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CEC Removal Motion — Constitutional Safeguards for India's Election Commission

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CEC Removal Motion — Constitutional Safeguards for India's Election Commission

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✍ WHY IN NEWS

The INDIA bloc submitted a formal removal notice against Chief Election Commissioner (CEC) Gyanesh Kumar in Parliament, backed by over 190 MPs — the first such motion in India’s constitutional history. The move raises fundamental questions about the independence of the Election Commission of India (ECI) and the adequacy of the CEC and Other Election Commissioners Act, 2023.

THE CONSTITUTIONAL FRAMEWORK

Article 324 — The Election Commission

Article 324(1): Vests the superintendence, direction, and control of elections to Parliament, State Legislatures, the President, and Vice-President in the Election Commission of India.

Article 324(2): The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners as the President may from time to time fix, appointed by the President.

Article 324(5): The CEC shall not be removed from office except in like manner and on like grounds as a judge of the Supreme Court. Other Election Commissioners shall not be removed except on the recommendation of the CEC.

What “Like Manner as a SC Judge” Means

Under **Article 124(4)** read with the **Judges (Inquiry) Act, 1968**, a Supreme Court judge can be removed only by:

- ① A motion signed by at least **100 Lok Sabha MPs OR 50 Rajya Sabha MPs** to the Speaker/Chairman
- ② An inquiry by a three-member **Judicial Committee** (2 SC/HC judges + 1 distinguished jurist)
- ③ The Committee’s report finding the judge guilty of “proved misbehaviour or incapacity”
- ④ Each House passing the address by **special majority** — majority of total membership + 2/3 of members present and voting
- ⑤ Presidential order of removal

Current tally: ~190 MPs (130 LS + 63 RS) have signed. For successful LS passage: need 272+ out of 543 total members (majority of total membership) AND 2/3 of members present and voting. The Opposition does not have these numbers — the motion is more a political statement than a realistic removal bid.

THE CEC AND OTHER ELECTION COMMISSIONERS ACT, 2023

What Changed from the 1991 Act

The **Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023** — passed by Parliament in December 2023 — replaced the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991.

The **most controversial change:** The selection committee’s composition.

OLD PRACTICE (PRE-2023)

No statutory selection committee; President appointed on PM's advice

In effect: executive monopoly

Anoop Baranwal judgment (SC, March 2023): SC directed: committee should comprise PM + Leader of Opposition

Why the CJI Exclusion Matters

The Supreme Court in **Anoop Baranwal v. Union of India (2023)** held that the appointment process needed an independent element to prevent the ruling party from packing the ECI with loyalists. The SC introduced the CJI as the independent element. Parliament's swift legislative override — excluding the CJI — was seen by critics as undermining the constitutional principle of ECI independence that the court had just upheld.

Government's defence: Parliament is supreme in legislative matters; the SC cannot mandate a specific appointment process not in the Constitution.

THE SPECIFIC ALLEGATIONS — SPECIAL INTENSIVE REVISION (SIR)

What is an SIR?

A **Special Intensive Revision (SIR)** of electoral rolls is ordered by the ECI when significant voter movement is suspected (post-census, post-delimitation, or post-migration). It involves intensive house-to-house verification to add eligible voters and delete ineligible ones.

The Bengal Controversy

The Opposition's primary allegation: The ECI ordered an SIR in West Bengal with **disproportionate** focus on constituencies with high Muslim voter concentration, deploying **micro-observers** at booths in those areas. The allegation is that deletions of Muslim voters were facilitated through flawed verification, amounting to targeted disenfranchisement.

ECI's position: All revisions follow standard protocol; micro-observers deployed wherever data anomalies exist; process is non-discriminatory.

HISTORICAL SIGNIFICANCE

Why This Has Never Happened Before

The CEC has enjoyed near-absolute institutional security since 1950. T.N. Seshan (CEC 1990-96) used this security to transform the ECI into a genuine enforcement body — implementing the Model Code of Conduct, penalising candidates, and confiscating illegal money and liquor during elections. His reforms demonstrated that CEC independence is the bedrock of free elections.

No previous CEC faced a removal motion, even during the Emergency (1975-77) when elections were suspended. The current motion — regardless of its parliamentary fate — represents an escalation of the political contestation around electoral institutions.

The Broader Pattern

India's constitutional watchdog institutions — the CBI, CAG, CBI, RBI, NIA, and ECI — have all faced accusations of executive capture in recent years. The removal motion reflects:

- ❶ Deepening Opposition frustration with what it sees as a tilted electoral playing field
- ❷ Normalisation of challenges to constitutional authorities that were previously politically untouchable
- ❸ A test of parliamentary democracy's capacity to hold constitutional functionaries accountable

UPSC RELEVANCE

Article 324 (ECI), Article 324(5) (CEC removal), Anoop Baranwal case (2023), CEC Act 2023, SIR definition, Gyanesh Kumar (current CEC), T.N. Seshan.

MAINS GS-2:

“The independence of the Election Commission of India is critical to democratic functioning — examine whether the CEC and Other Election Commissioners Act, 2023 strengthens or weakens this independence.”

MAINS GS-4 (ETHICS):

“An election commissioner faces pressure from the ruling government to delay announcement of election dates in a state facing by-elections. What should they do?”

INTERVIEW:

“Should the CJI be part of the ECI selection committee? Defend your position.”

★ FACTS CORNER — KNOWLEDGE PEDIA

CEC REMOVAL — CONSTITUTIONAL PROVISIONS:

Article 324(5): CEC removed only like SC judge — special majority in both Houses + Presidential order

Required majority: majority of total membership + 2/3 present and voting (in each House)

Threshold: 272+ LS votes (of 543); ~165 RS votes (of 245) — Opposition lacks these

Notice signatories: 190+ MPs (130 LS + 63 RS)

Current CEC: Gyanesh Kumar (appointed February 2025)

CEC ACT 2023 — KEY FACTS:

Full name: CEC and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023

Passed: December 2023

Selection committee: PM + Cabinet Minister + Leader of Opposition (3 members)

Removed: Chief Justice of India (who was added by SC in Anoop Baranwal judgment, March 2023)

Challenged in Supreme Court: Yes

ANOOP BARANWAL V. UNION OF INDIA (2023):

Court: Supreme Court (5-judge Constitution Bench)

Held: Appointment of ECI members needs independent oversight

Direction: Include CJI in selection committee (as interim measure until Parliament legislates)

Parliament's response: CEC Act, 2023 — excluded CJI from the committee

ELECTION COMMISSION OF INDIA:

Established: January 25, 1950 (National Voters Day)

Constitutional body: Article 324

Composition: 1 CEC + 2 Election Commissioners (currently)

HQ: Nirvachan Sadan, New Delhi

Key powers: superintendence of elections, MCC enforcement, EVM management, electoral roll maintenance

NOTABLE CECS:

T.N. Seshan (1990-96): transformed ECI; introduced MCC enforcement; Ramon Magsaysay Award 1996

S.Y. Quraishi (2010-12): strengthened voter registration drives

Rajiv Kumar (2022-25): oversaw 2024 general elections

Gyanesh Kumar (2025-): first CEC appointed under 2023 Act

OTHER RELEVANT FACTS:

India's registered voters (2024): ~970 million — world's largest electorate

SIR (Special Intensive Revision): ECI tool for electoral roll verification; typically ordered post-census

Model Code of Conduct (MCC): non-statutory; based on consensus; enforced since 1960s; T.N. Seshan made it effective

Article 329(b): ECI decisions on elections cannot be challenged except by election petition after election is over

Sources: [The Hindu](#), [InsightsIAS](#), [Vajiramandravi](#)

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