



UPSC &amp; STATE PCS CURRENT AFFAIRS · UJIYARI.COM

**DAILY CURRENT AFFAIRS**

# Supreme Court on Election Commission Appointments: 'Tyranny of the Elected'

9 May 2026 · **POLITY**

CURATED &amp; WRITTEN BY

**Bharat Choudhary**

UPSC Educator &amp; Content Creator

[linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)**ALSO FROM THE CREATOR****BharatNotes**Free UPSC notes, MCQs, PYQ analysis. **100% Free.**[bharatnotes.com](http://bharatnotes.com) →**ADVERTISE****Advertise with Ujiyari**

Reach thousands of UPSC aspirants daily.

[epicbharat@gmail.com](mailto:epicbharat@gmail.com)

# Supreme Court on Election Commission Appointments: 'Tyranny of the Elected'

9 May 2026 · 3 min read · 1 tag

## WHY IN NEWS

The Supreme Court of India flagged the current procedure for appointing Election Commissioners as a “tyranny of the elected,” questioning whether an executive-dominated selection committee can ensure genuine institutional independence of the Election Commission of India (ECI). The observation came on May 7, 2026, during a hearing on petitions challenging the CEC and Other ECs Act, 2023.

## CONSTITUTIONAL FRAMEWORK: ARTICLE 324

**Article 324** of the Constitution vests the superintendence, direction, and control of elections to Parliament and State Legislatures in the **Election Commission of India**. It empowers the President to appoint the **Chief Election Commissioner (CEC)** and other **Election Commissioners (ECs)**.

The Constitution is deliberately silent on the process for these appointments – a gap that has been a persistent governance challenge.

## Composition of ECI

- **1 Chief Election Commissioner + 2 Election Commissioners** (since 1993)
- CEC and ECs have equal voting power; CEC cannot be removed without both houses of Parliament passing resolutions – same as removal of a Supreme Court judge

## THE 2023 ACT: A NEW APPOINTMENT MECHANISM

### Anoop Baranwal Case (2023)

In **March 2023**, a five-judge Constitution Bench in *Anoop Baranwal v. Union of India* unanimously held that the appointment process for CEC and ECs required an independent mechanism. The Court recommended a **three-member selection committee** comprising:

- 1 Prime Minister
- 2 Leader of Opposition (LoP) in Lok Sabha

### 3 Chief Justice of India

The judgment held this arrangement should apply until Parliament enacted a law.

#### Parliament's Response: CEC and Other ECs Act, 2023

Parliament swiftly enacted the **Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023**, which established a **three-member selection committee** comprising:

- 1 **Prime Minister** (Chair)
- 2 **A Union Cabinet Minister** (nominated by PM)
- 3 **Leader of Opposition** in Lok Sabha (or Leader of the largest opposition party)

The **Chief Justice of India was explicitly excluded** from the panel – replacing the court's recommended inclusion with a Cabinet Minister.

#### THE CURRENT CONTROVERSY: 'TYRANNY OF THE ELECTED'

The Supreme Court's observation that the process constitutes "tyranny of the elected" captures the structural problem:

ISSUE	DETAIL
Executive dominance	PM + PM-nominated Cabinet Minister = 2 of 3 votes
Structural conflict of interest	The government appoints the body that oversees its own elections
CJI exclusion	Parliament overrode SC's express recommendation
LoP as nominal check	LoP can dissent but is outvoted 2:1

#### What Makes ECI's Independence Critical

- Conducts elections to Lok Sabha (543 seats), all State Assemblies, and Offices of President and Vice President
- Can impose Model Code of Conduct on the government
- Has powers to disqualify candidates, postpone elections, redraw schedules
- Its decisions directly affect the electoral fortunes of the ruling party

When the body that sets the rules is appointed by those who benefit from the rules, structural independence is compromised regardless of individual appointees' integrity.

