

**WORKING OF STATE ELECTION COMMISSIONS IN INDIA: A  
COMPARATIVE STUDY OF MIZORAM AND WEST BENGAL**

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE  
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**WORKING OF STATE ELECTION COMMISSIONS IN INDIA:  
A COMPARATIVE STUDY OF MIZORAM AND WEST BENGAL**

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### **Certificate**

This is to certify that the thesis entitled **“Working of State Election Commissions In India: A Comparative Study of Mizoram and West Bengal”** submitted by **H. Lianzela** for the award of the degree of **Doctor of Philosophy**, is a research work, done under my supervision and guidance. The thesis, submitted by him has not formed the basis of the award to the scholar for any degree or any other similar titles and it has not yet been submitted as a dissertation or thesis in any University. I also certify that the thesis represents objective study and independent work of the Scholar.

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I, H. Lianzela, hereby declare that the subject matter of this thesis is the record of work done by me, that the contents of this thesis did not form the basis of the award of any previous degree to me or to do the best of my knowledge to anybody else, and that the thesis has not been submitted by me for any research degree in any other University/Institute.

This is being submitted to the Mizoram University for the degree of Doctor of Philosophy in Public Administration.

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## **List of Abbreviations**

ADCs - Autonomous District Councils  
AMC - Aizawl Municipal Corporation  
AMERO - Assistant Municipal Electoral Registration Officer  
CADC - Chakma Autonomous District Council  
CAPF – Central Armed Police Force  
CEC – Chief Election Commissioner  
DEO – District Election Officer  
DGP - Director General of Police  
DLAO - District Local Administration Officer  
DMEO - District Municipal Election Officer  
DPEO - District Panchayat Election Officer  
ECI - Election Commission of India  
EVM - Electronic Voting Machine  
ICT - Information and Communications Technology  
LAD - Local Administration Department  
LDA - Lower Division Assistant  
LDC - Lower Division Clerk  
LMC - Lunglei Municipal Council  
LSG – Local Self Government  
MCC- Model Code of Conduct  
MCS - Mizoram Civil Service  
MERO - Municipal Electoral Registration Officer  
MF & AS - Mizoram Finance & Accounts Service  
MP - Member of Parliament  
MPF - Mizoram People Forum  
MPSC - Mizoram Public Service Commission  
MRO - Municipal Returning Officer

MSEC - Mizoram State Election Commission  
MSS - Mizoram Secretariat Service  
NEARA - North-Eastern Areas (Re-organisation) Act  
PA - Personal Assistant  
PERO - Panchayat Electoral Registration Officer  
PLRC - Pawi-Lakher Regional Council  
PO - Presiding Officer  
PRIs - Panchayati Raj Institutions  
PRO - Panchayat Returning Officer  
RLB – Rural Local Bodies  
RO - Returning Officer  
RTI – Right to Information  
SC – Scheduled Caste  
SEC - State Election Commission  
SHC - Sinlung Hills Council  
ST - Scheduled Tribe  
UDA - Upper Division Assistant  
UDC - Upper Division Clerk  
ULB - Urban Local Bodies  
VCs - Village Councils  
VVPAT – Voter Verifiable Paper Audit Trail  
WBSEC - West Bengal State Election Commission  
WWI - World War I

## **CHAPTER-I**

### **INTRODUCTION**

#### **Background**

The first Chapter attempts to give the background information for studying *State Election Commissions* in the two States of the Indian Union, namely Mizoram and West Bengal. Though the two States are the constituent units of India, they exhibit various points of differences in terms of electoral management and democratic decentralization of political powers to the people for whom State Election Commissions have been set up. Besides, Mizoram is one of the youngest States in India while West Bengal has had a rich experience in terms of democratic elections for which proper State-level electoral machinery has been constituted. Hence, it has been felt necessary to introduce the two States from where the present research problem has been selected for study. This Chapter also contains a review of the literature, a statement of the research problem, the scope and objectives of the study along with the methodology applied for the study.

#### **Brief Profile of Mizoram and West Bengal**

For understanding the background of the two States, a brief Profile of each of them will conveniently be given as follows:

##### **Mizoram**

Mizoram is situated in the extreme south of North East India. It covers a geographical area of 21,081 square kilometres and lies approximately between 92.15 to 93.29 degrees east longitude and 21.58 to 24.35 degrees north latitude.<sup>1</sup> The Tropic of Cancer passes through Mizoram at a place called Maubuang Village, 40.7 Km south of Aizawl City.

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<sup>1</sup> Government of Mizoram. (2019). *Statistical Handbook, Mizoram 2018*. Aizawl: Directorate of Economics and Statistics. p.xii.



The topography of Mizoram consists predominantly of mountainous terrain, particularly tertiary rocks. The mountain ranges run from north to south direction and largely taper from the middle of the State towards the north, the west, and the south.<sup>2</sup> These ranges are separated from one another by a narrow and deep river valley with only a few small patches of flat land lying in between them. The terrain of Mizoram is young and most of the landforms are erosive.

Mizoram has an Inter-state boundary with Assam extending to over 123 kilometres, Manipur 95 kilometres and Tripura 66 kilometres.<sup>3</sup> Mizoram has a strategic importance due to its geographical location. It has international borders with Myanmar in the East and South and with Bangladesh in the West. The border length of Mizoram with the Chin Hills and Northern Arakan of Myanmar extends to about 404 kilometres and that of the Chittagong Hill Tracts of Bangladesh spans about 318 kilometres.<sup>4</sup>

Mizoram has several rivers, streams and brooks which originate in the central part of the State and flow towards either south or north influenced by the north-south trending ridges. The important rivers flowing from south to north are *Tlawng*, *Tuirial*, *Tuivai*, *Tuivawl* while *Tiau*, *Chhimtuipui*, and *Khawthlangtuipui* flow southwards.<sup>5</sup>

Since the Tropic of Cancer runs through the State, Mizoram enjoys a moderate climate. Mizoram falls under the direct influence of the south-west monsoons and therefore, receives adequate rainfall. The rainy season starts from May to September with July and August being the rainiest months. The annual normal rainfall in Mizoram is 2323.73 millimetres.<sup>6</sup> Winter starts in November and usually lasts till February of the following year. During this period, there is little rain and the temperature also varies between 11 degrees centigrade to 23 degrees centigrade. Spring starts from the end of February to mid-April when the temperature is usually between 14 degrees centigrade to 18 degrees centigrade. During summer, the temperature ranges from 25 degrees

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<sup>2</sup> *Ibid.*, p. 2.

<sup>3</sup> *Ibid.* p. xii.

<sup>4</sup> Pudaite, L.T. (2010). *Mizoram and look east policy*. New Delhi: Akansha Publishing House. p.1

<sup>5</sup> Lalhriatpuii. (2010). *Economic Participation of Women in Mizoram*. New Delhi: Concept Publishing Company. p. 11.

<sup>6</sup> Government of Mizoram. (2019). *Statistical Handbook, Mizoram 2018*. *Op.cit*, p. 13.

centigrade to 30 degrees centigrade. September and October are the autumn months when the temperature swings between 18 degrees centigrade to 25 degrees centigrade. During autumn, rainfall is intermittent.<sup>7</sup>

The total area of the State covered by forests is 18,186 square kilometres in 2017.<sup>8</sup> As of 2017, the recorded reserved Forests is 2609.64 square kilometre, while the protected forest is 1728.75 square kilometre and un-classed forest is 833 square kilometre. The percentage of reserved forest area to State's geographic area is 26.76 square kilometre.<sup>9</sup>

Agriculture is the main occupation of the people. However, the traditional method of shifting cultivation called 'jhumming' has brought a lot of problems to the farmers and the forests as it results in declining fertility and shortened jhum cycle. There are no major industries to boast of, however, small-scale and traditional industries flourish. The percentage of total workers to the total population is 44.36 with 415,030 numbers of main workers, 71,675 marginal workers, and non-workers numbering 610,501.<sup>10</sup>

The name of the land, Mizoram, is a generic term. It is a combination of *two* words, *Mizo* and *Ram* where *Mizo* refers to all clans, tribes, and sub-tribes knitted together by common customs, traditions, and language who identify themselves as *Mizo* and *Ram* refers to land in the vernacular language. Mizoram, therefore, refers to the 'land of the *Mizo*.' When Mizoram was under British administration, it was known as the Lushai Hills District. In 1954, by an Act of Parliament, the name was changed to Mizo Hills District. On 21<sup>st</sup> January 1972, with the enactment of the North-Eastern Areas (Re-organisation) Act, 1972 (NEARA), the district was named Mizoram and accorded the status of a Union Territory. The Union Territory of Mizoram had thirty-three members of the Legislative Assembly (thirty elected and three nominated) and two seats in the Parliament. The first election to the Mizoram Legislative Assembly and for the Lok Sabha (Lower House of the Parliament) seat in the Union Territory of

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<sup>7</sup> *Ibid.*, p. 19.

<sup>8</sup> *Ibid.*, p. 70.

<sup>9</sup> *Ibid.*, p. 72.

<sup>10</sup> *Ibid.*, p. 11.

Mizoram was held on 18<sup>th</sup> April 1972. Mizoram became the twenty-third State of the Indian Union on 20<sup>th</sup> February 1987 with the signing of the Mizoram Peace Accord, ‘Memorandum of Settlement’, on 30<sup>th</sup> June 1986 by Laldenga, leader of the Mizo National Front, RD Pradhan, the then Union Home Secretary, Government of India, and Lalkhama, the then Chief Secretary, Government of Mizoram. The Mizoram State Legislative Assembly consists of forty members and the first election to it was held on 16<sup>th</sup> February 1987.

According to Census India 2011, the population of Mizoram is 10, 97,206. Out of the total population, 5, 55,339 are male while 5, 41,867 are female. Mizoram is one of the States in India where the rate of urbanization is very high. The urban population is 5, 71,771 while the rural population is only 5, 25,435. The percentage of the urban population as per Census India 2011 is 51.51. The density of the population is 52 per square kilometre.<sup>11</sup> Mizoram is the only State in India where there are no ‘homeless’ due to acute poverty. The state has a literacy rate of 91.33percent, second only to Kerala.<sup>12</sup> The male population has a higher literacy of 93.35 percent than that of the female which stands at 89.27 percent.

The population of Mizoram consists of several ethnic tribes that are culturally and linguistically linked. Mizo is a broad term by which all the ethnic tribes in Mizoram are known. The Mizo’s belong to the Mongoloid Stock.<sup>13</sup> The Mizo tribe is divided into numerous clans which are further sub-divided into sub-clans with slight linguistic differences. Despite the absence of authentic records about the history of the Mizo before the 17<sup>th</sup> Century, most researchers conclude that the Mizo came to their present abode from southern China, possibly Yunnan Province, by gradual migration through northern Myanmar.<sup>14</sup>

The Mizo society is a homogenous and close-knit society without class or caste distinction. In the pre-British period, the majority of the population were agriculturists,

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<sup>11</sup> *Ibid.*, p. xiii.

<sup>12</sup> *Ibid.*, p. 4.

<sup>13</sup> Prasad, R.N. (1987). *Government and politics in Mizoram: 1947-1986*. New Delhi: Northern Book Centre. p 4.

<sup>14</sup> Pudaite, L.T. (2010)., *Op.cit*, p. 6.

and hence no occupational differentiation. The absence of class or caste distinction and occupational differences in the Mizo society resulted in a very thin line of variation among the general population. The people lived in cooperation and rendered help to others whenever necessary. The people were neither rich nor poor under the benevolent rule of their Chief.<sup>15</sup> The annexation of the territory of the present Mizoram by the British gave rise to a small group of the privileged class in the hitherto classless simple Mizo society.<sup>16</sup> The colonial rulers did not interfere in the internal administration of the Mizo and left it to the Chiefs to carry out the administrative affairs in their respective villages. The colonial rulers were only concerned with maintaining law and order. The missionaries, who came on the heels of the colonial rulers to preach the Gospel, brought new values, concepts, and institutions and gradually the Mizo were weaned from their traditions and obligations. The Christian Missionaries played an active role as an agent of education and other social services and this led to the growth of vested interests of the Church as well as the emergence of occupational differentiation and differences in the classless simple Mizo society.<sup>17</sup>

## **West Bengal**

West Bengal is located in the eastern part of the Indian Peninsula with the Tropic of Cancer running across it. West Bengal, which is one of the country's medium-sized States, lies between N 21°30' & 27° 30' and E 85° 30' & 89°45.' Historically, the land of 'Bengal' has had its own distinct 'regional entity'. The geographers also consider 'Bengal' as a definite 'geographical region' in the entire sub-continent with distinct geo-features.<sup>18</sup>

West Bengal is surrounded by many States of the Indian Union and three countries. It is bounded to the north by the Indian State of Sikkim and the country of Bhutan. It is also bounded to the northeast by the State of Assam, to the east by Bangladesh, to the south by the Bay of Bengal, to the southwest by the State of Odisha,

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<sup>15</sup> Lalrintluanga. (2009). *Mizoram: Development of Politico-Administrative System and Statehood*. New Delhi: Serials publications. p. 33.

<sup>16</sup> *Ibid.*, p. 33.

<sup>17</sup> *Ibid.*, p. 34.

<sup>18</sup> Spate, OHK, Learmonth ATA and Farmer BH. (1967). *India, Pakistan and Ceylon: The Regions: 'The Bengal Delta'*. London: Methuen and Co Ltd. pp. 571-599.

to the west by the two States of Jharkhand and Bihar, and to the northwest by the country of Nepal. Darjeeling, its northern end, is embraced by the arms of the mighty Himalayas. It has international borders with neighbouring countries – Bhutan and Nepal on the North and Bangladesh on the East. The unconquerable river Ganga flows across the rich alluvial plains of the State to reach the Bay of Bengal in the South, through vast swamps that are known as the Sundarbans. The fertile lands on the banks of the Ganga River serve as useful agricultural lands and the pebbles on the banks of the Ganga River have also been commercialized and sold to Bangladesh for road construction.

The main rivers of the State include Teesta, Brahmaputra, Jaldhaka, Torsha, Sankosh, Raidak, Mahananda, Mahanadi, Raidak, Damodar, Hooghly, Kasai, Subarnarekha, Ganga, etc.<sup>19</sup>

West Bengal was formerly known as *Vanga* ruled by several dynasties from ancient times. The actual history of this region is available from the Gupta period. However, the prosperity and importance of the State increased largely when the British East India Company took over the place. Under the terms of the Indian Independence Act, of 1947, it was a widespread Bengal Province. But, the Muslim-dominated districts, namely Chittagong, Dacca, and part of the Presidency and the Rajshahi division went to the present day's Bangladesh and the State of West Bengal came into existence in 1947. After two years, the District of Cooch Behar was merged with the State of West Bengal on January 1, 1950, and the former Chandernager also came within the State on October 2, 1954. The State of West Bengal got its present political boundary after the transfer of some parts of Bihar to West Bengal according to the States Re-organisation Act, 1956.

According to the 2011 Census, West Bengal is one of the most densely populated States with a population density of 1028 per sq. km. A striking point is that with a 2.7 percent land share of the country, it sustains 7.55 percent of its population,

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<sup>19</sup> [www.newkerela.com](http://www.newkerela.com) as accessed on 24.7.2017.

and ranks 12<sup>th</sup> in area but 4<sup>th</sup> in population share. West Bengal is a major agricultural producer and is the 6<sup>th</sup> largest contributor to India's net Domestic Product.

## **Review of Literature**

So far as the institution of the State Election Commission is concerned, very few books have been written on the subject. However, a few writers on Electoral Reforms and Election Laws have written about State Election Commission and the State Election Commissioner. Therefore, this study had been undertaken to provide the existing gap and to enrich the literature. The researcher has reviewed the following pieces of literature which are related to the study.

Ravindra Pratap Singh (1981)'s *Electoral Politics in Manipur: A Spatial-Temporal Study* analyzed political behaviours among the people in the light of socio-geographical and economic infrastructure and cultural determinants of Manipur.

N. Sengupta (1985)'s *State Government and Politics- Sikkim* is a comprehensive work on politics and government, the political process, and the working of the government in Sikkim. In this book, the author thoroughly studied the nature and changing trend of the political dynamics which had been reflected through the electoral process, political parties, and pressure groups of the past and the present.

R.N. Prasad (1987), *Government and Politics in Mizoram (1947-1986)*, dealt with the evolution of politics in Mizoram with special reference to the Mizo National Front movement and the regional politics in the then Pawi-Lakher Region within the then Lushai Hills, now, called Mizoram.

M. Subramaniam (1991) in 'Electoral Reform and the Voter' in the *Indian Journal of Public Administration* pointed out that one of the objectives of electoral reform is to protect the voters from the consequences of showing their preferences. The author suggested that the present simple majority system needs to be replaced to avoid the deficiencies of the electoral system in India and the combined system with the list system or the proportional representation system with the direct election process was also not suitable for the condition prevailing in India. The author

concluded that any electoral system that did not guarantee the inclusion of the names of the eligible voters in the rolls could not be said to respect the Constitutional rights of voters.

R.N. Prasad and A.K Aggarwal (1991), in their book, *Political and Economic Development of Mizoram* dealt with the evolution of party politics in Mizoram and made an analytical study of elections to the Mizoram Legislative Assembly of 1987 and also of economic development along with political development in the State.

Chitta Ranjan Nag (1998), *Mizo Polity and Political Modernisation* is a study on political and administrative issues of Mizo's in Mizoram tracing from the Chieftainship period till the period of British Administration.

B. Pakem (1999), *Coalition Politics in North East India*, dealt with the political situation in the North East Region of India in the context of competitive politics which had led to the formation of many coalition governments without success in many ways.

S.K. Pachauri (1999), 'Election Administration in India-Reflections on Aspects of 1998 Elections' in the *Indian Journal of Public Administration*, pointed out the problems of the Electoral system by highlighting various processes to ensure free and fair elections in the country. The author mentioned four distinct phases of electoral administration. The *first* phase is updating the electoral rolls by doing additions and deletions of all eligible voters in their respective areas. The *second* phase is filling out nominations and their acceptance by the election authority. The *third* stage is the preparations and setting up of polling stations. The *final* stage is the counting of votes and declaration of results. The author also pointed out the role of Observers in the conduct of free and fair elections and the need for making special arrangements for ladies and minorities for the smooth conduct of elections. The author concluded by proposing that direct involvement of the election Observers should be encouraged in the election administration at all levels- right down from Centre to State to District and finally to the village.

Jeevan Nair and U.C. Jain (2000), *Electoral System in India*, dealt with the Constitutional provisions for election, election laws, and methodology of elections. It is rather a Compendium on elections and election laws and practices in India.

K.M. Zakhuma (2001) *Political Development in Mizoram from 1946-1989: A Study with Special Reference to Political Parties in Mizoram* is a study on the past events of political development with special reference to political parties in Mizoram.

Chandrika Singh (2004)'s *Naga Politics; A Critical Account* is a critical study on the politics of Nagaland, the working of democratic institutions and people's participation in administration.

H.M. Bareh (2007)'s *Encyclopaedia of North East India Vol V, Mizoram* is on the political development in the State and how the Mizo's were enlightened in politics.

P. Rathnaswamy (2004), *Electoral Reforms; Law and Institutions of India and World*, deals with Electoral Reforms in India and selected Countries, Electoral System in India about the Election Commission of India, Election Machinery, Role of Election, etc wherein he stated that the Election Commission has exclusive powers and among them, the procedure to be followed by the Election Commission is the most important and the executive and legislatures have to accept the responsibilities of making the Election Commission of India a dynamic Institution through their consistent and continuous cooperation.

Anjoo Sharan Upadhyaya (2005) in *Electoral Reforms in India* addressed the various issues on Electoral Reforms and emphatically asserted that India can be justifiably proud of its achievements as the largest democracy in the world, having a functioning electoral system since 1947. Over a while, the Indian electoral system has evolved the unrivalled capability to ascertain the political will of a vast electorate, comprising extremely diverse ethnic groups with varied levels of awareness and aptitude. The challenge is to make the mechanism of election an effective instrument of the democratic will of the people.

P. Kamalkutty, *Landmark Judgments on Elections to Local Bodies in Kerala* (2006) is a publication of the State Election Commission, Kerala. The book is a



compilation of Judgments of the Hon'ble Supreme Court and Hon'ble High Court of Kerala relating to Election to Local Bodies in the State of Kerala. In his book, the author, the then State Election Commissioner of Kerala, appropriately highlighted that the State Election Commission is a creation of the Constitution for the conduct of elections to Local Bodies. With the introduction of Part IX and IX-A in the Constitution of India, the election to local bodies has been brought under the Constitutional umbrella and the Constitutional Courts have henceforth called upon to adjudicate important Constitutional issues in election-related cases.

