible source of electoral malpractice, as well as speeding up the entire process of

deciding election results. The increase in the security deposit required for candidacy also reduced the number of contesting candidates, with no effect on the number of successful candidates with a chance to win an election. Such initiatives have made the method of casting a ballot and counting votes a lot easier. The effort to counter the "criminalization" of politics was less immediately successful, despite the support from the Supreme Court.

Greater transparency of candidates' background and properties enhances the information available to voters and campaigners, but any effort to purify the pool of prospective politicians is hindered by the judicial process's dysfunctionality. Because lawmakers can postpone judicial prosecution indefinitely and frivolous cases proliferate, it does not appear likely that the discovery of candidates with criminal charges against them would have any meaningful effect on the essence or practice of politics. On the other hand, by entering an environment in which its practical power to affect change is very minimal, the Election Commission can harm its institutional reputation. Some studies are worried that "in its enthusiasm for common advocacy, the Election Commission has sought to do something that Parliament can do or, in fact, what Parliament alone should do, transgressing the limits of constitutional restrictions and jurisdiction."

### *3. The Election Commission and the regulation of political parties:*

The Election Commission plays a role in governing political parties and registering them. The Commission's original task was to assign the symbols that appeared alongside the name of a candidate on a ballot paper. The commission have classified the all political parties in to national as well as state party and this categorization depends upon the number of factors such as seat in the state assembly as well as national assembly and presence of the political party in individual state and what is the percentage of the vote secured the national and state election [10].

### *4. The Election Commission and the timing of elections:*

The Commission is answerable for scheduling of electoral development; deciding dates on which ballot vote will take place, and over-seeing the process of selection and counting of votes for candidates. In the event of dissolution of Lok Sabha and state legislatures, the president or governor shall issue the notice of the elections, in consultation with Election Commission. Election Commission's position in deciding the holding and scheduling of elections has been strong. At times the Supreme Court was asked to interfere, especially under Election Commissioner T. N. Seshan, and it ruled that the Commission had exceeded its authority. Control of the legislative dissolution process and the formal consolidation of its constitutional mandate to safeguard free besides fair elections, has limited a unilateral dimension previously enjoyed by politicians, depriving them of their right to hold snap elections at times when their interests match.

## **DISCUSSION & CONCLUSION**

Such case studies of regulatory expansionism seek to provide a critical perspective on aspects of interference by the Election Commission in current electoral politics. The administrative success of this assertive position is evident in reducing electoral malpractice such as booth capturing, the implementation and widespread adoption of electronic voting machines, and the need for greater accountability with respect to parties and candidates. For upholding high standards of free and fair elections, the Commission has retained strong public recognition. The Election Commission's expansionist position has been partly fostered by the vulnerabilities in other main state institutions, particularly the divisions of the legislative and judiciary. A poor legislative structure and the slow and imperfect functioning of the judiciary have created a vacuum of power which has often drawn the Election Commission into. Although the Election Commission has largely concentrated on its core practical remit, this article has highlighted a range of situations in which the body has extended its authority, potentially beyond its proper constitutional position by assuming new executive powers and attempting to enforce restrictions without

sufficient legal authority. Yet again, my goal is not to engage in a detailed critique of the expansionism of the Commission, but rather to raise questions that could ultimately undermine its high level of public credibility.

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