## COMPARATIVE PRACTICE

COUNTRY	APPOINTMENT MECHANISM
<b>India (2023)</b>	PM + Cabinet Minister + LoP
<b>UK (Electoral Commission)</b>	Speakers' Committee of Parliament (cross-party)
<b>South Africa</b>	National Assembly nomination, independent panel
<b>Canada (Chief Electoral Officer)</b>	Appointed by resolution of House of Commons
<b>Australia (AEC)</b>	Statutory appointment, independent commission

## UPSC RELEVANCE

### GS Paper 2 – Polity and Governance

- Constitutional position of ECI (Article 324)
- Judicial review of parliamentary legislation
- Independence of constitutional bodies
- Separation of powers and checks and balances

### Mains Angles

- 1 Critically examine the extent to which the CEC and Other ECs Act, 2023 safeguards the independence of the Election Commission of India.
- 2 “An election commission that owes its appointment to the executive it oversees cannot be structurally independent.” Comment.
- 3 Compare the appointment mechanisms of constitutional bodies in India with practices in mature democracies.

**FACTS CORNER – KNOWLEDGEPEDIA**
**ECI AND APPOINTMENTS:**

Article 324: Vests election superintendence in ECI; President appoints CEC and ECs

ECI composition: 1 CEC + 2 ECs (since 1993)

CEC removal: same procedure as SC judge (address by both Houses of Parliament)

*Anoop Baranwal v. UoI* (2023): SC recommended PM + LoP + CJI panel

CEC and Other ECs Act, 2023: PM + Cabinet Minister (PM-nominated) + LoP; CJI excluded

SC's phrase: "tyranny of the elected" – institutional conflict of interest (May 7, 2026 hearing)

ECI oversees: Lok Sabha, State Assemblies, President and VP elections

Model Code of Conduct: ECI-enforced, not statutory – constitutional convention

**← NEWER ARTICLE**

**Operation Sindoor Anniversary: India's New Security Doctrine**

**OLDER ARTICLE →**

**India-Vietnam Enhanced Comprehensive Strategic Partnership:...**

**RELATED EDITORIALS**
**THE HINDU**

[The Elephant in India's Data Room: Fragmented Governance, Missed Potential](#)

9 May

**THE HINDU**

[NITI Aayog's School Education Report: From Textbook Completion to Foundational Mastery](#)

9 May

**INDIAN EXPRESS**

[Tyranny of the Elected: Why Supreme Court Is Right to Question EC Appointments](#)

9 May

**INDIAN EXPRESS**

[Governor's Discretion and Constitutional Morality: Tamil Nadu's Government Formation Crisis](#)

9 May

## RELATED KEY TERMS

---

### KEY TERM

#### [42nd Amendment Freeze on Delimitation](#)

The constitutional freeze that locked Lok Sabha seat allocation to the...

---

### KEY TERM

#### [Advance Directive \(Living Will\)](#)

A legal document in which a competent adult specifies their medical...

---

### KEY TERM

#### [AFSPA \(Armed Forces Special Powers Act\)](#)

A central legislation granting special powers to armed forces...

---

### KEY TERM

#### [Anti-Conversion Laws](#)

State laws prohibiting religious conversions achieved through...

---



CURATED &amp; WRITTEN BY

## Bharat Choudhary

UPSC Educator &amp; Content Creator

[linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)[Read Full Article on Ujiyari →](#)<https://ujiyari.com/daily/2026/05/09/election-commission-appointment-supreme-court/>

### ALSO FROM THE CREATOR

## BharatNotes

Free UPSC study platform — subject-wise notes across all 4 GS papers, Prelims MCQs, Mains answer frameworks, PYQ analysis & progress tracking. **100% Free • No Login Required.**

[Start Preparing → bharatnotes.com](http://bharatnotes.com)

### 📌 OPPORTUNITY

## Advertise with Ujiyari

Reach **thousands of serious UPSC & State PCS aspirants** daily through our PDFs, website, and social channels.

**Ideal for:** Coaching institutes • EdTech platforms • Book publishers • Exam prep apps

[✉ epicbharat@gmail.com](mailto:epicbharat@gmail.com)

Write to us for rates & media kit

Free UPSC & State PCS Current Affairs · [ujiyari.com](http://ujiyari.com) · [bharatnotes.com](http://bharatnotes.com)