*Landmark Judgments on Election Law (2006)* is an outcome of the Election Commission of India's initiative to document historic judicial pronouncements on various electoral issues. In writing a foreword, the then Chief Election Commissioner, BB Tandon emphatically said that a well-evolved electoral system is the hallmark of a matured democracy. A better understanding of Electoral Law on the part of all Stakeholders augurs well for the healthy democratic credentials of any nation.

P. Lalnithanga (2006), *Political Developments in Mizoram* discussed the contributions of various political parties from the time of the Mizo District Councils and also studied the results of various elections faced by those parties since the first District Council elections.

S.K. Mendiratta & V.S. Rama Devi (2007) in their book, *How India Votes- Election Laws, Practice and Procedure* stated, *inter alia*, that in a democracy, elections play a key role. So, for the proper preparation of electoral rolls and the conduct of free and fair elections to Panchayats, a State Election Commission is to be appointed by the Governor in each state consisting of a State Election Commissioner [Art 243K (1)]. The Governor will determine by rules the service conditions of the State Election Commissioner [Art 243K (2)]. To maintain the independence of the office of the State Election Commissioner, it is provided that he can be removed from office only in like manner as a Judge of a High Court, that is to say, by impeachment [proviso to Art 243K (2)]. The Governor shall give necessary staff to him to discharge his functions properly [Art 243K (3)]. Laws will be made in each state for all matters relating to elections to Panchayats [Art 243K (4)].

H. C. Thanhranga (2007)'s *District Councils in the Mizo Hills (Updated)* deals with the formation of District Councils in the Mizo Hills and elections to the three District Councils, namely; Lai, Mara, and Chakma District Councils.

Amandeep Kaur (2009) in *Electoral Reforms in India-Problems and Needs: 1989- 2009*, discussed the importance and role of the Election Commission in a very candid manner. The architects of the Indian Constitution also attached importance to independent electoral machinery for the conduct of elections and gave careful consideration to these factors and, after sustained deliberation and discussion, evolved a device called the Election Commission. The Election Commission is deliberately safeguarded with a fixed tenure, etc., in order to be able to function independently and impartially without any fear of legislative or executive disapproval.

B. Venkatesh Kumar (2009) in *Electoral Reforms in India: Current Discourses* elaborates on the fourth aspect of structural reform of electoral administration concerning the State Election Commission wherein he stated that since the deepening of India's democracy will be the result of the new political realities produced by Panchayati Raj Institution (PRI), having an independent State Election Commission is thus of paramount importance. He further narrated that it is essential to improve the areas of functioning of the State Election Commissioner as they currently lack independence and the authority of the Election Commission of India since their terms of employment, including tenure, are in accordance with the laws of the respective states. They are, therefore, subjected to under duress and this has led to questions about their neutrality. The State Election Commissioners, therefore, should have uniform terms and conditions of service and a fixed term of tenure. Besides, the State Election Commission should be able to enforce the Model Code of Conduct (MCC) as strictly as the Central Election Commission. As a result, the same independence and privileges that the Election Commission of India enjoys and has won through these five decades would also be available to the State Election Commission. This would be a step forward in creating a culture of politics that would treat elections with certain sanctity. It would be another step in the direction of free and fair elections.

Sumanta Banerjee (2009) in his article 'The Maoists, Elections, Boycotts and Violence' in *Economic and Political Weekly* explores the problems and their effect on the elections. He has mentioned that the Maoists want a provision in the electoral rolls to arm the voters with the right to reject a candidate. The Maoists recognised that the vast majority of the Indian electorate despite their disillusionment with the present political leadership is not going to boycott elections.

Manjari Katju (2009) in 'Election Commission and changing contour of politics' in *Economic and Political Weekly* mentioned the growth of the Election Commission of India and found out that the relative calm in which it has functioned was the era of the one-party dominant system. The article also points out that the scene has changed with the coming of a true multi-party system. The Election Commission of India has to deal with the changed nature of politics. These transformations in politics demand an altered approach to electoral administration and reforms.

J. Prabash (2010) in his article 'India: Mounting Influence of Money Power in Elections and the Crisis of Representation' in *Asia-Pacific Journal of Social Sciences* has discussed the influence of money power in elections in India. Depoliticization is often identified as a major cause for the entry of people from non-political classes into the structures of political power. He concluded that elections today have been a great spectacle and the electoral arena a big market space where money mediates between the candidates and the electorate.

Amal Mandal, (2011) Gram Sabha-A Conceptual Exploration in *Indian Journal of Public Administration*, highlighted that Panchayati Raj Institutions are premised on a "liberal democracy" party-based representative form of government characterized by people's participation, periodic elections, and earmarked power.

G. Palanithurai, (2011) Substantiating Democratic Decentralization through Free and fair elections: Case of Local Bodies' Elections in Tamil Nadu in the *Indian Journal of Public Administration*, clearly mentioned the process of Democratic Decentralization through local bodies' elections in Tamil Nadu.

SR Maheshwari (2012), *Indian Administration*. The author lamented that no less is the Election Commission, but this institution has not perhaps received the same measure of care and sensitivity as has been bestowed on the Comptroller and Auditor-General of India. While the Election Commission is among the four institutional bulwarks of our democracy, the Constitution is too brief while dealing with the Election Commission.

S.A Palekar (2012) in the opening remarks of his article 'The Role of Election Commission: An analysis' in the *Indian Journal of Public Administration* emphatically stated that the successful functioning of the Election Commission since its inception with the inauguration of the Constitution of India in 1950 has been one of the marvellous treats of the democratic system of governance in India. If the conduct of free and fair elections at periodic intervals is assumed to be the essence of the vibrancy of a successful democracy, the successful functioning of the electoral machinery must be constructed to lie at the heart of the system, he added.

S.K. Gautam (2012) in his message on the *Report on General Election of Gram Panchayats and Zilla Panchayats 2012* stated that Article 243E of the Constitution, *inter alia*, provides that every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer. This makes it abundantly clear that the election to each Panchayat shall be completed before the completion of the earlier term so that the next Panchayat can take over on the completion of the term of the sitting Panchayat. Further, he made it clear that in the exercise of the powers conferred by Article 243K of the Constitution of India, the State Election Commission issued a Model Code of Conduct along with numerous instructions and orders for strict compliance by political parties, contesting candidates, Ministers, and Government employees for the conduct of free and fair elections. The elections were announced by the Commission.

*The Kerala Panchayat Law Manual (2013)* is a compilation of the English version of the Kerala Panchayati Raj Act and the latest case law. Justice R. Bhaskaran in the "Foreword to the Manual" appropriately stated that the 73<sup>rd</sup> Constitutional Amendment incorporated in Part IX of the Constitution required the States to bring into

existing laws for the implementation of a three-tier Panchayati Raj System. This was a cherished dream of Gandhiji to have Grama Swaraj in India to enable the villages to form their own units of Self Government.

Palanithurai (2013) in 'Substantiating Democratic Decentralisation through Free and Fair Elections: Case of Local Bodies' Elections in Tamil Nadu' published in the *Indian Journal of Public Administration* discussed the role of the State Election Commission based on a case study in Tamil Nadu. In his opening remarks, he emphasized that Panchayati Raj institutions represent the vigour of democratic functioning at the grassroots. Although the gram panchayats constitute the lowest rung in the political network, the elected members play an important role not merely in the elections to the Taluk and the Zilla panchayats but also to the legislature as well. According to the Panchayati Raj Act, elections to the PRIs should be strictly conducted on apolitical lines, but political parties do get involved overtly or covertly. The people also participate in these elections with the same enthusiasm and involvement that they display in the elections to the Parliament or State Assemblies. Yet the local body elections are much more complicated and complex than the elections to National or State Legislatures. He further asserted that the Judiciary and the State Election Commission have worked for the smooth conduct of the election. It is proved beyond doubt that when a condition is being created for free and fair elections people will also participate effectively. All that is needed is the "will" on the part of the State Election Commission. The will of the State Election Commission depends on the will of the State Election Commissioner. Now civil society and the media have understood how to create a will on the part of the State Election Commission. The will has been created through the Court of Law.

Sanjay Kumar and Praveen Rai (2013) in *Measuring Voting Behaviour in India* elaborately reproduced their study which captures the dynamics of multiple methodologies used for measuring voting behaviour in India in the past and present. The authors elaborated on various methods that are used for measuring voters' opinions, attitudes, and perceptions. They discussed the advantages and disadvantages of each method to capture the multiplicity of the electoral experience of diverse voters

across different settings in India through simultaneous studies by a team of participant observers in multiple sites covering all aspects of the electoral procedure and popular participation. The authors traced the tradition of measuring voting behaviour in India from a historical perspective, beginning with a constituency-level study of the Poona Lok Sabha Constituency in 1967 and moved on to discuss in great detail the survey method for measuring voting behaviour widely used in the 1990s. While highlighting the various tools, resources and practical skills available for measuring voting behaviour in an election, the book also puts forth the limitations, challenges, and hurdles in translating vote estimates into seat estimates, with the nature of the political contest varying from one state to another as well as the various challenges in measuring the voting behaviour of Indian voters and tries to offer possible solutions to meet these challenges.

Harish Khare (2014), *How Modi Won It-Notes from the 2014 Election*. In his opening remarks on How Modi won the General Election in 2014, the author beautifully stated that a general election is the biggest mass ceremony we perform in India. It is bigger than the ritual holy bath by millions during the mammoth Kumbh Mela, bigger than any Haj congregation, and bigger than Diwali, Dussehra, Holi, Eid, or Christmas. Every Indian, irrespective of his or her religion or residential address in India, gets to take part in this larger-than-life civic ceremony and soak in its democratic spirituality.

Rajdeep Sardesai (2014), *2014: The Election That Changed India*, interestingly discussed the rise of Shri Narendra Modi, Prime Minister of India, and the application of technology in the electoral system in India wherein he stated that “If money is a threat, technology is not. In the 1<sup>st</sup> election, the ballot boxes stuffed with votes were carried by camels across deserts and by horses over mountains. The counting went on for weeks. Now, in the age of Electronic Voting Machines (EVMs), the process is faster, surer, and cleaner”.

Biswanath Chakraborty's (2015) article ‘Emerging Role of State Election Commissions of India: A Diagnostic Study for Future Road Map’ in the *Indian Journal of Political Science* critically asserted that though the Constitutional amendment took

place in 1992 and no immediate follow-up initiative was taken up by the Central Government in developing the institution like State Election Commission, its organizational set up and support of the government. As a result, there is a great dissimilarity not only in the laws enacted by various State governments but also in the establishment of the State Election Commissions.

Dev Inder, *Universal's Election Laws (2012)* is the revised edition of the Manual of Election Law. It contains all the updated material in connection with elections, a model code of conduct for the guidance of political parties and candidates as well as a Digest of Important Cases. But no laws relating to Local bodies' elections and the institution of the State Election Commission were incorporated.

Commendable though they are in their respective areas of study, the stated pieces of literature under review have not specifically dealt with a comparative study of the State Election Commissions of Mizoram and West Bengal. All the kinds of literature under review have missed out on the study of the organizational and administrative aspects of the State Election Commissions in their election-related works. So, to fill up this research gap, the present researcher has undertaken the present study.

### **Statement of the Research Problem**

The powers, functions, and responsibilities vested in the State Election Commissions (SECs) under Article 243K and 243ZA of the Constitution are identical to those given to the Election Commission of India (ECI) under Article 324(1) for elections to Parliament and State Legislatures. However, several questions have been raised time and again as to whether the power of the SEC in respect of the conduct of elections is no less than that of the ECI in their respective domains. At the same time, most of the State Governments have not rendered full assistance and cooperation to the SECs to ensure that free and fair elections are conducted.

Free and fair elections form the bedrock of a democratic country. The Constitution of India envisages ECI and SEC for every State to safeguard the process

of free and fair elections and empowered them with certain similar Constitutional safeguards to secure their independent functioning. However, the ground realities on the functioning of the SECs, particularly the SECs of Mizoram and West Bengal seem to be very different from that of ECI. This may be largely attributed to the fact that the SECs even though created within the framework of the Constitution are actually within the jurisdiction or mercy of their respective States as laws about Local Bodies can only be framed by the States and not by the Centre in a federal set-up. These powers are very zealously guarded by each State and any attempt to directly intervene even legitimately in the interest of grass-root democracy, is frowned upon by the State Governments. In addition, due to inadequate legal, administrative, and financial provisions, several SECs faced enormous constraints in conducting free and fair elections. This gives the impression that most State Governments do not give their SECs the priority of attention they legitimately need and deserve for ensuring a free and equitable pattern of democracy.

One of the most interesting points worth studying is that, while the ECI decides the poll dates in consultation with the Centre, the West Bengal State Government decides the date of the poll with West Bengal SEC which plays only an advisory role as per the provision under Section 42 of the West Bengal Panchayat Elections Act, 2003. Ultimately, there was an unprecedented legal battle between the State Government and West Bengal SEC in 2013 and even the Apex Court was compelled to intervene in the poll process relating to the phasing of poll dates, deployment of Central Forces, etc., in the Panchayat elections. However, the SEC in the State of Mizoram decides the poll dates in consultation with the State Government. But the reality is that the State Government has considerably dictated the SEC in most of the cases which is not much different from what has happened in West Bengal.

The Government of Mizoram is lagging in giving due importance to the role and status of the SEC due to various reasons. In the recent past, the SEC of Mizoram appears to have been functioning at the mercy of the State Government. The status of a High Court Judge, which has been accorded to the State Election Commissioner of West Bengal, has not been given to the State Election Commissioner of Mizoram. Full



financial power given to the State Election Commissioner of Mizoram, at the initial stage, has been withdrawn due to reasons not known to the Commission, and SEC Bill formulated by the Commission and submitted to the State Government on 21<sup>st</sup> February 2013 has not been tabled on the floor of Mizoram State Legislative Assembly till today.

To ensure that free and fair elections to the various Local Bodies are conducted in Mizoram and West Bengal as mandated by the Constitution, it has been felt necessary to undertake an in-depth study on the functioning, status, and role, of the newly established Mizoram State Election Commission in comparison with the well-established West Bengal State Election Commission.

### **Objectives of the Study**

The objectives of the study are to-

1. study the background of the formation of the State Election Commissions in India;
2. study and analyze the Organizational Structure of the State Election Commissions of Mizoram and West Bengal, and evaluate the existing personnel administration of the two State Election Commissions;
3. study and compare the Role, Powers, and Functions of State Election Commissions of Mizoram and West Bengal;
4. examine the process of Electoral Administration and Management during the preparation of Electoral Rolls and conduct of elections by the State Election Commissions of Mizoram and West Bengal;
5. find out the issues, problems, and challenges faced by both the State Election Commissions and explore the scope for improvement.

## **Research Questions**

This research has attempted to answer the following pertinent research questions:

1. What are the role and status of the State Election Commissions in India as mandated by the Constitution?
2. What are the Organizational Structure and system of personnel administration in the State Election Commissions of Mizoram and West Bengal?
3. How far are the State Governments of Mizoram and West Bengal committed to strengthening their respective institutions of the State Election Commission so far as status, independence, and authority are concerned?
4. What has been the attitude of the State Governments to State Election Commissions?
5. What are the issues, problems, and challenges faced by both the State Election Commissions in performing their role to ensure free and fair elections and the policy measures that would improve their functioning?

## **Scope of the Study**

The scope of the study is to broadly make a comparative study of the institutions of the State Election Commission in Mizoram and West Bengal with a focus on their origin and functioning for conducting free and fair elections to various Local Bodies in the two States as mandated by the Constitution. It is also the scope of this research to look into the relationship between State Governments and the State Election Commissions to find out whether these State Election Commissions have been bestowed with their legitimate status.

In addition, the scope of this study is to explore the possibility for improvement in the functioning of the State Election Commissions in the two States in terms of their role, independence and authority to reflect a semblance of dignity for the institution as mandated by the Constitution of India.

## **Methodology**

The Study on *Working of State Election Commissions in India: A Comparative Study of Mizoram and West Bengal* is descriptive. The study has been based on the data collected from Primary and Secondary sources. The Primary data have been collected through open and close-ended questionnaires using Google Forms. The total sample size of the research was restricted to 40 as there were no sufficient respondents that would help the study. Samples were collected from Civil Society, Political parties and prominent citizens using a non-probability purposive sampling technique.

Collection of personal information has also been done through unstructured interviews from serving and retired State Election Commissioners and officers of the two State Election Commissions as well as serving and former bureaucrats in the State Governments having connections with State Election Commissions of the two States. Records and publications of the two State Election Commissions and the two State Governments have also constituted the Primary data.

Primary data were collected during 2022 – 2023. The data collected from Primary sources have been tabulated and analyzed for making a comparative study of the two State Election Commissions under study.

The Secondary data have been extensively collected from relevant books, articles, journals, magazines, and newspaper reports; published and unpublished documents of independent studies, publications of State Election Commissions of several States as well as other relevant information posted on the Websites.

## **Chapterization**

The whole study has been divided into seven Chapters. The *first* Chapter is an introductory Chapter, which has brought out a study of the meaning of election, elections conducted before the British rule in India. It has also looked into the elections conducted during the British regime and in the post-independence period. This Chapter also contained a review of the literature, a statement of the research problem,

objectives, research questions, and scope of the study along with the methodology used for the study.

The *second* Chapter on the *Evolution of State Election Commissions in India* has attempted to trace the evolution of State Election Commissions in India, especially in the post-73rd and 74<sup>th</sup> Constitutional Amendments, 1992. This Chapter has also attempted to unearth the background of democratic elections conducted by the State Election Commissions for Village Councils, District Councils, and Urban Local Bodies in Mizoram, and Panchayati Raj Institutions and Urban Local Bodies in West Bengal.

In the *third* Chapter on the *Organizational Structure of State Election Commissions of Mizoram and West Bengal*, an attempt has been made to study the organizational structures of State Election Commissions in Mizoram and West Bengal. It has also briefly made a comparative study of the organizational structures and personnel administration of the two State Election Commissions under study. While studying the personnel administration of the two State Election Commissions, the focus is on the mode of appointment, Recruitment Rules, composition, tenure, and salary of the State Election Commissioners in the two States.

The *fourth* Chapter on the *Role, Powers, and Functions of State Election Commissions of Mizoram and West Bengal* has studied the roles, powers, and functions of the State Election Commissions in Mizoram and West Bengal to understand whether the State Election Commissioners in the two States practically enjoy their powers and play their roles as mandated by the Constitution of India. It has also looked into the extent of commitments made by the two State Governments for strengthening the institutions of State Election Commissions.

In the *fifth* Chapter on *Performance of State Election Commissions of Mizoram and West Bengal in Electoral Management*, the main focus is on electoral management relating to the preparation of electoral rolls, the conduct of democratic elections at the Panchayats or local level and Municipality, and the role of State Election Commissions in connection with delimitations of Constituencies. It has also attempted to explore the

attitudes of the concerned State Governments towards their respective State Election Commissions.

The *sixth* Chapter on *Results and Discussion* has attempted to analyze and interpret the primary data collected through structured interviews. The interpretation and tabulation of data have been divided into six major parameters, such as data related to the organizational structure and status of State Election Commissions, administrative setup, role and functions in the conduct of elections, the relationship between the State Governments and State Election Commissions, problems and challenges, and finally, the opinions of key functionaries from the two State Election Commissions about the scope of their improvement.

The *seventh* Chapter is the Concluding Chapter which has brought out the summary and research findings of the whole study. Based on the findings, some suggestions have been made for the improvement of the performance of the two State Election Commissions in the conduct of elections to the Local bodies and also for the elimination of barriers in electoral management.

## **Conclusion**

A Comparative study aims at investigations to analyze and evaluate, with quantitative and qualitative methods, a phenomenon or facts among different subjects to ascertain similarities or differences. In short, it is the act of comparing two or more things to discover something about one or all of the things being compared.

The study is highly complex because Mizoram and West Bengal are historically, geographically, culturally, economically, and politically different in many ways. These differences especially political culture and democratic tradition not only make the study more difficult but also make it more challenging. However, the 73<sup>rd</sup> & 74<sup>th</sup> Constitutional Amendments laid a firm foundation for identical establishment, functioning, and sustainability of democratically elected panchayats and Urban Local Bodies as well as democratic institutions in the States in which both the State Election

Commissions of Mizoram and West Bengal also played a crucial role since its inception.

To recapitulate, the present Chapter is an introduction to the comparative study and it discusses the background of the topic, a brief profile of the two States-Mizoram and West Bengal, a review of the literature, a statement of the research problems, the scope of the study, objectives of the study, research questions, methodology and a brief discussion on all the Chapters.

