

REMOVAL OF CHIEF ELECTION COMMISSIONER: POLITY

INDIA bloc considering motion to remove CEC Gyanesh Kumar

Following allegations of political bias, opposition parties are discussing a motion to remove the Chief Election Commissioner, an exceptionally stringent process. The CEC's removal requires a two-thirds majority vote in both Houses of Parliament on grounds of proven misbehaviour or incapacity, identical to the procedure for a Supreme Court judge.

Proposed Motion Against the Current CEC

Recent Development

Political parties under the INDIA bloc are currently discussing the possibility of introducing a motion in Parliament for the removal of the Chief Election Commissioner (CEC), Gyanesh Kumar.

Reason for Action

The proposed motion follows a recent press conference where the CEC's statements were alleged to be politically charged, raising concerns about the impartiality of the office.

The Appointment Process

Constitutional Foundation

Article 324 of the Indian Constitution establishes the Election Commission. It mandates that the Commission will consist of a Chief Election Commissioner (CEC) and other Election Commissioners (ECs), with the exact number to be decided by the President.

Statutory Framework

The Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023, is the primary law governing the appointment process. This Act details the service conditions, tenure, and other related matters for the CEC and ECs.

Selection and Appointment Mechanism

Appointing Authority

The President of India formally appoints the CEC and ECs.

Selection Committee

The President acts on the recommendation of a three-member selection committee composed of:

1. The Prime Minister (as Chairperson).
2. The Leader of the Opposition in the Lok Sabha.
3. One Union Cabinet Minister nominated by the Prime Minister.

Search Committee

To aid the selection process, a Search Committee, headed by the Union Minister for Law and Justice, prepares a panel of five suitable candidates for the Selection Committee to consider.

Eligibility and Service Conditions

Eligibility

Candidates must be individuals who hold, or have previously held, a position equivalent to the rank of Secretary to the Government of India.

Term of Office

A member of the Election Commission holds office for a term of six years or until they reach the age of 65 years, whichever occurs earlier.

Re-appointment

Members of the Commission are not eligible for re-appointment after their term ends.

Promotion

If an Election Commissioner is appointed as the Chief Election Commissioner, their total tenure in both posts combined cannot exceed six years.

Salary and Allowances

The salary, pension, and other service conditions of the CEC and ECs are equivalent to those of the Cabinet Secretary, the highest-ranking civil servant in India.

Roles and Functions of the Election Commission

The Election Commissioners are entrusted with the vital responsibility of ensuring free and fair elections. Their key functions include:

Overall Supervision

Supervising, directing, and controlling the entire process for elections to Parliament, State Legislatures, and the offices of the President and Vice President.

Rule Making

Framing general rules and guidelines for the conduct of elections.

Constituency Delimitation

Determining the boundaries of electoral constituencies across the country.

Voter Rolls

Preparing and maintaining accurate electoral rolls.

Party Recognition

Granting recognition to political parties and allotting them election symbols.

Scheduling

Setting the dates for elections and the entire polling schedule.

Personnel Appointment

Appointing polling officers and other staff required for conducting elections.

Code of Conduct

Ensuring that all political parties and candidates adhere to the Model Code of Conduct (MCC).

The Removal Process for the CEC

The process for removing the CEC is designed to be rigorous to protect the independence of the office, mirroring the procedure for removing a Supreme Court judge.

Constitutional and Legal Basis

Article 324(5) of the Constitution explicitly states that the CEC can only be removed from office "in like manner and on the like grounds as a Supreme Court judge." Section 11(2) of the CEC and Other Election Commissioners Act, 2023, reiterates this constitutional provision.

Grounds for Removal

The removal can only be initiated on two specific grounds:

Proved Misbehaviour

This can include acts of corruption, abuse of power, or any conduct that is incompatible with the duties and stature of the CEC's office.

Incapacity

This refers to the physical or mental inability to perform the official duties of the office.

Step-by-Step Procedure

Notice of Motion

Members of Parliament from either the Lok Sabha or the Rajya Sabha must submit a formal motion that explicitly details the charges of misbehaviour or incapacity against the CEC.

Enquiry Committee

A committee is then constituted to investigate the allegations and examine the supporting evidence to determine their validity.

Parliamentary Vote

If the committee finds merit in the charges, the motion is put to a vote in both Houses of Parliament. It must be passed by a special majority, which is a two-thirds majority of the members "present and voting" in both the Lok Sabha and the Rajya Sabha.

Presidential Order

Once the motion is successfully passed by both Houses, the President issues an order for the removal of the CEC.

Binding Nature

The President has no discretion in this matter; acting on the decision of Parliament is a constitutional obligation.

Source: <https://www.thehindu.com/news/national/india-bloc-considering-motion-to-remove-chief-election-commissioner-gyanesh-kumar-august-18-2025/article69946271.ece>