## CHAPTER-II

### EVOLUTION OF THE STATE ELECTION COMMISSION IN INDIA

#### Introduction

During the fifth and sixth Centuries BC, elections had already occupied an important place in the Greek city-states where voting was held directly on policy proposals and governments were not elected but drawn by lot.<sup>20</sup> Elections were also used in the selection of important offices in the Roman Catholic Church and in the seventeenth century AD, with the emergence of representative government in Europe and North America, the contemporary notion of election became popular in different parts of the world. By the end of World War, I (WWI), universal adult male suffrage had become popular and many countries were also considering franchises for women.

In view of the current scenario, elections form an integral part of the democratic process in democratic countries of the world. Elections determine the democratic legitimization of the exercise of public authority and provide an arena for the candidates and political parties to communicate with the public on wide political programmes as well as recreating an image of public opinion. The citizens have the freedom to express their preferences and intervene directly in matters that concern them through the process of elections. So, elections empower the citizens to participate in choosing their representatives, make preferential treatment for policies, and form opinions. Elections not only sustain democracy but also enliven it as well. Democratic elections have become the cornerstone of democracy. The credibility of the electoral process has an important bearing on the healthy functioning of a political system.<sup>21</sup> Elections may also be employed by systems that do not necessarily adhere to democratic principles. In these systems, even though opposition candidates are allowed to contest, elections are held to project the strength and persuade the population and others of the overwhelming support the incumbent enjoys. These are

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<sup>20</sup> McDonald, M. D. & Budge, I. (2005). *Elections, Parties, Democracy Conferring the Median Mandate*. New York: Oxford University Press.

<sup>21</sup> Sundriyal, R.B. and Dighe Sharade. (1997). *Electoral Reforms*. New Delhi: Shree Publishers. p-10

but a part of the incumbent's strategy to hold on to power and to display to the world that elections held are legal and in accordance with the provisions of the Constitution. Elections are used as a means to achieve a degree of popular legitimacy.

It is, therefore, evident that election is a mechanism where citizens express themselves without any external coercion but of free will. True democracy is a form of government in which the people have the final say. As of today, people in some countries are either barricaded or abrogated from the exercise of their voting powers thereby limiting their political rights. But, in a true democracy, people are the sovereign, and public opinion is the final power. Election ensures participation of the people in a democratic government and unless democratic elections are not conducted with accuracy and efficiency, the whole democratic system may be endangered. The present chapter is an attempt to trace the evolution of the State Election Commission (SEC) to conduct local body elections in India.

### **Elections before the British Rule in India**

Though the Constitution of India does not specifically define the term election, 'The Representation of People Act, 1951' under Section 2 (d) mentions that "election means an election to fill a seat or seats in either House of Parliament or in the House or either House of the Legislature of a State other than the State of Jammu and Kashmir."<sup>22</sup> In *NP Punnuswami Versus Returning Officer, 1952*, the Supreme Court of India, while interpreting the provisions of Part XV of the Indian Constitution, held that the word 'election' has been used for a long time in connection with the process of selection of proper representation in democratic institutions and this has acquired a wide and narrow meaning. In the narrow sense, 'election' is used to mean the final selection which may embrace the result of the poll when polling or a particular candidate being returned unopposed when there is no poll. In the wider sense, an election is used to connote the entire process culminating in a candidate being declared

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<sup>22</sup> India International Institute of Democracy and Election Management. (2019). *The Representation of the People Act, 1950 and The Representation of the People Act, 1951 and the Rules made thereunder*. New Delhi: Election Commission of India.



elected.<sup>23</sup> In short, democratic elections can be regarded as a prerequisite of democracy. If the people do not have the option to change their leaders peacefully, their alternatives are submission or revolution.<sup>24</sup>

An election is not a new phenomenon in India. Decisions made through election to run the administration, be at the individual family or the community level, have been the Indian philosophical way of life. Ancient scriptures have shown graphic details of people choosing their own heads, i.e., *Ganapatis*, of the great Vaishali Ganarajya to lead them in times of peace and war. Every adult male member of the republican government had the right to vote and to be present in the general assembly to decide all public affairs. A vote was known as *Chhanda* which literally means a 'wish'. With this voting power, a member expresses his free will and choice. A fundamental change of efficient election administration withered away with the British administration centralizing revenue, judicial and legal affairs at the cost of the British predominant empire in India.

### **Elections under the British Rule in India**

Aurangzeb was the last of the powerful Mughal emperor who established control over a very large part of the territory, now known as India. After his death in 1707 many Mughal Governors (Subahdars) and big Zamindars started asserting their authority thereby establishing regional kingdoms. With the emergence of the powerful regional kingdom in various parts of India, Delhi could no longer function as an effective centre of power.

By the second half of the 18<sup>th</sup> Century a new power emerged-the British who came as a small trading company but who actually drained the wealth of India starting unjust, divisive and caste-based elections in India. In the 19<sup>th</sup> century as a consequence to the first war of Indian Independence in 1857, the British Parliament took over the affairs of India from the East India Company under the Government of India Act 1858.

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<sup>23</sup> Kafaltiya, AB. (2007). *Democracy and Election Laws*. New Delhi: Deep and Deep Publications. p.43.

<sup>24</sup> Robert, A. (1999). *Democratization*. Vol. 6, No. 4, London: Frank Cass. p-5

The Act provided for the constitution of local bodies to legislate on local laws under the Indian Council Acts of 1861 and 1892. But the legislative bodies created thereunder were small bodies consisting only of nominated members with no representation of the local people under the former Act and with a small element of local representation under the latter.<sup>25</sup> The elective element for the natives in legislative bodies in British India found its introduction for the first time under the Indian Councils Act, 1909. This Act was passed by the British Parliament to give Parliamentary approval to a scheme known as the Morley-Minto Reforms Act. The Act provided for the setting up of legislative councils at the Centre under the Governor-General of India and in the Provinces under the Provincial Governors.

The first Central Legislative Council constituted under that Act consisted of 68 members, of whom 27 were elected members.<sup>25</sup> They were, however, not chosen by the common people of India but by Special Constituencies such as municipalities, district and local boards, universities, chambers of commerce and trade associations and group of persons such as land holders/tea-planters. This Act far from being beneficial to the Indian people was responsible for sowing the seeds of communal disharmony and hatred between Hindus and Muslims, which ultimately led to the partition of India in 1947 on the ground of religion.<sup>26</sup>

Another Act passed by the British was the Government of India Act 1919 also known as Montague-Chelmsford Reforms Act. However, it also continued the old practice of seat reservation and separate electorates for Muslims. Although it introduced a bicameral legislative body, the Act fell far short of the demands and expectations of the Indian people. The Indian National Congress spearheading the freedom movement described it as 'inadequate', 'unsatisfactory' and 'disappointing' in its Annual Session in 1919.

The Government of India Act 1935 envisaged a set-up of the Bicameral Federal Legislature which consisted of the Council of States (Upper House) and Federal

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<sup>25</sup> Kashyap, Subhas C. (2000). *History of the Parliament of India*. New Delhi: Shipra Publication. p-55.

<sup>26</sup> Mendiratta. (2006). *How India Votes: Election Laws, Practice and Procedures*. New Delhi: Lexis Nexis. p.4.

Assembly (Lower House). However, communal electorates were also encouraged. For instance, eighty-two seats were given to the Muslims, eight each to the Indian Christians and the Europeans, six to the Sikhs and one hundred and five were general seats.

### **Democratic Elections in the Post-Independence Period**

After the attainment of independence in 1947 and on becoming a Sovereign Democratic Republic in 1950, India adopted a Parliamentary form of government where eligible citizens exercise their franchise to elect their representatives to form the governments either at the Central or State levels. Thus, the election is central to Indian Parliamentary democracy so long as it is the process of voting to choose people for official positions and to choose or select candidates of competing political parties to represent the people in the governance of a country.

Elections have been a consistent feature in India. However, the modern form of elections was introduced in India in the early part of the *twentieth* century through the Indian Councils Act, 1909 which provided for setting up of Legislative Councils at the Centre under Governors and reservation of seats exclusively for Muslim communities. This Act introduced the system of Communal Electoral Rolls for the first time in India. The legislative bodies continued up to 1915 and with the adoption of the Government Act 1919, Dyarchy was introduced at the Centre. The Act further strengthened the policy of reservation through the extension of seats for the Sikh communities besides the existing seats for Muslims. The Government of India Act 1935, while continuing with the existing system, introduced Dyarchy in the Provinces. However, the dawn of Indian Independence in 1947 brought numerous changes as well as continuity in the Indian polity. Despite doubts and fears from many quarters at the beginning, the founding founders of modern India had adopted universal adult suffrage thus reposing faith in the wisdom of the common Indians to elect their representatives to the Lower House of the People and the State Legislatures.

Democratic elections were held for the first time in free India in 1951-52 based on universal adult suffrage by which all the citizens above the age of *twenty-one* voted.

Periodic elections continue to be held ever since except in 1975 when the National Emergency was proclaimed according to the provisions of Article 352 of the Constitution of India by the Congress-led Smt. Indira Gandhi government. Democratic elections are conducted at *three* levels within the federal structure of India wherein the citizens directly elect their representatives. At the national level, the citizens directly elect their representatives to the Lok Sabha, House of People. This is known as the general election and is held nationwide. At the state level, citizens elect their representatives to the State Legislative Assemblies and at the grassroots level, citizens elect their representatives to the local bodies. These local bodies include Gram Panchayat, Panchayat Samiti and Zilla Parishad in the rural areas; and Municipal Corporation, Municipality and Nagar Panchayat in the urban areas.

The success of electoral democracy is a great idea of the modern world and India has been its leading proponent for the last sixty-five years.<sup>27</sup> Right after independence, the Constitutional framers adopted indirect democracy, a government run by indirectly elected representatives and elections held from time to time. Apart from this, Universal Adult Suffrage of the right to vote irrespective of caste, creed, religion, sex, etc., with single member constituency, reservation of seats for Scheduled Caste and Scheduled Tribe, Election Commission of India (ECI) to conduct the election to the President, Vice President, Parliament and State Legislatures and SEC to conduct free and fair elections to the local bodies within the State has been made possible by the Constitution of India.

Conduct of General Elections in India for electing People's Representatives in the Lower House of Parliament (Lok Sabha) involves management of the largest event in the world. For Lok Sabha elections, the whole country has been divided into 543 Parliamentary Constituencies, each of which returns one Member of Parliament (MP) to the Lok Sabha, the Lower House of the Parliament. The size and shape of the Parliamentary Constituencies are determined by an independent Delimitation

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<sup>27</sup> Election Commission of India (2016). *Strategic Plan 2016-2025*. Retrieved [https://observerseci.eci.nic.in/Instruction/OBSEVER\\_MATERIAL\\_Kit\\_2020/OBSEVER%20MATERIA L/ELECTION%20PLANNING/Election%20Planning%20related/Strategic%20Plan%20Book%202016-2025.pdf](https://observerseci.eci.nic.in/Instruction/OBSEVER_MATERIAL_Kit_2020/OBSEVER%20MATERIA L/ELECTION%20PLANNING/Election%20Planning%20related/Strategic%20Plan%20Book%202016-2025.pdf) on 6<sup>th</sup> May, 2023. p-15.

Commission, which aims to create Constituencies which have roughly the same population, subject to geographical considerations and the boundaries of the states and administrative areas. The Constitution puts a limit on the size of the Lok Sabha of 550 elected members, apart from two members who can be nominated by the President to represent the Anglo-Indian community. The President can nominate 2 members of the Lok Sabha if it is felt that the representation of the Anglo-Indian community is inadequate.

The members of Rajya Sabha are elected by the Vidhan Sabha of each State using the single transferable vote system. At present, there are 233 members of the Rajya Sabha elected by the Vidhan Sabhas, and there are also twelve members nominated by the President as representatives of literature, science, art and social services. Rajya Sabha members can serve for six years, and elections are staggered, with one-third of the assembly being elected every 2 years.<sup>28</sup>

### **Elections to Local Bodies after the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Act, 1992**

In order to realise the dream of Mahatma Gandhi, the Central Government considered it necessary and expedient to strengthen the grassroots institutions in the country by giving a Constitutional guarantee to their existence, proper constitution and functioning at all times and not to be at the discretion of the State Governments. Eventually, the Constitution (Seventy-third Amendment) Act 1992 and the Constitution (Seventy-fourth Amendment) Act 1992, were passed by the Indian Parliament to ensure, *inter alia*, a term of five years for every Panchayati Raj Institution, like Gram Panchayats, Zilla Parishads, and Municipalities; regular elections to them at the given periodic intervals or earlier in the case of any premature dissolution and the like.

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<sup>28</sup> Government of India. (2016). *The Constitution of India (As on 9<sup>th</sup> November, 2015)*. Part V: Article 80 (1) - (5), 94<sup>th</sup> Amendment, 2006. New Delhi: Ministry of Law and Justice (Legislative Department). P. 38.

Panchayats and their vital role in the Local Self-Governing institutions have been significant from the Vedic period to modern India. Mahatma Gandhi, the Father of the Nation's dream, that every village should be a republic having powers of self-governance has been realized through the inclusion of Article 40 in Part IV of the Constitution of India as one of the Directive Principles of State Policy which provides, *"the State shall take steps to organize village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government."*<sup>29</sup> However, since it was not mandatory and enforceable, the central government and the state governments chose to ignore it.

The Constitution of India aims at the establishment of a welfare state and the strengthening of Local Government may ensure its proper achievement. The welfare services of the modern state, in view of the flexible technique of administration they required, essentially municipal in principle and practice.<sup>30</sup> Accordingly, different Committees recommended that Constitutional status should be accorded to Panchayati Raj and other Local Bodies institutions. For this purpose, the programme of Community Development through people's participation and state aid was introduced on 2<sup>nd</sup> October 1952. On the basis of Balwant Rai Mehta Committee in 1959 the concept of democratic decentralization was adopted and a three-tier system of Panchayats was introduced. However, in the course of time, the Panchayati Raj Institutions and also the urban local bodies, started failing in the responsibilities devolved on them, owing to the paucity of funds and delay in the conduct of timely election to such bodies and by the mid-eighties it was realized that the said Directive was not effective enough to institutionalize Local self-government more particularly Panchayati Raj in India.

The practice of Panchayati Raj as per the Directive Principles of the State Policy was not to the satisfaction of the policy makers. There were several reasons for this. One of the reasons was that no uniform pattern of Panchayati Raj was being

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<sup>29</sup> Government of India. (2005). *The Constitution of India (As on the 26<sup>th</sup> January, 2005)*. New Delhi: Ministry of Law & Justice. p.18.

<sup>30</sup> Quraishi SY, former Chief Election Commissioner of India special article commissioned by External Publicity Division Ministry of External Affairs on the occasion of 65<sup>th</sup> Republic Day, 26, January, 2014.

followed by the State Governments. While few States followed a two-tier system, the others followed a system of three-tiers. Further, many States were not holding regular elections to the Panchayati Raj Institutions (PRIs). Since the elections to the PRIs were being held by the State Governments themselves, their fairness and independence were seriously doubtful and it was mooted that the election to these institutions be conducted by a separate Election Commission.

Subsequently, the Constitution (Seventy-third Amendment) Act 1992 and the Constitution (Seventy-fourth Amendment) Act 1992, were passed by the Parliament to ensure, *inter alia*, a term of five years for every Panchayati Raj Institution, like, *Gram Panchayats*, *Zilla Parishads*, and *Municipalities*; regular elections to them at the given periodic intervals or earlier in the case of any premature dissolution and the like. The Constitution (Seventy-fourth Amendment) Act 1992, to provide for among other things, the constitution of three types of Municipalities, that is, Nagar Panchayats for areas in transition from rural areas to urban areas, Municipal Councils for smaller urban areas and Municipal Corporations for large urban areas, fixed duration of municipalities, appointment of State Election Commission, appointment of State Finance Commission and constitution of Metropolitan and District Planning Committees. States and Union Territories have set up their Election Commissions and elections to municipal bodies have been completed in all States and Union Territories except Jharkhand and Puducherry. These amendments came into force in 1993. The enactment of the 73<sup>rd</sup> and 74<sup>th</sup> Amendments to the Constitution of India is a milestone in the process of establishing democratic decentralized administration through Local Bodies and taking the administration to the doorsteps of the people to ensure economic and social justice. The process of conduct of elections to the local bodies is now a Constitutional obligation as per the said amendments.

### **Origin of Electoral Machineries in India**

When India attained freedom from the British yoke, the Constituent Assembly of free India set up a Union Constitution Committee and Sub-Committees to shape a federal electoral authority at the Centre to conduct, direct and control all elections both at the Central and State levels. The principle of universal suffrage was adopted by the

Constituent Assembly of India. Eventually, under Article 324 of the Constitution of India, the Union Government created the Election Commission of India (ECI) vesting in it the superintendence, direction and control of elections to the Parliament, the State Legislatures and the Offices of the President and the Vice President of India in accordance with the Constitution and Statutes. After the passing of the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Acts, 1992, the electoral machinery in India consists of Election Commission of India (ECI) and State Election Commission (SEC).

### **Election Commission of India**

The Constitution of India declared India or *Bharat* to be a sovereign, socialist, secular democratic republic. India as a new republic adopted Parliamentary democracy from the British and the success of Parliamentary democracy, to a great extent, depends on free, fair and impartial elections. The architects of the Indian Constitution attached great importance to an independent electoral machinery to supervise the election process and to ensure that they are conducted in a free, fair and impartial manner all along the moral, ethical and democratic values. The long-cherished desire of the architects of the Constitution of India was fulfilled with the provision of Article 324 which provides for setting up of an independent Election Commission. Accordingly, the Election Commission of India (ECI) was formally constituted on January 25, 1950, to conduct effective, free and fair elections. The ECI came into force on 26<sup>th</sup> January 1950 to conduct elections of the President and Vice President; elections to the Lok Sabha (House of People) and Rajya Sabha (House of Representatives) at the National level and Legislative Assemblies and Councils at the State level. The ECI is headed by the Chief Election Commissioner, whose status was contemplated to be the same as that of the Judges of the Supreme Court.

The functions of ECI under the Constitution, the Representation of the People Act, 1950 and Representation of the People Act, 1951, or under other relevant Rules may be performed by a Deputy Election Commissioner or by the Secretary to the Election Commission based on the directions as may be given by the ECI in this behalf.



Since 1952, elections to Legislative bodies at the National and State levels have been conducted successfully by the ECI. As long as it is for the smooth conduct of democratic elections at the National or the State level, the ECI may requisition the services of officers of the State Governments to shoulder different responsibilities in electoral administration and management as follows: -

### **Chief Electoral Officer**

The Election Commission of India nominates or designates an Officer of the Government of the State or Union Territory as the Chief Electoral Officer in consultation with that of the State Government or Union Territory Administration. The Chief Electoral Officer of a State or Union Territory is authorized to supervise the election work in the State or Union Territory subject to the overall superintendence, direction and control of the Election Commission.

### **District Election Officer**

The Election Commission designates an Officer of the State Government as the District Election Officer in consultation with the State Government. The District Election Officer is authorized to coordinate and supervise all work in the district or in the area within his jurisdiction in connection with the conduct of all elections to Parliament and the Legislature of the State subject to the superintendence, direction and control of the Chief Electoral Officer. With the previous approval of the Election Commission, the District Election Officer makes available a sufficient number of polling stations for every constituency, the whole or greater part of which lies within his jurisdiction, publishes a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided.

### **Observer**

The Election Commission may nominate an Observer who shall be an officer of Government to watch the conduct of election or elections in a constituency or a group of constituencies. Earlier, the appointment of Observers was made under the plenary powers of the Commission. However, with amendments made to the

Representation of the People Act, 1951 in 1996, the appointments have become statutory appointments. The Observer reports directly to the Commission and has the power to direct the Returning Officer for the constituency or for any of the constituencies for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result if in his opinion booth capturing has taken place. In case of stopping the counting of votes or non-declaration of result, a report shall be sent by the Observer to the Election Commission, which issues appropriate directions.

### **Returning Officer**

The Election Commission of India designates an officer of the Government or a local authority as the Returning Officer for each of the Assembly and Parliamentary constituencies in consultation with the State Government or Union Territory Administration. The same person can be appointed as the Returning Officer for more than one constituency. In addition, the Election Commission of India may appoint one or more Assistant Returning Officers, from the State or Union Territory Government or local authority of the concerned Government, for each of the Assembly and Parliamentary constituencies to assist the Returning Officer in the performance of his functions in connection with the conduct of elections. Every Assistant Returning Officer, subject to the control of the Returning Officer, is competent to perform all or any of the functions of the Returning Officer except functions that relate to the scrutiny of nominations unless the Returning Officer is unavoidably prevented from performing the said function. While the Returning Officer may always include an Assistant Returning Officer in performing any function that he is authorized to perform. It is the general duty of the Returning Officer at any election to perform all such acts as may be necessary for effectively conducting the election in the manner provided by the Representation of the People Act, 1951 and rules or orders made thereunder.

### **Presiding Officer**

The District Election Officer appoints a Presiding Officer for each polling station. If a Polling Officer is absent from the polling station, the Presiding Officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of or has been otherwise working for, a candidate in or about the election, to be the Polling Officer during the absence of the former officer, and inform the District Election Officer (DEO) accordingly. The same person can be the Presiding Officer for more than one polling station in the same premises. It is the general duty of the Presiding Officer at a polling station to keep order there and to see that the poll is fairly taken.

### **Polling Officer**

A Polling Officer performs all or any of the functions of a Presiding Officer based on his direction. If the Presiding Officer is absent or incapacitated from the polling station due to illness or other unavoidable cause, his functions shall be performed by such Polling Officer as has been previously authorized by the District Election Officer to perform such functions during any such absence. It is the duty of the Polling Officer at a polling station to assist the Presiding Officer for such station in the performance of his functions. The Returning Officer (RO), Assistant Returning Officer, Presiding Officer, Polling Officer, and any other officer appointed so and any police officer designated for the time being by the State Government, for the conduct of any election shall be deemed to be on deputation to the Election Commission during the election period and such officers shall be subject to the control, superintendence and discipline of the Election Commission.

### **State Election Commission following the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Acts, 1992**

The Constitution of India aims at the establishment of a Welfare State and the strengthening of Local governments may ensure its proper achievement. In view of the flexible technique of administration they required, the welfare services of the modern

State are essentially municipal in principle and practice.<sup>31</sup> Decentralization of the development process, active participation of the people and devolution of powers at the grassroots democracy are essential for growth and equitable distribution of development benefits. To establish a Welfare State, the programme of Community Development through people's participation and State aid was introduced on 2<sup>nd</sup> October 1952. Based on the recommendations of Balwant Rai Mehta Committee in 1959, the concept of Democratic Decentralisation was adopted and a three-tier system of Panchayati Raj was introduced in the plain areas of the country. In the course of time, the Panchayati Raj Institution and Urban Local Bodies started failing in their responsibilities owing to the paucity of funds and delay in the conduct of timely elections to such bodies. Different Committees recommended that Constitutional status should be accorded to Panchayati Raj institutions and Local Bodies and that the elections to these institutions be conducted by a separate Election Commission.

Efforts to decentralize development and harness active people's participation was culminated in the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts in 1992 which provided Constitutional status to grassroots democracy. The 73<sup>rd</sup> Constitutional Amendment Act, of 1992 relates to democratic decentralization at the grassroots level in rural areas while the 74<sup>th</sup> Constitutional Amendment Act, 1992 pertains to urban local governance. Consequently, the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Acts came into effect in 1993. By these two Amendments, the Constitution of India conferred Constitutional status to the institutions of Local Self Government (LSG) both in the rural and the urban areas.

According to Provisions under the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts, 1992, almost all the States and the Union Territories of India have enacted laws for the management of Panchayats and Municipal Bodies. The same Acts provided for the establishment of a State Election Commission (SEC) in each State to be appointed by the Governor to supervise, direct and control the preparation of electoral rolls and the

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<sup>31</sup> Quraishi SY, former Chief Election Commissioner of India special article commissioned by External Publicity Division Ministry of External Affairs on the occasion of 65<sup>th</sup> Republic Day, 26, January, 2014.

conduct of elections to Panchayat and Municipalities are vested with the SEC.<sup>32</sup> Subject to the provisions of the Constitution, the legislature of a State may, by law, make provisions with respect to all matters relating to elections to such local bodies.<sup>33</sup> Article 243U highlights the role of the SEC in conducting regular elections after the expiry of every five years and whenever required. Now, regular elections to these Institutions after five years are ensured under SECs through the provisions of Articles 243E and 243U of the Constitution across the country.

The 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts of 1992, laid a firm foundation for the establishment, functioning and sustainability of democratically elected Panchayats and Urban Local Bodies. The Constitutional Amendments not only provide constitutional recognition of the Local Governments in India but also ensure the provision for the establishment of SEC to conduct the elections to the Local Bodies in a free and fair manner. As the electoral process is the key element in democratizing the structure of Local Self Governments, these democratic elections to the Local Bodies are to be conducted by an independent constitutional authority, namely, the State Election Commission (SEC), to be appointed by the concerned State Government under Articles 243K and 243ZA, on the lines of the independent Constitutional authority, the ECI, which conducts elections to the offices of the President and the Vice-President of India, and to Parliament and State Legislatures under Article 324.

Part IX and IXA of the Constitution of India which were brought into force by the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments deal with the matter relating to the composition and functional ambit of the Panchayats and Municipalities respectively. Under Article 243K and 243ZA, the responsibility of superintendence, direction and control over the preparation of electoral rolls and the conduct of elections to Panchayat and Municipalities have been vested with the State Election Commission. Subject

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<sup>32</sup> Government of India. (2016). *The Constitution of India (As on 9<sup>th</sup> November, 2015), Articles 243K and 243ZA*. New Delhi: Ministry of Law and Justice (Legislative Department). P 135 & 145.

<sup>33</sup> Chakraborty, Biswanath. (July-September 2015). Emerging Role of State Election Commissions of India: A Diagnostic Study for Future Road Map. *The Indian Journal of Political Science*. LXXVI (3). Pp. 477-483 (ISSN No. 0019-5510). Retrieved on 6<sup>th</sup> May, 2023 from <https://www.jstor.org/stable/26534871>

to the provisions of the Constitution, the legislature of a State may, by law, make provisions with respect to all matters relating to elections to such local bodies.<sup>34</sup>

To conduct elections in a free and fair manner in a democratic set-up, the landmark 73<sup>rd</sup> and 74<sup>th</sup> Amendments to the Constitution of India as incorporated under Article 243K and Article 243ZA vested powers of the superintendence, direction and control of preparation of electoral rolls and conduct of all elections to Panchayats and Municipal Bodies with the State Election Commission consisting of a State Election Commissioner who should be appointed by the Governor or the President of India as in the case of Union Territories. Since Article 243K and 243ZA of the Constitution enjoins all the States across the country to set up State Election Commissions of their own, the institution of State Election Commission was created in most of the States clearly with the intent to establish a Constitutional authority having an independent functioning to conduct free and fair elections to Panchayats and Municipalities.

### **State Election Commission of Mizoram and Elections to Local Bodies Prior to the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Acts, 1992**

In the exercise of the powers conferred under Article 243K of the Constitution of India read with sub-Section (1) of Section 345 of the Mizoram Municipalities Act, 2007, the Government of Mizoram constituted the State Election Commission for superintendence, direction and control of the preparation, revision and correction of electoral rolls and for conduct of all elections to the various local bodies in the State which will consist of a State Election Commissioner appointed by the Governor under clause (1) of Article 243K of the Constitution of India. In order to provide for the administration of Town areas and establishment of Municipalities in Towns, Transitional areas and Urban areas in Mizoram for the purpose of bringing them in conformity with the purpose, substance and direction of the Constitution (Seventy-Fourth) Amendment Act, 1992 in general and in particular to endow the Municipalities with functions and powers to enable them to function as vibrant Institution of Local Self-Government with greater People's participation aiming at the realization of

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<sup>34</sup> *Ibid.*

economic and social justice, the State Legislative Assembly of Mizoram had enacted the official Bill which has become the Mizoram Municipalities Act, 2007. Eventually, the State Election Commission was constituted as provided under the said Act by the Government of Mizoram.<sup>35</sup> Accordingly, the State Election Commissioner had also been appointed by way of selection, from amongst such persons as having sufficient experience in administration, law or process of election.

The SEC is responsible for the preparation of the Electoral Rolls and conduct of elections to the Local Bodies in the State of Mizoram in a free, fair and impartial manner. As a first step, the election to Village Councils in 2009 and the subsequent elections to the Village Councils were entrusted to the State Election Commission. Moreover, the conduct of Elections to Municipal Bodies, Lai, Mara and Chakma Autonomous District Councils (CADC) and Sinlung Hills Council (SHC) is the Constitutional and statutory responsibility of the SEC.

Before the British rule in the Lushai Hills, present Mizoram, there was an established village administration under the Chief or *Lal* and his Council of Elders or *Upas*, nominated or appointed by him. The Chief was not elected but hereditary and was supreme within his area of jurisdiction. However, the people could, at any time, leave the Chief's jurisdiction and migrate to another village, if they felt that the Chief ruled despotically. This act on the part of the subjects was considered a severe disgrace to him. The Chief ruled over his subjects based on the customary law and practices of the land.

The British annexed the present Mizoram in 1891 and they continued with the same practices as were prevalent prior to their annexation with certain modifications. The erstwhile Lushai Hills, present Mizoram, was divided into two Districts, North and South Lushai Hills, with headquarters at Aizawl and Lunglei in 1891. However, for the convenience of administration, the two Districts were amalgamated into one district of Lushai Hills District, with headquarters at Aizawl and *two* sub-divisions at Aizawl and Lunglei. While the Chief and his Council were responsible for internal

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<sup>35</sup> Government of Mizoram, Notification No. B.11013/2/2008-UD&PA (MUNICIPAL), Dt. 28.8.2008.

village administration, the Superintendent was the head of the District and the Governor of Assam was responsible for the Lushai Hills District acting under the Viceroy and the Governor- General in India. The provisions of the Government of India Act, 1919 and 1935 were not applicable to the territory and any semblance of political activity was suppressed by the district authorities with firm hands lest the Mizo develop political consciousness and fight against the injustice subjected to them.<sup>36</sup>

India's independence from British rule culminated in the creation of the Sixth Schedule to the Constitution of India which provided for the establishment of Autonomous Districts and Regional Councils within the Autonomous Hills District in Assam. The Sixth Schedule was to provide the tribal people and their areas with the opportunity to protect their indigenous customs, traditions and values and be free from fear of exploitation or domination from the plain people. Subsequently, the Lushai Hills District Council came into being on 25<sup>th</sup> April 1952 and the Pawi-Lakher Regional Council (PLRC) was constituted on 23<sup>rd</sup> April 1953 with powers and functions conferred by the Sixth Schedule. In the meantime, pressures were on the Assam Government by the natives of the Lushai Hills to abolish the institution of Chieftainship as they considered it to be undemocratic. Accordingly, on 16<sup>th</sup> August 1954, the rights and interests of two hundred and fifty-nine Chiefs in the District Council were taken over by the Council and those of fifty Chiefs in the Pawi-Lakher Region were assumed by the Regional Council on 15<sup>th</sup> April 1956.<sup>37</sup>

On 1<sup>st</sup> December 1953, The Lushai Hills District (Village Councils) Act was enacted and the institution of Chieftainship was abolished. The Act established the democratically elected Village Councils (VCs) in the District with powers to administer the villages as had been done by the Chiefs and his Council of *Upas*, called Elders. The name of the Lushai Hills District Council was changed to the Mizo District Council on 1<sup>st</sup> September 1954 and consequent to that all cases relating to the native Mizo were taken care of by the Council Courts while only those involving non-tribals were taken up in the courts of the Deputy Commissioner and his Assistants.

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<sup>36</sup> Prasad, R.N. (1987). *Government and Politics in Mizoram: 1947-1986*. New Delhi: Northern Book Centre. p. 48.

<sup>37</sup> Ray, Animesh. (1982). *Mizoram: Dynamics of change*. Calcutta: Pearl Publishers. p. 156.



In its initial inception, the Village Council system was under the Mizo District Council and the Government of Assam had little or no control over the Village Councils. The District Council made laws for the governance and elections of the Village Councils. It was responsible for the whole electioneering process from demarcating the areas of different Village Councils, publishing of dates of elections to appointment of Presidents, Vice Presidents and Treasurers of the newly elected Village Councils. Though they were not elected by the voters, the Secretaries of the Village Councils were appointed by the District Council as proposed by the party in power. The District Council also had the power to dissolve the Village Councils and announce by-elections according to its laws and provisions. It was responsible for the smooth functioning of local bodies or grassroots democracy in the Village Councils.

The first elections to the Village Councils within the Lushai Hills District were conducted in 1954 in accordance with the provisions of the Lushai Hills District (Election to Village Councils) Rules, 1954. It was the first time that the people of the District experienced and exercised their adult franchise. The second, third and fourth elections to the Village Council under the District Council were held in 1957, 1960 and 1963 respectively. With the outbreak of political disturbance in 1996, the terms of the then-existing District Council and the Village Councils were extended. However, many members of the existing Village Councils resigned and some were appointed afresh by the District Council as the situation was not conducive for fresh elections. Some Villages also appointed Village Council members without the knowledge of the District Council. The fifth election to the District Council was held on 23<sup>rd</sup> April 1970 and the newly elected District Council took measures to conduct the election of the Village Councils. Subsequently, the last and fifth election to the Village Councils under the Mizo Hills Autonomous District Council was held in 1971.

The enactment of the North-East Areas (Re-organisation) Act, 1971 by the Parliament accorded the status of Union Territory to the Mizo District Council on 21<sup>st</sup> January 1972 with *thirty-three* members of the Legislative Assembly (*thirty* elected and *three* nominated) and *two* seats in the Parliament. The new nomenclature of the District was changed to that of Mizoram by the Act. On 18<sup>th</sup> April 1972, the *first* election to

the Mizoram Legislative Assembly and for the Lok Sabha seat in the Union Territory of Mizoram was conducted. The Act also trifurcated the Pawi-Lakher Regional Council into Pawi, Lakher, Chakma Autonomous District Councils on 2<sup>nd</sup> April 1972 with their headquarters at Lawngtlai, Saiha and Chawngte respectively. Elections to the Village Councils in the new Autonomous District Councils were held in 1974 and the Government of Mizoram has little or no control over the management of Village Councils which fall within the jurisdictions of the three Autonomous District Councils. It is pertinent to note that two sets of Village Councils exist in the Union Territory of Mizoram, one under the Government of Mizoram and another under the three District Councils of Pawi, Lakher and Chakma. In the Autonomous District Council area, the local government can be classified into three stages - District Council, Town Committee and Village Council. However, a Town Committee has not yet been established in any of the District Councils of Mizoram. Therefore, the Village Councils, established at the grassroots level in the village are the only viable Local Self Government other than the District Council Government.<sup>38</sup>

The new administrative arrangement of the Union Territory of Mizoram brought the Village Councils under the ambit of the newly created Local Administration Department (LAD) which was created on 1<sup>st</sup> January 1973. The LAD was entrusted with the responsibility of demarcating the areas of Village Councils and all other arrangements concerned with the elections of Village Councils. The first election to the Village Councils in the Union Territory of Mizoram was held on 5<sup>th</sup> and 7<sup>th</sup> May, 1975 and was conducted for the first time by the LAD. The second election to the Village Councils was held on 15<sup>th</sup> February 1982 in Lunglei District and 24<sup>th</sup> February 1982 in Aizawl District. Elections to Village Councils, which were grouped following the political unrest in the State, were granted permission to hold elections and by-elections of Village Councils to these villages were held on 24<sup>th</sup> February 1983. The third election to the Village Councils was held on 1<sup>st</sup> and 2<sup>nd</sup> November, 1984.

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<sup>38</sup> Doungel, J. (2019). Local self-government in autonomous district council area of Mizoram with special reference to the Lai Autonomous District Council. In *Annual Conference of the North East India Political Science Association (NEIPSA)*.

With the signing of the Mizoram Peace Accord on 30<sup>th</sup> June 1986, Mizoram became the *twenty-third* State of the Indian Union and the first election to the Village Councils under the newly created State of Mizoram was held on 5<sup>th</sup> November 1987. The election was conducted by the LAD. The second Village Councils election was held on 25<sup>th</sup> October 1990, the third election from 1<sup>st</sup> to 4<sup>th</sup> May 1997, the fourth on 16<sup>th</sup> December 1999 and the fifth on 30<sup>th</sup> and 31<sup>st</sup> October 2002. In the meantime, the Government of India enacted the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Act in 1992 giving Constitutional status to the local bodies. However, this Act was not applicable to the State of Mizoram and other North-Eastern States for reasons that these States have efficient traditional village institutions.

In 1997, the number of District in Mizoram was increased to eight and election to the Village Councils of Aizawl, Mamit and Serchhip District was conducted by the District Local Administration Officers, LAD, Aizawl and those of Lunglei, Champhai and Kolasib was conducted by the District Officers, LAD. The District Local Administration Officers (DLAO), LAD of the concerned Districts conducted the sixth election to the Village Councils on 24<sup>th</sup> and 25<sup>th</sup> February 2006.

In the meantime, the Government of Mizoram enacted the Aizawl Municipalities Act in 2007. Subsequently, the 1<sup>st</sup> Election to Aizawl Municipal Council for 19 Wards was held on 3<sup>rd</sup> November 2010, wherein *six* seats were reserved for women on a rotational basis. In all the other districts and autonomous districts, the hitherto VCs are still in existence, but their elections are conducted by the State Election Commission from 2009 onwards.

### **State Election Commission in West Bengal and Elections to Local Bodies Prior to the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Acts, 1992**

West Bengal has had a long history of local government. In 1870, the Bengali *Chowkidari Act* for the first time established statutorily constituted Panchayats in Bengal mainly to collect *Chowkidari* tax for the maintenance of the village watchmen or Chowkidar. The 1882 Resolution issued by Lord Ripon, then Viceroy of India, led to the enactment of the Bengal Local Self-Government Act of 1885. However, the

local institutions were dominated by the government officials. Following the Government of India Act, 1919, the existing Local Government Acts were amended or new legislations were enacted in different provinces, including Bengal.

In the years subsequent to the Government of India Act, 1919, undivided Bengal had two types of local government institutions - The district board at the top and the Union Boards at the village level, having a corporate status and a separate statute delineating its powers, functions and obligations without having any organic linkage between the two. The local boards at the intermediate level did not fit into the scheme and they ceased to exist from 1936. The District Boards and the Union Boards functioned for the next four decades or so. However, these institutions suffered from various weaknesses because they were not fully democratic institutions; the representatives were elected by a restricted electorate consisting of tax payers only and women had no voting rights. Besides, the paucity of funds and the control exerted by the officials did not provide for autonomy and hindered their growth.

In 1957, a two-tier rural governance structure was introduced wherein the lower body was directly elected by voters based on adult franchise and the upper body consisted of the chairpersons of the lower body and some other members indirectly elected by the lower body. On 4<sup>th</sup> June 1978, the Panchayat elections to elect representatives to the three-tiers of panchayat viz., Panchayat Samiti and Zilla Parishad in terms of West Bengal Panchayat Act of 1973 were held. Representatives of all the Tiers were elected directly based on adult franchise, each voter casting three votes separately for each tier. The political parties were allowed to contest openly with their party symbols, thus giving formal recognition to this institution as essentially a political institution. Subsequent elections were not held for a long time and members remained in office without the consent of local opinion.

The 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Acts, 1992, have brought sweeping changes to rural and urban local governance in West Bengal and enabled them to operate as effective institutions of local self-government. To conduct democratic elections for the rural and urban local governments, SEC of West Bengal was established as an independent Constitutional authority under the Provision of

Article 243K of the Constitution of India read with the provisions under ‘The West Bengal SEC Act, 1994.’<sup>39</sup> Since its inception, the SEC of West Bengal has been conducting democratic elections for Municipal Corporations, Municipalities, Zilla Parishads, Panchayat Samities and Gram Panchayats. At present, there are 825 Zilla Parishads Constituencies spreading over 20 Zilla Parishads and 1 Mahakuma Parishad, 9,240 Panchayati Samiti Constituencies in 341 Panchayati Samitis and 48,751 Gram Panchayat Constituencies spreading over 3,354 Gram Panchayats. In the urban areas of the State, there are as many as 7 Municipal Corporations and 119 Municipalities in West Bengal.

West Bengal has one of the strongest SECs in the country with multifarious functions to be performed both under the Constitution of India and under ‘The West Bengal SEC Act, 1994’ as well as ‘The West Bengal Panchayat Elections Act, 2003,’ etc., as amended from time to time.

## **Conclusion**

In order to strengthen the institution of the State Election Commission across the country, the following initiatives were found to have been contemplated during the last couple of decades:

### **A Common Forum of State Election Commissioners**

The State Election Commissioners across the country constituted a forum by way of the Conference of State Election Commissioners to have a platform to share their experiences, difficulties, and problems and discuss the election laws of their respective States and also to interact on other issues to find out solutions to many problems and to make this institution more effective. Keeping in view the above objective, the first Conference of State Election Commissioners was held in April 1996 in Lucknow.<sup>40</sup> In these Conferences, the forum of the State Election Commissioners

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<sup>39</sup> Government of West Bengal. (1994). *The West Bengal State Election Commission Act, 1994*. West Bengal: Law Department.

<sup>40</sup> Chakraborty, Biswanath. (2014). *The Emerging Role of State Election Commission*. Kolkata: Progressive Publishers. pp. 55-56.

has set an agenda for necessary action on the part of the State Government. The forum has also placed its demand before the President of India as well as the Ministry of Panchayati Raj and Rural Development at the Centre. Primarily due to the pressure from the forum of the State Election Commissioners, different State Governments have taken various actions in strengthening the SECs in their respective States as per the provision of the Constitutional Amendment Act, 1992 during the last ten years.<sup>41</sup>

Through different Conferences, State Election Commissioners could successfully bring the following issues to the Government of India as well as their respective State Governments for their consideration:<sup>42</sup>

1. Transfer of ballot boxes by the Election Commission of India to the State Election Commissions and loaning of Electronic Voting Machines.
2. Maintaining a similarity in the Panchayat elections throughout the country in matters of election procedures and provisions of law.
3. Preparation of model service conditions for the State Election Commissioners.
4. Issues relating to the reasonable autonomy to the SECs in discharging their Constitutional responsibilities.
5. Need for an amendment to the Constitution and Law including the Model Panchayat Election Bill and the Model State Election Commissioners (Conditions of Service) Bill.
6. Identifying good practices in local elections and also areas of common concern.
7. The task of delimitation and reservation of Constituencies.
8. Matters related to the election Fund.
9. Matter related to election personnel.

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<sup>41</sup> *Ibid.*, p.56.

<sup>42</sup> *Ibid.*, pp.56-57.

### **All India Level State Election Commission Standing Committee**

In November 2005, the Conference of State Election Commissioners in Chennai felt the necessity to form a Standing Committee comprised of State Election Commissioners from various zones across the country. The State Election Commissioner of Delhi was designated as Convener since it would be convenient for all members of the Standing Committee to meet in Delhi and discuss numerous mutual issues. Members of the Standing Committee often meet multiple times per year to examine a wide range of pressing issues.

It may be noted that following the 73<sup>rd</sup> and 74<sup>th</sup> Constitution Amendment Acts of 1992, multiple Round Table Conferences of Ministers in Charge of Panchayati Raj were conducted in various Districts of India. The Sixth Round Table Conference of Ministers in Charge of Panchayati Raj, convened in November 2004 in Guwahati, thought that there should be a uniform standard in Panchayat elections throughout the country in terms of election procedures and legal provisions.<sup>43</sup>

### **Task Force for Strengthening the Institution of State Election Commission**

Given the level of commitment of the State Governments, a Task Force was constituted in March 2011 under the chairmanship of Dr.Hrusikesh Panda, then Additional Secretary, Ministry of Panchayati Raj with representatives of the Ministry of Urban Development, Ministry of Law and Justice, some Secretaries of State Government serving in the Department of Panchayati Raj as well as a representative group of State Election Commissioners.

The Task Force was constituted mainly to suggest measures for strengthening the institution of the State Election Commissions. The terms of reference of the Task Force were:<sup>44</sup>

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<sup>43</sup> *Ibid.*p.59.

<sup>44</sup> *Ibid.*p.65-67.

- a) To examine variations in the working of the SECs in different States/UTs, identify good practices and also areas of concern.
- b) To suggest measures for giving reasonable autonomy to State Election Commissions in discharging their responsibilities.
- c) To examine the need for an amendment to the Constitution and Law including the Model Panchayat Election Bill and the Model State Election Commissioners (Conditions of Service) Bill.

On perusal of the above, it is a fact that following the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Acts, 1992, the State Election Commission is a Constitutional authority that came into existence to conduct free, fair and timely elections to Rural and Urban Local Bodies. As a result, there are regular local elections, which are largely free and fare and often quoted as evidence of the validity and legitimacy of India's democracy. However, the state of affairs in West Bengal in the recent past has been a matter of serious concern due to disagreement between the State Government and the State Elections Committee (SEC) on several issues. Unless the State Government allows the SEC to function independently of the State Government like the Election Commission of India in consonant with the Supreme Court's ruling in Case No. Appeal (Civil) 5756 of 2005 (Kishan Singh Tomar –vs- Municipal Corporation of the City of Ahmedabad & Ors), the functioning and survival of the State Election Commission may continue to be affected and highly unpredictable.

In order to ensure the smooth functioning and survival of the SECs, the State Governments are duty-bound to abide by the directions of the State Election Commission in the same manner in which it follows the directions of the Election Commission of India during the elections for the Parliament and State Legislatures.



**CHAPTER-III**

**ORGANIZATIONAL STRUCTURE AND PERSONNEL ADMINISTRATION  
OF THE STATE ELECTION COMMISSIONS OF MIZORAM AND WEST  
BENGAL**

**Introduction**

The term ‘Organization’ is derived from the word ‘Organicism’ which means an organized body with connected interdependent parts sharing a common activity.<sup>45</sup> Thus, an organization focuses on human grouping in which the jobs are performed for the attainment of specific objectives. The term organization is also used in three different senses, that is, designing the administrative structure, designing and building the administrative structure, and the administrative structure itself. These three views represent a mechanistic (structural) view of the organization in the sense that they do not convey the idea of human relationships (informal relations). However, an organization is both a structure and a set of human relationships. Public Administration thinker, Luther Gullick, identifies four bases of an organization such as ‘purpose’ which is the function performed by the organization, ‘process’ which means a technique or specialized skill used by the organization in the performance of work, ‘persons’ which is a group of people served by the organization, and ‘place’ which means the territorial area covered by the organization.<sup>46</sup>

To have coordinated activities, every organization has a management structure that determines the relationship between different members and their activities. The structure of an organization will determine the modes in which it operates and performs. Organizational structure allows the expressed allocation of responsibilities for different functions and processes to different entities such as the branch, department, workgroup, and individual. Therefore, the organizational structure provides a method through which work flows. It allows groups to work together within

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<sup>45</sup> Retrieved 6<sup>th</sup> May, 2023 from <https://www.preservearticles.com/organisation/organisation/31494>

<sup>46</sup> PG Pathsala. *Public Administration: An Introduction*. Retrieved on 6<sup>th</sup> May, 2023 from [http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp\\_content/S000030PU/P000179/M016465/ET/146588976315et.pdf](http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/S000030PU/P000179/M016465/ET/146588976315et.pdf) . P – 5.

their individual functions to manage tasks. Similarly, the organizational structure of the State Election Commission (SEC) in Mizoram and West Bengal has provided guidance to all employees by laying out the official reporting relationships that govern the workflow of the Commission. Accordingly, this Chapter has attempted to highlight the profile of the organizational structure of the State Election Commissions in Mizoram and West Bengal.

### **Constitution of the Mizoram State Election Commission**

In the exercise of the powers conferred under Article 243K and 243ZA of the Constitution of India read with Sub-section (1) of Section 345 of the Mizoram Municipalities Act, 2007, the Government of Mizoram constituted the State Election Commission (SEC) on 3<sup>rd</sup> October 2008 to conduct General Elections, By-Elections to Local Bodies and to prepare Electoral Rolls for use in the General Elections and By-Elections to Local Bodies including Autonomous District Councils (ADCs).<sup>47</sup> In brief, the SEC of Mizoram is responsible for superintendence, direction and control of the preparation, revision and correction of electoral rolls and for the conduct of all elections to the various Local Bodies in Mizoram in a free, fair and impartial manner.

Initially, General Election to the Village Councils 2009 was entrusted to the SEC and the subsequent elections to the Village Councils were successfully conducted by the SEC. Apart from the elections to Village Councils, the SEC has been given the Constitutional and statutory responsibilities of conducting elections to Municipal bodies, the Lai, the Mara and the Chakma Autonomous District Councils, as well as Sinlung Hills Council (SHC).

### **Appointment of State Election Commissioner of Mizoram**

As per Article 243K and Article 243 ZA, the superintendence, direction and control of preparation of electoral rolls and conduct of all elections to Panchayats and Municipalities vests with a State Election Commission consisting of a State Election

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<sup>47</sup> Retrieved on 08/10/2022 from <https://sec.mizoram.gov.in/page/profile>

Commissioner to be appointed by the Governor. The SECs are to function independently of the State Government concerned. The SEC cannot be removed from office except in like manner and on like ground as a Judge of a High Court, and the Governor is mandated, when requested by the SEC, to make available such staff as may be necessary for the discharge of his duties. Subject to these provisions, the Constitution empowers the State Legislature to make laws regarding elections to Panchayats.

The Constitution of India envisages as follows:

1) *“Art. 243K: (1) The Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.*

*(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine:*

*Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.*

3) *Art. 243ZA: (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Municipalities shall be vested in the State Election Commission referred to in Article 243K.”*

In accordance with the Constitutional provisions as aforementioned, the Government of Mizoram also enacted the Mizoram Municipalities Act, 2007 wherein the following provisions were incorporated under Section 345(1)- *With effect from such date as the State Government may by notification, appoint, there shall be a Commission, to be called the Mizoram State Election Commission, consisting of a*

*State Election Commissioner appointed by the Governor under clause (1) of Article 243K of the Constitution.*

In the exercise of the powers conferred by Clause (2) of Article 243K and Article 243ZA of the Constitution of India read with sub-section (1) of Section 345 of the Mizoram Municipalities Act, 2007, the Government of Mizoram further made the Mizoram State Election Commission (Conditions of Service) Rules, 2011 wherein the following provisions were incorporated under Rule 3:

*The Governor shall constitute a State Election Commission for superintendence, direction and control of the preparation, revision and correction of electoral rolls and for conduct of all elections to the various local bodies in the State.*

*The Governor shall, on the recommendation of the State Government, appoint a State Election Commissioner by publication in the Official Gazette;*

*Provided that a person shall not be qualified for appointment as a State Election Commissioner, unless he holds or has held office in the rank of Secretary to the Government of Mizoram having knowledge and experience in conducting elections.*

*The State Election Commissioner may, by writing under his signature addressed to the Governor, resign his office.*

*Prohibition as to future employment – On ceasing to hold office, the State Election Commissioner shall be eligible for appointment as Chief Election Commissioner or Election Commissioner under Article 324 of the Constitution of India or as State Election Commissioner in any other State under Article 243K of the Constitution of India, but not for any other employment either under the Government of India or under the State Government.*

*A person who has held office of the State Election Commissioner shall be ineligible for reappointment to that office if he has been removed from that office before the expiry of tenure.*

Therefore, in exercise of the powers conferred under Article 243K of the Constitution of India read with sub-section (1) of Section 345 of the Mizoram Municipalities Act, 2007, the Government of Mizoram constituted the State Election Commission (SEC), Mizoram, for superintendence, direction and control of the preparation, revision and correction of electoral rolls and for the conduct of all elections to the various Local Bodies in the State on 28<sup>th</sup> August 2008, which will consist of a State Election Commissioner appointed by the Governor under clause (1) of Article 243K of the Constitution of India. Pursuant to the constitution of the State Election Commission, the first State Election Commissioner was appointed by the Governor on 2<sup>nd</sup> September 2008 on the recommendation of the State Government. The first State Election Commissioner then assumed his office on 16<sup>th</sup> September 2008 and the State Election Commission was officially inaugurated on 3<sup>rd</sup> October 2008.

The above Constitutional provisions indicate that the State Election Commission (SEC), Mizoram is a Constitutional body constituted under Article 243K & 243ZA of the Constitution of India and a single-member Commission headed by the State Election Commissioner and is responsible for conducting and supervising free and fair elections to the Local Bodies, Autonomous District Councils, etc in the State.

The Constitution explicitly stipulates that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment. Accordingly, State Election Commissioner can be removed from his office only by an order of the President, "after an address by each House of the Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehavior or incapacity". Whereas the framers of the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional provisions attached considerable significance to an independent electoral machinery for the conduct of elections, the condition of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine.

Following is the list of State Election Commissioners in Mizoram:

*Table 1: List of State Election Commissioners, Mizoram*

<i>Sl.No.</i>	<i>Name</i>	<i>Tenure (Years)</i>
1.	Pu C. Ropianga IAS (Retd.)	03.10.2008 – 14.10.2013
2.	Pi L. Tochwng IAS (Retd.)	14.10.2013 – 01.11.2019 (Addl. Charge) 01.11.2014 – 31.12.2019 (Full Charge)
3.	Pu Lalnunmawia Chuaungo IAS, Chief Secretary	31.12.2019 – 02.03.2020 (Addl. Charge)
3.	Pu Laima Chozah IAS (Retd.)	2.3.2020– till date

Source: *Records of the Office of State Election Commission, Mizoram.*

### **Qualifications for Appointment of State Election Commissioner**

The Governor shall, on the recommendation of the State Government, appoint a State Election Commissioner by publication in the official gazette;

Provided that a person shall not be qualified for appointment as a State Election Commissioner unless he holds or has held office in the rank of Secretary to the Government of Mizoram having knowledge and experience in conducting elections<sup>48</sup>.

### **Tenure of Office**

The State Election Commissioner shall hold office for five years from the date on which he enters his office or until he attains the age of 65 years, whichever is earlier.<sup>49</sup>

Furthermore, the State Election Commissioner shall not be removed from his office except in the manner and on the like grounds as a Judge of the High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

The State Election Commission, Mizoram, Rules 2011 also mentioned that where no appointment is made on the expiry of the State Election Commissioner, the

<sup>48</sup> The Mizoram Gazette Extraordinary Published by Authority, VOL-XL, 14.9.2011, Issue No. 416. Notification. B. 13018/2/2008-UD&PA (SEC), the 13<sup>th</sup> September, 2011.

<sup>49</sup> *Ibid.*

incumbent would continue in office for a period up to six months thereafter or till the new incumbent is appointed whichever is earlier.<sup>50</sup>

In case of resignation from office, the State Election Commissioner may, by writing his/her signature addressed to the State Governor, tender his resignation. If the State Election Commissioner is, by reason of leave, illness or other cause, temporarily unable to exercise the powers and perform the duties of the office or, a vacancy occurs in the office of the State Election Commissioner by reason of death, resignation or expiry of the term of the office, removal or otherwise, then, the Governor shall, by notification, designate an officer of the State Government who shall act as the State Election Commissioner during the period of such temporary inability or pending the appointment of a State Election Commissioner, as the case may be.

### **Salaries and Allowances**

The State Election Commissioner shall be paid a fixed salary of Rs 80,000 /- (Pre-revised Rs 26,000/-) per month and such other allowances, at such rates as admissible to the Chairman of Mizoram Public Service Commission (MPSC) from time to time.<sup>51</sup>

If the State Election Commissioner at the time of his appointment is in receipt of a pension or has become entitled to receive any pension and other retirement benefits in respect of any previous service under the Government of India or a State Government, a local body or any other body wholly or substantially owned or controlled by the Government, his pay in respect of the service in the Commission shall be reduced by the amount of that pension during the service under the Commission.<sup>52</sup>

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<sup>50</sup> The Mizoram Gazette Extraordinary Published by Authority VOL- XXXVII 26.08.2008 S.E. 1930 Issue No.329, pp. 1-2.

<sup>51</sup> The Mizoram Gazette Extraordinary Published by Authority, VOL-XL, 14.9.2011, Issue No. 416. Notification. B. 13018/2/2008-UD&PA (SEC), the 13<sup>th</sup> September, 2011. Retrieved from <https://sec.mizoram.gov.in/uploads/attachments/b14ea7f71b9ce0b7663ef814c9bbb7de/7-the-mizoram-state-election-commission-conditions-of-service-rules-2011.pdf> p.3.

<sup>52</sup> *Ibid.*, p.4.

### **Leave admissible**

The State Election Commissioner may be granted Earned Leave, Half Pay Leave, Commuted Leave on medical grounds and Extraordinary Leave. The admissibility of leave as specified above shall be regulated as per the provisions of the Central Civil Service (Leave) Rules, 1972 as applicable to the Government of Mizoram.<sup>53</sup>

### **Organizational Structure of State Election Commission of Mizoram and Service Conditions of Its Staff**

The Governor when so requested by the SEC makes available to the SEC such staff as may be necessary for the discharge of the functions conferred on the SEC by clause (1) of Article 243 K and 243 ZA of the Constitution of India. The staff of the Commission shall include a Secretary, Deputy Secretary, Under Secretary, Accounts Officer and such other non-Gazetted staff as may be necessary.<sup>54</sup> They are appointed by the State Election Commissioner in consultation with the State Government.

The Non-Gazetted staff including Group 'D' staff shall be appointed by the Secretary with the approval of the State Election Commissioner and shall receive such emoluments as admissible to the government servants of corresponding grade in the Government of Mizoram or as may be determined by the Commission in consultation with the State Government.<sup>55</sup>

The State Election Commissioner in case of Gazetted staff and the Secretary, in case of the Non-Gazetted staff including Group 'D' employees, shall be the authority who may impose any of the penalties prescribed in the Central Civil Service (Classification, Control and Appeal) Rules, 1965 as adapted by the Government of Mizoram and the Governor, in respect of the Gazetted staff and the State Election Commissioner in respect of the Non-Gazetted staff including the Group 'D' shall be

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<sup>53</sup> The Mizoram Gazette Extraordinary Published by Authority, VOL-XL, 14.9.2011, Issue No. 416. Notification. B. 13018/2/2008-UD&PA (SEC), the 13<sup>th</sup> September, 2011.

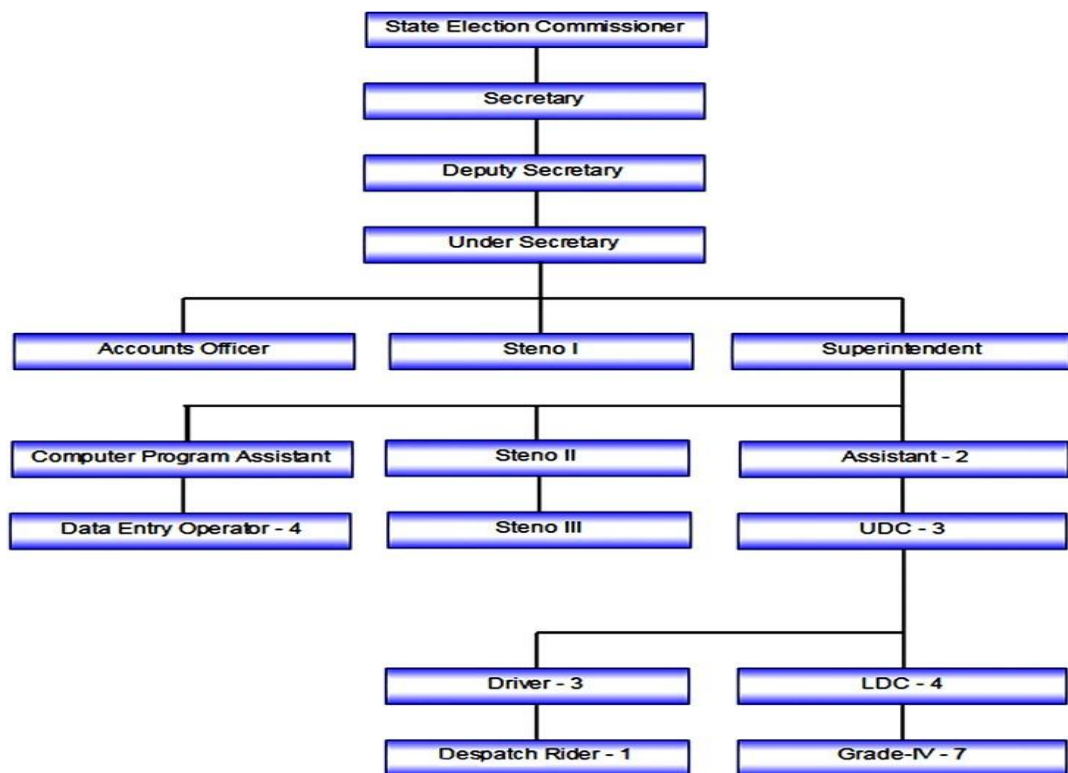
<sup>54</sup> *Ibid.*, p. 5.

<sup>55</sup> *Ibid.*



the appellate authority. In respect of any matter for which provision is not made by these rules, the conditions of service of a person serving as a State Election Commissioner or its staff shall be governed by rules and orders for the time being applicable to such classes of Government servants under the Government of Mizoram. The following Chart shows the Organisational Structure of SEC of Mizoram and its Staff:

*Chart 1: Organizational Structure of Mizoram State Election Commission*



Source:<https://sec.mizoram.gov.in/page/organisation-structure.html> as accessed on 1 August 2017.

Following are the sanctioned Posts under SEC of Mizoram:

1) Gazetted Posts

Table 2: Gazetted Posts of Mizoram State Election Commission as on 1.4.2023

S/No.	Name of Post	No. of Post	Vacant Post
1.	Secretary	1	-
2.	Deputy Secretary	1	-
3.	Under Secretary	1	1
4.	PS to State Election Commissioner	1	1
5.	Accounts Officer	1	1
6.	Superintendent	1	-
		6	3

Source: <https://sec.mizoram.gov.in/page/officers-staff> as accessed on 15th April, 2023

2) Non-Gazetted Post

Table 3: Non-Gazetted Posts of Mizoram State Election Commission as on 1.4.2023

S/N	Name of Post	Sanctioned Strength	Filled up	Vacant Post	Remarks
1.	Computer Programme Assistant	1	-	1	Group 'B' Non-Gazetted
2.	Assistant	2	1	1	
3.	Steno Grade-II	1	-	1	
4.	Steno Grade-III	1	1	-	2 Posts filled up on an MR basis
5.	UDC	3	2	1	1 Post filled up by Direct Recruitment
6.	Data Entry Operator	4	4	-	1 Post filled up on an MR basis
7.	LDC	4	2	2	-
8.	Despatch Rider	1	1	-	
9.	Driver	4	4	-	
10.	IV Grade	7	7	-	3 Posts filled up on an MR basis
	Total	28	22	6	

Source: <https://sec.mizoram.gov.in/page/officers-staff> as accessed on 15th April, 2023

3) Recruitment Rules of Group 'A' under the Institution of Mizoram State Election Commission:

Table 4: Group 'A' Recruitment Classification and Level of Pay

Name of Post	No. of Post	Classification	Level in Pay Matrix	Whether Selection or Non-selection posts?
Secretary	1 No. or as sanctioned by the Government from time to time	General State Service (Group 'A' Gazetted) (Non- Ministerial)	Level 13A in the Pay Matrix(Rs. 131100- 216600)	Not applicable
Deputy Secretary	1 No. or as sanctioned by the Government from time to time	General State Service (Group 'A' Gazetted) (Non- Ministerial)	Level 12 in the Pay Matrix (Rs.78800- 175200)	Not applicable
Under Secretary	1 No. or as sanctioned by the Government from time to time	General State Service (Group 'A' Gazetted) (Non- Ministerial)	Level 11 in the Pay Matrix (Rs .67700- 150800)	Not applicable
Superintendent	1 No. or as sanctioned by the Government from time to time	General State Service (Group 'A' Gazetted) (Non- Ministerial)	Level 10 in the Pay Matrix (Rs.56100-124500)	Not applicable
Account Officer	1 No. or as sanctioned by the Government from time to time	General State Service (Group 'A' Gazetted) (Non- Ministerial)	Level 10 in the Pay Matrix (Rs.56100- 124500)	Not applicable
Stenographer Grade I	1 No. or as sanctioned by the Government from time to time	General State Service (Group 'A' Gazetted) (Non- Ministerial)	Level 10 in the Pay Matrix (Rs. 56100- 124500)	Not applicable

Source: *The Mizoram Gazette Extraordinary Published by Authority VOL. XLVII, Dated 20.9.2018, p.2.*

Table 5: Group 'A' Method of Recruitment

Name of Post	Method of Recruitment	In case of recruitment by promotion/transfer/deputation
Secretary	Transfer	MCS Officers in Supertime Grade 'B' with experience in electoral management.
Deputy Secretary	Deputation	Deputation from IAS/ MCS Officers holding analogous posts under Central/State Government with experiences in electoral management or from MCS Officers in Senior Grade with 5 years of regular service in the grade with experience in electoral management. The period of Deputation shall ordinarily not exceed 3 years which may be extended up to 5 years in deserving cases.

Under Secretary	Deputation	Deputation from IAS/MCS Officers holding analogous posts under Central/State Government with experiences in electoral management. The period of Deputation shall ordinarily not exceed 3 years which may be extended up to 5 years in deserving cases.
Superintendent	Promotion/ Deputation	Promotion: From Assistant in the Commission with not less than 5 years of regular service in the grade. Deputation: From Officers in the Junior Grade of MSS under the State Government or from Officers in the Assistant Grade with not less than 5 years of regular service in the Grade. The period of Deputation shall ordinarily not exceed 3 years which may be extended up to 5 years in deserving cases.
Account Officer	Deputation	Deputation from Officers in the Junior Grade of MF&AS or from Officers in the Grade of Audit and Accounts Officer or Audit Officer under the State Government. The period of Deputation shall ordinarily not exceed 3 years which may be extended up to 5 years in deserving cases.
Stenographer Grade-I	Promotion/De- putation	Promotion: From Stenographer Grade II in the Commission with not less than 5 years of regular service in the grade. Deputation: From Officers in Grade I of Mizoram Stenographer Service under the State Government or from Stenographer Grade II with 5 years of regular service in the grade. The period of Deputation shall ordinarily not exceed 3 years which may be extended up to 5 years in deserving cases.

Source: *The Mizoram Gazette Extraordinary Published by Authority VOL. XLVII, Dated 24/09/2018, p.4 & Notification issued vide No. A.12018/35/2016-P&AR(GSW) dt.8/02/2023.*

#### 4) Recruitment Rules for Group 'B' under Mizoram State Election Commission

Table 6: Group 'B' Recruitment Classification, Pay Band, and No. of Posts

Name of Post	No. of Post	Classification	Pay Band and Grade Pay/Pay Scale	Selection or Non-selection Post
Assistant	Two (2) or as sanctioned from time to time	General State Service Group 'B' (Non-Gazetted)	PB-2 Rs.9,300-34,800/- +Grade Pay Rs.4400/-	Selection in case of promotion
Stenographer Grade -II	One (1) or as sanctioned from time to time	General State Service Group 'B' (Non-Gazetted)	PB-2 Rs.9,300-34,800/- + Grade Pay Rs.4400/-	Selection
UDC	Three (3) or as sanctioned from time to time	General State Service Group 'B' (Non-Gazetted)	PB-2 Rs.9,300-34,800/- + Grade Pay Rs. 4200/-	Selection in case of promotion
Stenographer Grade- III	One (1) or as sanctioned from time to time	General State Service Group 'B' (Non-Gazetted)	PB-2 Rs. 9,300-34,800/- + Grade Pay Rs. 4200/-	Selection

Source: *The Mizoram Gazette Extraordinary Published by Authority VOL. XLI,*

*Dated 22/07/2012. p. 3.*

*Table 7: Details of Educational Qualifications, Age Limit, and Probation Period for Group 'B' under SEC, Mizoram*

<b>Name of Post</b>	<b>Whether the benefit of added years of service admissible under Rule 30 of the CCS (Pension) Rules, 1972</b>	<b>Age Limit of Direct Recruits</b>	<b>Educational and other qualifications required for Direct Recruits</b>	<b>Period of Probation</b>
Assistant	Not applicable	Between 18-35 years, upper age limit is relaxable by 5 years in case of ST/SC candidates	Graduate from a recognised University; Working knowledge of Mizo language at least Middle School standard.	Two years for Direct recruits
Stenographer Grade-II	Not applicable	Not applicable	Not applicable	Not applicable
UDC	Not applicable	Between 18-35 years, upper age limit is relaxable by 5 years in case of ST/SC candidates	Graduate from a recognised University; Working knowledge of Mizo language at least Middle School standard.	Two years for Direct recruits
Stenographer Grade- III	Not applicable	Between 18-35 years, upper age limit is relaxable by 5 years in case of ST/SC candidates	PB-2 Rs. 9,300-34,800/- + Grade Pay Rs. 4200/-	Two years for Direct recruits

Source: *The Mizoram Gazette Extraordinary Published by Authority VOL. XL I,*

*Dated 22/07/2012. p. 3.*

*Table 8: Method of Recruitment for Group 'B' under SEC Mizoram*

<b>Name of Post</b>	<b>Method of recruitment, whether by direct recruitment or by promotion or by deputation/ transfer and percentage of posts to be filled by various methods</b>	<b>In the case of recruitment by promotion/ transfer/deputation, grades from which promotion/ deputation/transfer to be made</b>	<b>If a DPC exists, what is its composition?</b>	<b>Circumstances in which MPSC is to be consulted in making recruitment</b>
Assistant	50% by promotion 50% by direct recruitment	Promotion from UDC in the	State Election Commissioner - Chairman	Exempted from the purview of Mizoram Public

		Commission having no less than 5 years of regular service in the Grade	Secretary, SEC Commission – Member Representative of DP&AR - Member or as constituted by the Govt. from time to time	Service Commission
Stenographer, Grade-II	Promotion failing which by deputation	Promotion from Steno-III in the Commission having no less than 5 years of regular service in the grade or Deputation from officers holding analogous post in the Central/State Government.	State Election Commissioner- Chairman 2. Secretary, SEC -Member 3. Representative of DP&AR - Member or as constituted by the Govt. from time to time.	Exempted from the purview of Mizoram Public Service Commission
UDC	34% by promotion 33% by LDE 33% by direct	Promotion from LDC in the Commission having not less than 5 years of regular service in the grade.  Limited Departmental Examination from LDC in the Commission having not less than 3 years regular service in the grade.	State Election Commissioner - Chairman Secretary, SEC - Member 3. Representative of DP&AR - Member or as constituted by the Govt. from time to time	Exempted from the purview of Mizoram Public Service Commission
Stenographer Grade-III	Direct recruitment failing which by Deputation	Deputation from officers holding analogous posts in the Central / State Government	State Election Commissioner – Chairman Secretary, SEC- Member Representative of DP&AR - Member or as constituted by the Govt. from time to time	Exempted from the purview of Mizoram Public Service Commission

Source: *The Mizoram Gazette Extraordinary Published by Authority VOL. XL I,*

*Dated 22/07/2012. p. 5.*

The staff of the SEC receive such emoluments as admissible to the government servants of corresponding Grade in the Government of Mizoram, or as may be determined by the Commission in consultation with the State Government.<sup>56</sup> The Chief Controller of Accounts, Account & Treasuries Department, Government of Mizoram, shall be deemed to have been authorized to settle the payment of pension and other retirement benefits in respect of officers and staff of the Mizoram SEC with effect from 3<sup>rd</sup> October 2008, that is, the date of establishment of Mizoram SEC.<sup>57</sup>

### **State Election Commission of West Bengal**

The Constitution of India and West Bengal State Election Commission Act, 1994 have vested in the State Election Commission the superintendence, direction and control of the entire process for conduct of elections to the Panchayats and Municipal Bodies. The West Bengal SEC is an independent Constitutional Authority created under Article 243K of the Constitution of India. The Commission started functioning in 1994 after the enactment of the West Bengal State Election Commission Act, 1994.<sup>58</sup> This State has a tradition of holding elections to the Local Bodies regularly in accordance with the provisions of the respective State Acts and Rules made thereunder. There are, at present, 825 Zilla Parishad constituencies spread over 20 Zilla Parishads and 1 Mahakuma Parishad, 9240 Panchayat Samiti constituencies in 341 Panchayat Samitis and 48751 Gram Panchayat Constituencies in 3354 Gram Panchayats. There are 7 Municipal Corporations and 119 Municipalities in West Bengal<sup>59</sup>.

### **Composition**

With effect from such date as the State Government may by notification, appoint, there shall be a Commission, to be called the West Bengal State Election

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<sup>56</sup> The Mizoram Gazette Extraordinary Published by Authority, VOL-XL, 14.9.2011, Issue No. 416. Notification. B. 13018/2/2008-UD&PA (SEC), the 13<sup>th</sup> September, 2011. pp. 6-7.

<sup>57</sup> *Ibid.*

<sup>58</sup> West Bengal Election Commission. (2018). '*Municipal Election Manual*' Retrieved on 10.02.2020 from [http://wbsec.gov.in/files/contents/acts\\_rules/Municipal\\_Election\\_Manual\\_2015.pdf](http://wbsec.gov.in/files/contents/acts_rules/Municipal_Election_Manual_2015.pdf), p.xix.

<sup>59</sup> Retrieved on 16.4.23 from <http://wbsec.gov.in/>

Commission, consisting of a State Election Commissioner appointed by the Governor under clause (1) of Article 243K of the Constitution. Accordingly, the West Bengal State Election Commission is a single-member Commission comprising the State Election Commissioner.<sup>60</sup>

### **Appointment of the State Election Commissioner**

The State Election Commissioner is appointed by the Governor of West Bengal from amongst the persons, who had been or are in an All India Service or in any Civil Service of the State or in a civil post under the State Government for not less than twenty-five years, having knowledge and experience in conducting elections.<sup>61</sup> The State Election Commissioner can be removed from his office in the like manner and on the like grounds as a Judge of a High Court. The salary and perks available to the State Election Commissioner are determined by the Governor. But the conditions of service cannot be varied to his disadvantage after his appointment.

### **Tenure**

The State Election Commissioner holds office for a term of six years from the date on which he assumes his office: Provided that where the State Election Commissioner attains the age of sixty-five years before the expiry of the term of six years, he shall vacate his office on the date on which he attains the said age.

### **Salary**

The State Election Commissioner shall be paid such salary which is equal to the salary of a Judge of the High Court. Presently, the salary of a Judge of the High Court is Rs.2,25,000/-p.m. with Rs.20,00,000/- Gratuity and the allowances were Rs.6,00,000/- of furnishing allowances, 24% of the Basic Salary of House Rent Allowance (HRA), and Rs.27,000/- of Sumptuary Allowance per month.

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<sup>60</sup> Retrieved on 29.08.2022 from <http://wbsec.gov.in/home/page/FAQ>

<sup>61</sup> West Bengal State Election Commission Act (1994). West Bengal Act 8 of 1994. 3A Appointment and other conditions of service etc. Retrieved on 14/10/2022 from <http://www.bareactslive.com/WB/WB645.HTM>



## West Bengal State Election Commissioners

Following are the State Election Commissioners of West Bengal since 1994:

*Table 9: List of West Bengal State Election Commissioner*

Sl. No.	Name	Tenure (Years)
1.	Shri T.C. Dutt, IAS (Retd.)	11.06.1994 – 10.02.1998
2.	Shri A.K. Majumdar, IAS (Retd.)	11.02.1998 - 10.02.2003
3.	Shri A. Sinha, IAS (Retd.)	11.02.2003 – 10.02.2006
4.	Shri A. Gupta, IAS (Retd.)	11.02.2006 – 10.02.2009
5.	Smt. M. Pande, IAS (Retd.)	30.04.2009 – 21.07.2014
6.	Shri S.R. Upadhaya, W.B.C.S. (Exe.) (Retd.)	22.07.2014 – 06.10.2015
7.	Shri A. Bandyopadhyay, IAS	07.10.2015 – 13.10.2015
8.	Shri A.K. Singh, IAS	14.10.2015 – 07.05.2019
9.	Shri S.K. Das, IAS (Retd.)	08.05.2019 –till date

Source: <http://www.wbsec.gov.in/home/page/RTI> Accessed on 10.11.2022

## Personnel of the Office of the Commission

Following are the staff positions of West Bengal State Election Commission:

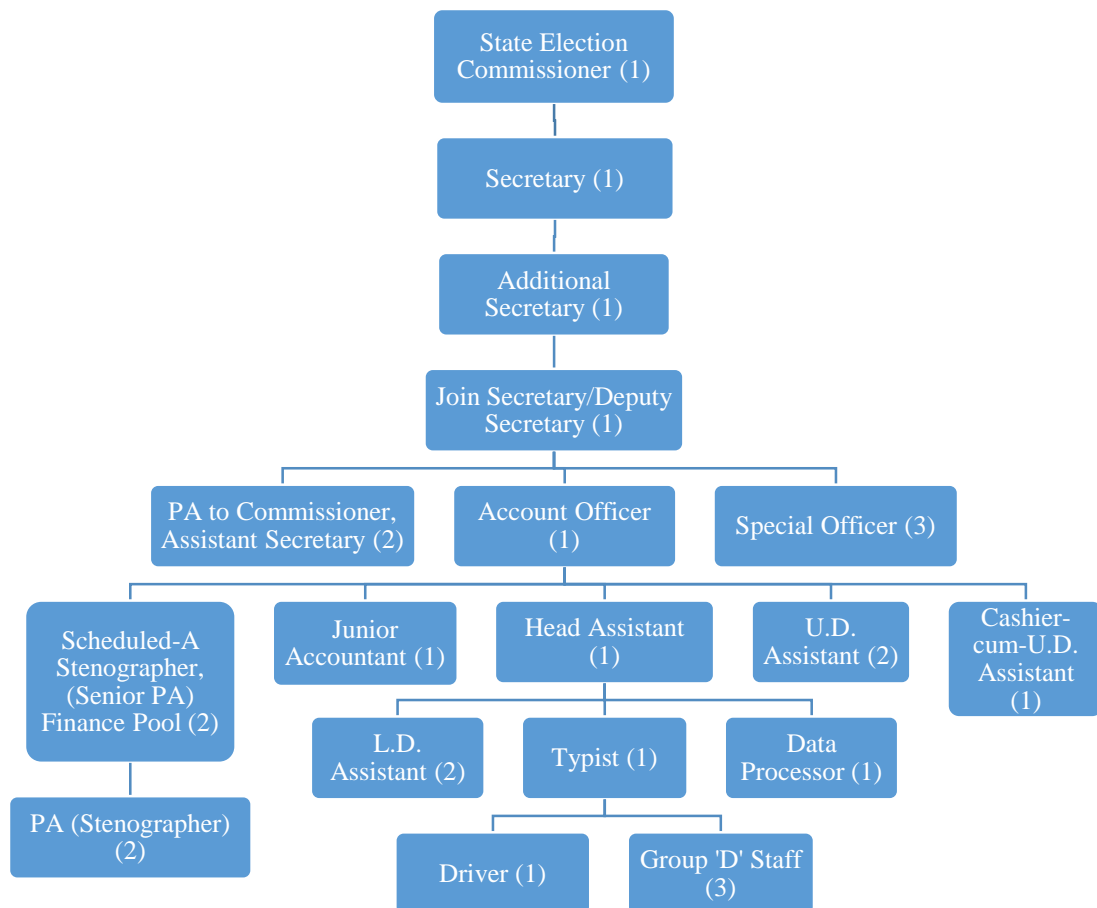
Table 10: Staff of West Bengal State Election Commission

Sl. No.	Name of Post	Post Statistics			Pay Band (Under 6 <sup>th</sup> Pay Revision)
		No. of Posts	Filled up	Vacant	
1.	Secretary (IAS)	1	1	0	PB – 5 (37,400 – 60,000) + GP 10,000
1. (A)	Additional Secretary – WBCS (Exe.)	1	1	0	PB – 5 (37,400 – 60,000) + GP 8,700
2.	Joint Secretary or Deputy Secretary – WBCS (Exe.)	1	1	0	PB – 5 (37,400 – 60,000) + GP 8,700
3.	P.A. to Commissioner & Ex-officio Assistant Secretary	2	2	0	PB – 4 (15,600 – 42,000) + GP 4,800
4.	Accounts Officer (WBA&AS)	1	1	0	PB – 4A (15,600 – 42,000) + GP 6,600
5.	Special Officer	3	3	0	PB – 4 (15,600 – 42,000) + GP 4,600
6.	Schedule-A Stenographer, (Senior PA) Finance Pool	2	2	0	PB – 3 (7,100 – 37,600) + GP 3,900
7.	Section Officer	0	0	0	Not Available
8.	Jr. Accountant	1	0	1	PB – 3 (7,100 – 37,600) + GP 3,600
9.	Head Assistant	1	1	0	PB – 3 (7,100 – 37,600) + GP 3,600
10.	U D Assistant	2	0	2	PB – 3 (7,100 – 37,600) + GP 3,600
11.	Cashier-cum-U.D. Assistant	1	0	1	PB – 3 (7,100 – 37,600) + GP 3,600
12.	P A (Stenographer)	2	0	2	Not available
13.	L D Assistant	2	0	2	PB – 2 (5,400 – 25,200) + GP 3,200
14.	Typist	1	0	1	Not available
15.	Data Processor (Software Developer)	1	0	0	Consolidated ₹33,000 p.m.
16.	Driver	1	0	1	Not Available
17.	Record Supplier	0	0	0	Not Available
18.	Group-D Staff	3	3	0	PB – 1 (4,900 – 16,200)
19.	Night Guard	0	0	0	Not Available
	Total	25	15	10	

Source: Field Study conducted by the researcher during 11<sup>th</sup>– 22<sup>nd</sup> January 2023

The organizational structure of WBSEC can be illustrated with the help of the following Chart:

*Chart 2: Organizational Structure of West Bengal State Election Commission*



Source: *Field Study conducted by the researcher during 11<sup>th</sup> January 2023 – 22<sup>nd</sup> January 2023*

### **A Comparative Study of the Organizational and Administrative Structures of State Election Commissions of Mizoram and West Bengal**

Though the two States are parts of the Indian Union, the people living in them exhibit differences in terms of culture, ethnic originality and political life. At the same time, local bodies in Mizoram and West Bengal are also considerably different although they are Constitutional bodies. While there is a continuance of the traditional

system of rural local governance, called Village Councils, operating in the rural areas of Mizoram, West Bengal has a Panchayati Raj Institution for the administration of its rural local affairs. The two States have similar urban local governments to govern the affairs of the urban areas, that is, Municipal Bodies. While there is only one Municipal Corporation and one Municipal Council in Mizoram, there are 119 (one hundred nineteen) numbers of Municipalities/ Notified Areas and 7 (seven) Number of Municipal Corporations in West Bengal. In spite of its manifold duties, West Bengal State Election Commission (WBSEC) has lesser manpower than Mizoram. Whereas MSEC has 35 sanctioned strengths with 26 posts being filled up, WBSEC has 25 sanctioned strengths with only 15 posts being filled up. This has indicated that Govt. of Mizoram has set up better Organizational and Administrative Structures of the State Election Commission than Govt. of West Bengal. However, it was learned from the Field Study that the office of WBSEC relies on the manpower deployed on deputation from various Departments during elections.

### **Constitution of the State Election Commission**

The Governor of each State shall constitute the SEC for superintendence, direction and control of the preparation, revision and correction of electoral rolls and the conduct of all elections to the various local bodies in the State. Articles 243K and 243ZA of the Constitution require all the States across the country to set up SECs of their own and the institutions of SECs have also been created in most of the States with the intent to establish a Constitutional authority having an independent functioning to conduct free and fair elections to Panchayats and Municipalities. Article 243Q of the Constitution mandates every State to set up Municipalities. However, Article 243M has given an exemption to certain States including Meghalaya, Nagaland and Mizoram not to operationalize Article 243K for constituting Panchayati Raj Institutions and allows them to continue with their traditional systems of governance prevailing in their respective States. In the Khasi Hills of Meghalaya, the traditional village administrative system, Durbar Shnong, is still continuing whereas Village Councils (VCs), a democratized system of administration, are operating in Nagaland and

Mizoram. As such, some of the North Eastern States are yet to constitute Municipalities as envisaged under Part IX-A of the Constitution.

The Government of Mizoram realized in 2005-2006 that unless the State Government implements the mandatory reforms agenda of the Central Government, it will not be able to receive any urban development projects under the Government of India. It is not out of place to mention that the State Government would not be able to implement any urban development projects with its own resources and without the help of the Government of India. At the same time, there was mounting pressure from the Government of India to implement the reforms agenda as stipulated by the Central Government. Subsequently, the Government of Mizoram introduced the Mizoram Municipalities Bill which was finally enacted by the Legislative Assembly of Mizoram as 'The Mizoram Municipalities Act, 2007'. This Act extends to the whole of the State of Mizoram except the Autonomous District Council Areas established under the Sixth Schedule of the Constitution. Thereafter, in the exercise of the powers conferred under Article 243K of the Constitution of India read with Sub-section (1) of Section 345 of the Mizoram Municipalities Act, 2007, the Governor of Mizoram also constituted the SEC of Mizoram, for superintendence, direction and control of the preparation, revision and correction of electoral rolls and for the conduct of all elections to the various Local Bodies in the State on 28<sup>th</sup> August 2008, which will consist of a State Election Commissioner appointed by the Governor.<sup>62</sup> Pursuant to the constitution of the SEC, the first State Election Commissioner was appointed by the Governor on 2<sup>nd</sup> September 2008. The first State Election Commissioner assumed his office on 16<sup>th</sup> September 2008 under the terms and conditions of service governed by the Mizoram (Constitution of State Election Commission) Rules, 2008.<sup>63</sup> The State Election Commission of Mizoram was inaugurated on 3<sup>rd</sup> October 2008.

The SECs of both Mizoram and West Bengal have been constituted to conduct elections for their respective local governments. In the exercise of the powers conferred

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<sup>62</sup> Government of India. (2016). *The Constitution of India (As on 9<sup>th</sup> November, 2015), Clause (1) of Article 243K*. New Delhi: Ministry of Law and Justice (Legislative Department).

<sup>63</sup> Retrieved on 6<sup>th</sup> May, 2023 from <https://sec.mizoram.gov.in/page/profile>

under Article 243K of the Constitution of India read with Sub-section (1) of Section 345 of the Mizoram Municipalities Act, 2007, the Government of Mizoram also constituted the SEC for superintendence, direction and control of the preparation, revision and correction of electoral rolls and for the conduct of all elections to the various Local Bodies in the State which will consist of a State Election Commissioner appointed by the Governor under clause (1) of Article 243K of the Constitution of India.

The SEC of West Bengal as an independent Constitutional authority was also established under the provision of Article 243K of the Constitution of India read with the provisions under West Bengal State Election Commission Act, 1994 to conduct elections to Municipal Corporations, Municipalities, Zilla Parishads, Panchayat Samities and Gram Panchayats. West Bengal has one of the strongest SECs in the country with multifarious functions to be performed both under the Constitution of India and under the West Bengal State Election Commission Act, 1994, and The West Bengal Panchayat Elections Act, 2003. etc., as amended from time to time.

### **Appointment of the State Election Commissioner**

The Governor of Mizoram, on the recommendation of the State Government, appoints a State Election Commissioner by publication in the Official Gazette provided that a person shall not be qualified for appointment of a State Election Commissioner unless he holds or has held office in the rank of Secretary to the Government of Mizoram having knowledge and experience in conducting elections. On the other hand, the State Election Commissioner of West Bengal is appointed by the Governor from amongst the persons who had been or are in an All-India Service or any Civil Service of the State or a Civil post under the State Government for not less than twenty-five years, having knowledge and experience in conducting elections.

From 1994 till date, there have been 9 (nine) State Election Commissioners in West Bengal SEC, whereas only 3 (three) full-time State Election Commissioners have served in Mizoram SEC since its inception in 2008.

## **Tenure**

The State Election Commissioner of Mizoram shall hold office for five years from the date on which he enters his office or until he attains the age of 65 years, whichever is earlier. The State Election Commissioner shall not be removed from his office except in the manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantages after his appointment. On the other hand, the State Election Commissioner of West Bengal shall hold office for a term of 6 (six) years from the date on which he assumes his office provided that, when the State Election Commissioner attains the age of sixty-five years before the expiry of the term of six years, he shall vacate his office on the date on which he attains the said age.<sup>64</sup>

## **Salaries and Allowances**

The State Election Commissioner, who on the date of his appointment, was in the service of the Government of India or of any State, a local, or any other body wholly or substantially owned or controlled by the Government, shall be deemed to have retired from such service from the date of his appointment as State Election Commissioner.

If the State Election Commissioner at the time of his appointment receives a pension, has received or has become entitled to receive any pension and other retirement benefits in respect of any previous service under the Government of India or a State Government, a local body or any other body wholly or substantially owned or controlled by the Government, his pay in respect of the service in the Commission shall be reduced by the amount of that pension during the service under the Commission.

The State Election Commissioner of Mizoram has been paid a fixed salary of Rs. 80,000/- (Pre-revised Rs 26,000/-) per month and such other allowances at such

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<sup>64</sup> The Kolkata Gazette, Extraordinary Published by Authority, No. 1417 – L – 5<sup>th</sup> October 2010. West Bengal Act XXXI of 2010.

rates as admissible to the Chairman of Mizoram Public Service Commission.<sup>65</sup> On the other hand, the State Election Commissioner of West Bengal has been paid such salary which is equal to the salary of a Judge of the High Court amounting to Rs. 2, 25,000/- p.m; Rs.20, 00,000/- being Gratuity and the allowances; Rs.6, 00,000/- for furnishing allowances; 24% of the Basic Salary of H.R.A., and Rs.27, 000/- of Sumptuary Allowance per month.<sup>66</sup>

### **Personnel of State Election Commissions of Mizoram and West Bengal**

Mizoram SEC has a total of 7 (seven) Group 'A' Gazetted posts which include the State Election Commissioner, appointed from among retired All India Service or State Civil Service officers.

The Secretary of Mizoram SEC is drawn from Mizoram Civil Service (MCS) officers while the Deputy Secretary and Under Secretary are normally drawn from MCS/Mizoram Secretariat Service (MSS) Officers holding analogous posts under Central/State Government. In the meanwhile, the Accounts Officer of the Commission is to be drawn from Mizoram Finance & Accounts Service (MF & AS) and the Superintendent is drawn from MSS.

Out of the 7 (seven) sanctioned posts, only the posts of State Election Commissioner, Secretary and Superintendent have been filled up at the time of collection of data. There are a total of 28 (twenty-eight) Non-Gazetted sanctioned posts in the Office of the Mizoram SEC, out of which 22 (eighteen) posts have been filled up and 6 (six) are still lying vacant at the time of collecting data. The Non-Gazetted staff includes 1 (one) Computer Programme Assistant; 2 (two) Assistants; 1 (one) Stenographer Grade II; 1 (one) Stenographer Grade III; 3 (three) Upper Divisional Clerks (UDC); 4 (four) Data Entry Operators; 4 (four) Lower Divisional Clerks (LDC); 1 (one) Despatch Rider; 4 (four) Drivers and 7 (seven) IV Grade.

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<sup>65</sup> Retrieved on 6<sup>th</sup> May, 2023 from <https://sec.mizoram.gov.in/page/profile>

<sup>66</sup> Retrieved on 6<sup>th</sup> May, 2023 from <http://wbsec.gov.in/>



On the other hand, the Office of West Bengal SEC has a total of 25 (twenty-five) personnel serving at the time of data collection. Apart from the State Election Commissioner, a total of 3 (three) top Group 'A' Gazetted officer posts, such as Secretary drawn from I.A.S officers; Additional Secretary and Joint Secretary or Deputy Secretary drawn from the West Bengal State Civil Service, are manning the WBSEC. Other Group 'A' officers include Assistant Secretary, Accounts Officer, and Special Officer.

The West Bengal SEC office also has a total of 9 (nine) Group 'B' sanctioned posts, such as Stenographer, Section Officer, Jr. Accountant, Head Assistant, Upper Divisional Assistant (U.D.A), Cashier-cum-U.D.A, Personal Assistant (P.A) (Stenographer). Out of these 9 (nine) posts, only 3 (three) posts have been filled up while 6 (six) posts are lying vacant at the time of collecting data.

The WBSEC also has sanctioned posts of Group 'C' and 'D' staff, such as Lower Divisional Assistant (L.D.A), Typist, Data Processor (Software Developer), Driver, Record Supplier, Group 'D' Staff, and Night Guard. Out of the total sanctioned posts, 10 (ten) posts, mostly Group 'B' and 'C' staff, are lying vacant at the time of data collection.

It is apparently clear that no inadequate staff are provided to the WBSEC by the State Government and sufficient number of personnel including security forces are not always available before or during elections in the State.

## **Conclusion**

Within a period of 15 years from its inception, amid various constraints, the State Election Commission (SEC) of Mizoram successfully conducted a series of Elections to Municipal bodies viz, Aizawl Municipal Corporation/Lunglei Municipal Council; Lai, Mara and Chakma Autonomous District Councils, Village Councils and Sinlung Hills Council which fell into the Constitutional and statutory responsibility of the Commission.

The SEC of Mizoram has also come up with laudable positive changes in the electoral system of the Village Council in Mizoram by introducing several Electoral Reforms such as the Model Code of Conduct, Common Ballot Paper, Single Ballot Box, the appointment of Election Observer, the introduction of EVMs, etc. These new practices have resulted in free and fair elections to local bodies in the State based on democratic principles. It is a matter of record to mention that State Election Commission successfully conducted the 1<sup>st</sup> General Election to Aizawl Municipal Council, 1<sup>st</sup> General Elections to Lunglei Municipal Council and 1<sup>st</sup> General Elections to Sinlung Hills Council.

On the other hand, in the Local bodies' election in West Bengal, the WBSEC had come across a series of violence, perpetrated mainly by members of the Political parties. Although the WBSEC is desperately looking for a way to conduct the various elections peacefully, the task at hand is still very difficult time and again. Having taken lessons from the 2018 panchayat election, the political leadership also had given strict directives to the rank and file in the subsequent elections, asking them not to be violent. But the directives were ignored by workers in various districts, for many of whom a seat in a local administrative body or in the three-tier panchayat means money and power thereby resulting in the role of WBSEC to be more challenging and cumbersome.

Despite all those poll-related violence and other intricate issues, within 29 (twenty-nine) years from its inception, the West Bengal State Election Commission had successfully conducted General Elections and By-elections to 825 Zilla Parishad Constituencies spread over 20 Zilla Parishads and 1 Mahakuma Parishad, 9240 Panchayat Samiti Constituencies in 341 Panchayat Samitis, 48751 Gram Panchayat Constituencies in 3354 Gram Panchayats and also 7 Municipal Corporations and 119 Municipalities in West Bengal.

It is a fact that there are multi-layer elections at the grassroots level in the State. For several reasons, panchayat elections in India in general and West Bengal, in particular, draw the highest voter turnout, higher than state or national elections. The candidates are known locally and the issues involved are local, hence, emotions run

high and law and order situations are frequent and fierce. The situation becomes very violent and is on a large scale in West Bengal. However, the State Election Commission of Mizoram has not come across such a volatile situation in the past.

In spite of such a volatile scenario, all the pinnacle of successes and achievements of WBSEC are highly commendable, which can be attributed to the robust organizational structure, effective administrative setup and efficient personnel administration of the State Election Commission of West Bengal.

## **CHAPTER-IV**

### **ROLE, POWERS AND FUNCTIONS OF STATE ELECTION COMMISSIONS OF MIZORAM AND WEST BENGAL**

#### **Introduction**

India has the distinction of being the world's largest democracy. The conduct of free, fair and impartial elections is considered to be the most essential feature of a democratic polity. The institutions of Local Government provide a way for the active participation of the people in governance. In other words, the institutions of Local Government can fulfil the democratic needs of the people and serve as the channels of expression of their political consciousness. The Local Government can also contribute to strengthening the democratic institutions at the grassroots level. Despite this, most of the State Governments in India have shown a lukewarm attitude towards the development of self-governing Local Bodies. Democratic elections were not held in many States for years. This has been evidenced by the fact that elections to Shimla Municipal Corporation and 15 towns in Himachal Pradesh were held after a gap of 26 years. Though three Municipal Corporations were established in Punjab in 1977, they remained undemocratic bodies for a long period. In order to remove this kind of problem, there have been repeated demands from various corners to devise a mechanism for regular and fair elections to the Local Bodies. Ultimately, the demands of the people have been fulfilled by the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Acts, 1992, which, inter alia, contain the provision for the establishment of a State Election Commission (SEC) with State Election Commissioners to be appointed by the Governor of a State, to carry out activities related to supervision, direction and control of preparation of electoral rolls and elections to the Local Bodies-Panchayats and Municipalities.

## **Powers and Functions of State Election Commissions as mandated by the Constitution of India**

The SECs have been set up in any State of India where Local Bodies, such as Panchayats and Municipalities under the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Acts and the Village Councils and the Autonomous District or Territorial Councils under the Sixth Schedule, have been established as the machinery for local governance. As the SECs had to draw their powers and functions from the Election Commission of India (ECI), it is relevant to have a glance at the powers and functions of the ECI first as mandated by the Article 324-329 of the Constitution of India.<sup>67</sup>

- 1) The superintendence, direction and control of the preparation of the electoral rolls for and the conduct of all elections to the Parliament and the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution shall be vested in the Election Commission of India.
- 2) The Election Commission of India shall consist of the Chief Election Commissioner and such number of Election Commissioners as fixed by the President of India from time to time and the appointment of the Chief Election Commissioner and other Election Commissioners shall be made by the President, subject to the provisions of any law made on that behalf by the Parliament.
- 3) When any other Election Commissioner is so appointed, the Chief Election Commissioner shall act as the Chairman of the Election Commission.
- 4) Before each general election to the House of the People and to the Legislative Assembly of each state, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election

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<sup>67</sup> Government of India. (2016). *The Constitution of India (As on 9<sup>th</sup> November, 2015), Articles 324 to 329 of the Constitution of India*. New Delhi: Ministry of Law and Justice (Legislative Department).

Commission in the performance of the functions conferred on the Commission by clause (1) *ibid*.

5) Subject to the provisions of any law made by the Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine, provided that the Chief Election Commissioner shall not be removed from his office except in the like manner and on the like grounds as a judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment and provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

6) The President, or the Governor of a State, shall, when so requested by the Election Commission, make available to the Election Commission or a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1) *ibid*.

The SECs have been provided with such powers and functions enjoyed by the ECI which was constituted in the year 1950 to supervise National and State-level elections within the country. To ensure the autonomy of the position of State Election Commissioner, he/she cannot be removed from office except on the grounds and manners specified for a Judge of the High Court. Regarding the powers and functions of the SEC, Article 243K read with Article 243 ZA provides that superintendence, direction, and control relating to the conduct of all elections of Panchayats and Municipalities are to be the responsibility of the SEC.

Regarding the term of Local Bodies, Article 243U provides for fixing the tenure of all Local Bodies at five years; and in case of dissolution before the expiry of five years, the Local Bodies would go for re-election within six months of dissolution. This indicates that the role of an SEC is to conduct regular elections after the expiry of every five years, and whenever these are required in between for the residue term only.

With the adoption of the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts, 1992, most of the States have passed their own legislations for setting up of the Panchayats and Municipalities and these legislations have incorporated the provision for setting up of their SECs. Most of the States have constituted SECs which have been entrusted with the functions of conducting regular, free, fair and impartial elections to the Local Bodies in the State. The Constitution of India has specified the powers and functions of the SEC and the State Election Commissioner as follows:<sup>68</sup>

“(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in the like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats”.

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<sup>68</sup> Government of India. (2016). *The Constitution of India (As on 9<sup>th</sup> November, 2015)*, Part IX (Article 243K). New Delhi: Ministry of Law and Justice (Legislative Department).

In addition, the Constitution of India has specifically provided the powers and functions of the SEC with regard to elections to Urban Local Governments as follows:<sup>69</sup>

“(1) The Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to Municipalities shall be vested in the State Election Commission referred to in Article 243K.

(2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities”.

As mandated by the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts, the SECs have been established to play an important role in strengthening grassroots democracy in India. As long as the SECs are working on a similar pattern with the ECI, they enjoy more or less similar powers towards the conduct of free and fair elections to the Local Bodies. Hence, the SECs perform a variety of functions and roles which may be categorized as Regulatory, Administrative and Quasi-Judicial. For this reason, the SEC is generally empowered by the concerned State Governments to exercise certain regulatory, administrative and quasi-judicial powers for discharging its duties smoothly.

### **Power and Functions practically enjoyed and the Role played by the two State Election Commissions**

As mandated by the Constitution, both the SECs practically enjoyed the following powers and functions:

The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats viz, Gram Panchayat, Panchayat Samiti, Zilla Parishad and Municipalities in West Bengal and, elections to

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<sup>69</sup> *Ibid.*



Municipalities, Autonomous District Councils, Sinlung Hills Council, Village Councils and Local Councils in Mizoram.

Both the SECs consist of a State Election Commissioner appointed by the Governor. Although the tenure and appointment are governed by the law made by the State Legislature of West Bengal and Mizoram,<sup>70</sup> State Election Commissioner cannot be removed from his / her office except in the like manner and on the like grounds as a Judge of a High Court. It is also provided that the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

In compliance with the provisions of the Constitution, the Legislature of both States enacted or made all the required Acts, Rules, etc., in connection with the elections to the Panchayats/Municipal bodies.<sup>71</sup> However, at a time when the West Bengal State Election Commission Act was enacted in 1994, no separate Act on the constitution of SEC has been passed by the State Legislature of Mizoram till today.

The Constitution mandated that State Election Commission shall be established in every state including West Bengal and Mizoram and it shall be vested with the power of superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities in their respective States.<sup>72</sup> Thus, the role and power of the SEC in West Bengal and Mizoram encompasses all matters relating to the election of their Local bodies or Grass-root Democratic Institutions.

Both States have constituted SECs on the lines of the ECI to conduct regular elections of Local Bodies as mandated by the Constitution. Over the years, the SECs of Mizoram and West Bengal strived to conduct free, fair and transparent elections to uphold the mandate shouldered upon it by the Constitution of India. However, it is unfortunate to learn that both the offices of SEC are accommodated in a rented building

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<sup>70</sup> Government of India. (2016). *The Constitution of India (As on 9<sup>th</sup> November, 2015), Article 243K (2)*. New Delhi: Ministry of Law and Justice (Legislative Department).

<sup>71</sup> Government of India. (2016). *The Constitution of India (As on 9<sup>th</sup> November, 2015), Article 243K (4)*. New Delhi: Ministry of Law and Justice (Legislative Department).

<sup>72</sup> Government of India. (2016). *The Constitution of India (As on 9<sup>th</sup> November, 2015), Article 243ZA (1)*. New Delhi: Ministry of Law and Justice (Legislative Department).

which shows that no serious attempt has been made by both State Governments to accommodate them in a dignified Government building.

State Election Commissions are also one of the bulwarks of the democratic system in India and thus securing their institutional integrity and autonomy is a task that falls on all three branches —executive, judiciary and legislature. The unwarranted interference by one organ of the State in the functioning of others should be discouraged to achieve a robust electoral system. While the power of fixing the date and time for the poll is vested with the SEC in other States, the State Government in West Bengal is vested with the power to fix the date or dates on which, and the hours during which, the poll will be taken as provided under Section 8 of the West Bengal State Election Commission Act, 1994. Due to this intricate legal provision, the SEC and the State Government had been at loggerheads for over nine months over the holding of the elections in 2013. At the core of the dispute was the question of whether it was the State Government or the SEC that had the final say in the conduct of the elections. Finally, with little sign of resolution on the issue between the State Election Commission of West Bengal and the Government of West Bengal, the SEC finally sought the intervention of the Apex Court in holding free and fair polls. In its judgment on June 28, 2013, the Supreme Court sealed the issue, once and for all, thereby upholding the “supremacy” of the State Election Commission in holding free and fair polls. The much-debated legal provision in question shows the State’s indifferent attitude towards the SEC and its functions under the control of the State Government, be it in terms of funds, the conduct of the election, appointment of the Commissioner, building, deployment of Central Armed Police Forces (CAPFs), etc. This has resulted in unwarranted constraints for the SEC in conducting free and fair elections as well as timely elections and on certain occasions, it needs to wait for the directions of the State Government.

The State Election Commissions, in furtherance of the country's democratic structure, have been set up to ensure holding of periodical elections at the grass root level to elect representatives based on an impartial objective and fair election process. But if no elections are held in time, the foundation of democracy is threatened; without

the mask, there is no longer the comforting knowledge that elections can legitimize the chaos of Indian politics as a democratic process. In that case, one can only dread the consequences and the State Election Commissions are at times left to be contended that it is a toothless tiger. It was learned during the studies that the State Government and SECs were at loggerheads on the issue of timely holding of periodical elections on several occasions.

As mandated by the Constitution, the State Election Commissioner should be given the status of a High Court Judge, otherwise, cooperation of the Chief Secretary, Director General of Police (DGP), Finance Secretary and other important Officials may not be forthcoming and more importantly, the SEC may not appear to be independent. However, the Government of Mizoram has not given the status of a High Court Judge to the State Election Commissioner of Mizoram.

There is a great deal of disparity between the funds provided for Parliament and Assembly Elections conducted by ECI and Local Bodies' elections conducted by the SEC. The SEC requires adequate funding for meeting Office expenses, both on infrastructure and personnel, the use of Information and Communication Technology (ICT) to facilitate their functioning and the building of database on various aspects of the election. It was against the background of the displeasure of the State Election Commissioners with regard to the provision of their entitlements by the State Governments that the following common platforms, such as the Forum for State Election Commissioners across the Country viz., the All India Level State Election Commission Standing Committee and the Task Force, were constituted for State Election Commissioners and the constitution of these platforms shows the need for strengthening the Institution of SECs in most of the States across the Country.

The Constitution of India envisages that upon a request made on that behalf, the Governor shall make available to the SECs such staff as may be necessary for the discharge of the functions conferred on the SEC by Clause (1) *ibid*. In the matter of conduct of elections, the State Government concerned shall have to render full assistance and cooperation to the SEC and respect the latter's assessment of the needs in order to ensure that free and fair elections are conducted. During the field study, it

was noted that the SEC of West Bengal has less manpower than Mizoram. Whereas MSEC has 35 sanctioned strengths with 26 posts being filled up, WBSEC has 25 sanctioned strengths with only 15 posts being filled up. This has indicated that Govt. of Mizoram has set up better Organizational and Administrative Structures for its State Election Commission than Govt. of West Bengal. It is clear that no adequate staff is provided to the SEC of West Bengal by the State Government and a sufficient number of personnel including security forces are not always available before or during elections in the State.

It may also be pointed out that the State Government in West Bengal seems to think that the SEC is another branch of the Government and should abide by the Government's wishes hither and thither. In a nutshell, State Election Commissions, being constitutional authorities, functioning outside the ambit of Government cannot be publicly as cozying up to the Government in power for seeking administrative support and financial favours time and again. This can seriously compromise the true autonomy and independence of the State Election Commissioners who have to fulfill their Constitutional responsibility of holding free, transparent and fair elections without fear or favour. Under the circumstances, it is not visible to see any dramatic transformation in the functioning of the State Election Commission, somewhat on the pattern of the Election Commission of India, so that it gets its legitimate and long overdue stature and respect in the eyes of the common man who wishes to see a cleaner, truly representative and honest grassroots democracy so essential for sustainable development at all levels in both the States.

### **Level of Commitment of the State Governments of Mizoram and West Bengal for Strengthening the Institution of State Election Commission**

It has been found that both the SECs function under the control of their respective State Governments, in terms of funds, the conduct of elections, the appointment of the Commissioner and building for office accommodation. This has created a baffling constraint for SECs in conducting free and fair elections and, sometimes, they need to wait for the directions of the State Governments. Hence, it is

apparent that the SEC cannot maintain its independence of functioning as envisaged by the Constitution. The major constraints of both the SECs in performing their role to ensure free and fair elections may be highlighted below: -

1) *No proper accommodation or separate buildings for the Commission:*

With regard to office accommodation, both the SECs in Mizoram and West Bengal do not have any permanent office buildings and are accommodated in rented buildings till date. This absence of sustainable infrastructural support from the State Government clearly indicates that there is a lack of commitment on the part of Government of Mizoram and the Government of West Bengal to strengthen the Institution of SEC as far as status, independence and authority are concerned.

2) *Inadequate permanent staff:*

The West Bengal SEC office also has a total of 9 (nine) Group 'B' sanctioned posts, such as Stenographer, Section Officer, Jr. Accountant, Head Assistant, Upper Divisional Assistant (U.D.A), Cashier-cum-U.D.A, Personal Assistant (P.A) (Stenographer). Out of these 9 (nine) posts, only 3 (three) posts have been filled up while 6 (six) posts are lying vacant at the time of collecting data.

The WBSEC also has sanctioned posts of Group 'C' and 'D' staff, such as Lower Divisional Assistant (L.D.A), Typist, Data Processor (Software Developer), Driver, Record Supplier, Group 'D' Staff, and Night Guard. Out of the total sanctioned posts, 10 (ten) posts, mostly Group 'B' and 'C' staff, are lying vacant at the time of data collection. It is apparently clear that no inadequate permanent staff are provided to the WBSEC by the State Government and a sufficient number of personnel including security forces are not always available before or during elections in the State.

In a nutshell, State Government in West Bengal seems to think that the SEC is another arm of the Government and should abide by the Government's wishes. Since a majority of the staff in SEC's office are Government employees sent on deputation, they take it as a punishment posting and are afraid to execute decisions that may annoy

Government. Although the decisions taken by the SEC are to be executed at the ground level by the staff and functionaries of the various Districts, the execution of orders becomes difficult at times since the personnel management in the State is highly politicized. In short, conducting such multiple elections of gigantic magnitude under a volatile political environment is not an easy task for the State Election Commission.

In the case of Mizoram, it appears that adequate regular staff is being provided to SEC and no misunderstanding between the Commission and the State Government has cropped up to date. However, because of the manifold increase in the volume of work, reinforcement of manpower in the enforcement of the Model Code of Conduct (MCC) and Poll Monitoring and Research Wing is highly needed.

3) *Inadequate funding:*

At present, there is a great deal of disparity between the funds provided for Parliament and Assembly Elections conducted by the ECI, on the one hand, and elections to the Local Bodies conducted by the SECs. In addition to the expenses for conducting local elections, the SEC requires adequate funding for meeting office expenses, both on infrastructure and personnel.

4) *Lack of cooperation from the higher echelons of the States' bureaucracy:*

It was learned during Field Study that certain higher bureaucrats, especially in Mizoram, are indifferent towards the SEC as far as their existence, as well as their proposals and requirements, are concerned. Above that, several Chief Secretaries did not hesitate to hold the additional charge of SEC while serving as the Chief Secretary.

While the above trend continues unabated in various States, the Supreme Court on 12<sup>th</sup> March 2021 (Friday) ruled that State Government officials cannot be made State Election Commissioners to ensure that the independence of the poll body is not compromised while issuing orders in a case relating to municipal polls in Goa.

*“All states and territories in India shall henceforth ensure that it has an Independent State Election Commissioner as mandated under Article 243(4) of the Constitution”.*<sup>73</sup>

5) *No uniform treatment for State Election Commissioners*

The Constitution mandates that the State Election Commissioner cannot be removed except in a like manner and on like ground as in the case of a Judge of the High Court. In sync with the Constitutional mandate, the West Bengal State Election Commissioner has been accorded the status of a Judge of the High Court. But, the present status of State Election Commissioner in Mizoram is that of a Chief Secretary to the State Government, which is lower than the status mandated in the Indian Constitution under Article 243K (2). It is to be noted that, after the conclusion of every election, the State Election Commissioners can become parties to litigation on the election results and are occasionally summoned by the High Court to be personally present during the proceedings. This creates an anomalous situation where a Constitutional authority is summoned by the Court.

## **Conclusion**

It is amply clear that the responsibility to conduct elections for local self-government is solely with the State Election Commissions and the Election Commission of India (ECI) has no role to play in the method of conducting local bodies' elections or related issues. However, most of the election laws pertaining to Local bodies' elections are emanated from the Representation of the People Act, 1950, Representation of the People Act, 1951, Registration of Electors Rules, 1960, Conduct of Election Rules, 1961, etc., which are meant to be enforced by the Election Commission of India.

In view of the said interface with the ECI, it is of paramount importance on the part of the State Governments to strengthen and empower the SECs to address the

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<sup>73</sup> ‘Government Official Can't Be State Election Commissioner’: Supreme Court Rebukes Goa. Retrieved on 6<sup>th</sup> May, 2023 from <https://thewire.in/law/government-official-cant-be-state-election-commissioner-supreme-court-rebukes-go>

problems inherent in conducting an election and other institutional problems— such as inadequate staffing, funding, facilities, infrastructure, etc. On the other hand, in order to safeguard the integrity of the institution and ensure credible elections, the State Election Commissions should be allowed by the State Governments to enjoy the Constitutional provisions and adopt various procedures of electoral management initiated and issued by the Election Commission of India from time to time.



## CHAPTER-V

### ELECTORAL MANAGEMENT IN THE STATE ELECTION COMMISSIONS OF MIZORAM AND WEST BENGAL

#### Introduction

The concept of democracy as visualized by the Indian Constitution presupposes representation of the people in Parliament, State Legislatures and Local Governments by the method of election.<sup>74</sup> The democratic process revolves around elections which enable the people to determine who will represent them, influence governmental decisions and make elected representatives accountable. Accordingly, the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendments advocate the setting up of a State Election Commission (SEC) which will be vested with the same powers under Article 243K and Article 243 ZA (1) as in the case of the Election Commission of India (ECI) under Article 324 of the Constitution of India. Hence, the SECs are to function independently without any influence of the State Governments concerned in the matters of their powers of supervision, direction and control of all elections to the Panchayats and the Municipalities and preparation of Electoral Rolls for those elections. Barring a few, most of the State Governments in the country have transferred their powers relating to the local elections to the State Election Commission.<sup>75</sup> In this Chapter, electoral management in Mizoram and West Bengal has been studied as follows: -

#### Electoral Management during the conduct of elections to Rural and Urban

##### Local Bodies in Mizoram

Democratic elections at various levels in our country require effective electoral management to implement Election laws, apply sophisticated technology, electronic voting machines, etc., and manage personnel, resources and dissemination of public

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<sup>74</sup> The Functions (Electoral System of India) Retrieved on 21<sup>st</sup> October, 2022 from <https://eci.gov.in/about/about-eci/the-functions-electoral-system-of-india-r2/>

<sup>75</sup> Chakraborty, Biswanath. (2014). *The Emerging Role of State Election Commission*. Kolkata: Progressive Publishers. p. 30.

information. So, electoral management in Mizoram also entails the engagement of personnel to perform the tasks with high integrity and careful management of resources, stakeholders' relationships, technology and public information dissemination in an organized manner. Therefore, the key tasks of Election machinery, among others, include recruitment or deployment of election staff, selection of the method to compile the various records, selection of voting method or technologies, the establishment of regular systems of evaluation for both the staff and the technologies used, management of a network of stakeholders involved in conducting elections, effective communication with the public on polling and counting days. Electoral management of elections for people's representatives in the Rural and Urban Local Bodies (ULB) broadly covers three sets of related activities, such as organizing, monitoring and certifying elections.

### **Electoral Management before and after the announcement of the Election to Local Bodies**

In order to ensure free, fair and impartial elections to the various local bodies in the State, Mizoram State Election Commission (MSEC) appointed statutory authorities and the officer or staff so employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of, all elections are deemed to be on deputation to the State Election Commission for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the Commission. The key officials normally appointed by the SEC are as below.<sup>76</sup>

*District Election Officers/ District Municipal Election Officers:* Deputy Commissioners have been designated as District Election Officers in all the Districts in the State. The District Election Officers/ District Municipal Election Officer coordinate and supervise all works in the respective districts or in the area within their jurisdiction in connection with the preparation or revision of electoral rolls and the conduct of all elections to the Local Bodies and the Municipalities subject to the

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<sup>76</sup> SEC Annual Report 2020-2021. Aizawl: State Election Commission, Mizoram. p-7

superintendence, direction and control of the State Election Commission. The Commission provides funds to various officials for meeting elections expenditure through the District Election Officers/ District Municipal Election Officers.

*Assistant District Election Officers/Assistant District Municipal Election Officers:* The State Government Officers have been designated as the Assistant District Election Officers and Assistant District Municipal Election Officers for all elections to Local Bodies and Municipal Elections in their respective districts to assist the District Election Officer/District Municipal Election Officer in connection with all works of election.

*Electoral Registration Officers:* The State Government officials have been designated as Electoral Registration Officers in consultation with the Government to prepare the electoral roll for each constituency or ward. The Electoral Registration Officers shall prepare or revise the electoral roll as per the direction of the State Election Commission from time to time.

*Assistant Electoral Registration Officers:* The State Government officials have designated one or more persons as Assistant Electoral Registration Officers to assist the Electoral Registration Officers in the performance of their functions as necessary.

*Returning Officers:* The State Election Commission shall, in consultation with the State Government, designate Returning Officers from the officials of the State Government for every election. It is the general duty of the Returning Officer to do all such acts and things for conducting the elections as provided by the Act and Rules or Orders made thereunder. The Deputy Commissioners have been designated as Returning Officers for elections to Members of District Councils and other Government Officials have been designated as Returning Officers for elections to Local Bodies and Municipal Corporations.

*Assistant Returning Officers:* The State Election Commission appoints Assistant Returning Officers to assist the Returning Officers in the performance of his function.

*Presiding Officers and Polling Officers:* The District Election Officer appoints a Presiding Officer for each polling station for the polling duty. It is the general duty of the Presiding Officer at a polling station to ensure that the poll is conducted in a free and fair manner. In addition to the Presiding Officers, Polling Officers are also appointed for each polling station to assist the Presiding Officers for the smooth conduct of election.

*Election Observers:* The State Election Commission appoints senior officials of the State Government as Election Observers to oversee the process of elections and revision of electoral rolls. The Election Observers shall assist the Commission to ensure a fair and equitable election and shall discharge other functions as may be entrusted by the Commission from time to time.

As a result of the commitment and dedication of the said officials with the cooperation of the State Government, Political Parties, Contesting Candidates, Mizoram People Forum (MPF), other Stakeholders and all the electors who turned out to exercise their franchisee, the State Election Commission have had conducted all the General Elections and By-Elections during the last decade in a smooth, free and fair manner.

### **Electoral Management during the Preparation /Revision of Electoral Rolls**

Mizoram SEC being duly constituted by the State Government is vested with the power to supervise direct and control the preparation of the Electoral Rolls for democratic elections to all the Village Councils (VCs) within and outside the scheduled Districts of Mizoram and the Aizawl Municipal Corporation (AMC), Lunglei Municipal Council (LMC), the Autonomous District Councils (ADCs) Sinlung Hills Council (SHC). The legal provisions and practices for the time being in force in the State may be enumerated below: -

## **Electoral Rolls for Village Councils**

The SEC supervises, directs and controls the preparation of the Electoral Rolls for use in all elections to the Village Councils.<sup>77</sup> To prepare Electoral Rolls for the general elections/mid-term elections/by-elections to Village Councils, the SEC has to follow the legal provisions as enumerated below: -

For every Village Council Constituency: -

an electoral roll shall be prepared in accordance with the provisions of the Mizoram (Election to Village Councils) Rules, 2014.

The State Election Commission may prepare the electoral rolls of Village Councils without conducting an enumeration/intensive revision by adopting the last published electoral rolls of the Assembly Constituencies prepared for the purpose of election to the State Legislative Assembly under the provisions of the Representation of the People Act, 1950 (Act 43 of 1950) as draft roll or mother roll.

The electoral roll of the Assembly Constituency as adopted under Sub-rule (2) *ibid* shall be divided into separate “Parts” for each Village Council Constituency and all the electors included in the electoral roll for the Assembly Constituency shall be incorporated in the electoral roll of the Village Council Constituency concerned.

The roll shall be revised either intensively or summarily or partly intensively and partly summarily as the State Election Commission may direct.

The Electoral Roll for every constituency shall be prepared by reference to the qualifying date before each general election or mid-term or by-election to the Village Councils.

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<sup>77</sup> The Mizoram (Election to Village Council) Rules 2014. Retrieved on 1<sup>st</sup> November, 2022 from <https://sec.mizoram.gov.in/uploads/attachments/9ce341849610bbef158473dbdd77d6bc/15-the-mizoram-election-to-village-council-rules-2014.pdf> .pp. 2-3.

The Electoral Roll so prepared and published in accordance with the provisions of the Mizoram (Election to Village Councils) Rules, 2014 may be referred to as the mother roll of the constituency.

The Electoral Rolls need not be revised annually or summarily as a matter of course. However, if in the opinion of the State Election Commission there is sufficient reason so to do, it may, by a notification, order that the Electoral Roll or rolls of particular constituency or constituencies may be revised summarily at any time of the year other than the year before or during which the Election to Village Councils was conducted.

For the purpose of sub-rule (3) *ibid*, re-election of a dissolved Village Council to restore the Village Council for remaining period of the general term, or by-election to fill casual vacancy in a Village Council at any time, shall not normally be counted as a sufficient reason for ordering summary revision.

Summary revision under sub-rule (3) *ibid* shall be done in such a way that the Electoral Registration Officer shall, by reference to the mother roll, invite claims and objections and dispose them of in the manners as provided under the Rules *ibid*, and shall publish a list of amendments containing additions or deletions or both showing the year of such revision, and shall append the lists to the mother roll. The mother roll together with such lists of additions or deletions or both appended to it, shall become the Electoral Roll of the constituency.

Under the Mizoram (Election to Village Council) Rules 2014-

- “(1) A person shall be disqualified for registration in an Electoral Roll, if he
- (a) is not a Citizen of India; or
  - (b) is not a member of a Scheduled Tribe whose affairs are triable by Village Court under Rule 14 of the Lushai Hills Autonomous District (Administration of Justice) Rules 1953; or
  - (c) is of unsound mind standing so declared by a competent court; or

(d) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after having been registered in an Electoral Roll shall forthwith be struck off from the Electoral Roll in which it is registered.

(3) Notwithstanding anything contained in clause (b) of sub-rule (1) permanently resident Gorkhas and their direct descendants as notified by the State Government, who are not otherwise disqualified, shall be entitled to be registered in an Electoral Rolls.

Besides these, no person shall be entitled to be registered in the Electoral Roll for more than one constituency at a time and no person shall be entitled to be registered in the Electoral Roll for any constituency more than once.

### **Electoral Rolls for Municipalities in Mizoram**

The MSEC is vested with the power to supervise, direct and control the preparation of the electoral rolls for and conduct of all elections to the Municipalities.

MSEC performs these functions in accordance with the Act and such Rules as the State Government may make from time to time.<sup>78</sup>

The electoral roll of every Ward shall be prepared by reference to the qualifying date as provided by section 29 of the Mizoram Municipalities Act, 2007 as amended.

The roll shall be divided into convenient parts which shall be numbered consecutively.

Subject to the provisions of section 29 of the Mizoram Municipalities Act, 2007, electoral rolls for each Constituency (Ward) shall be prepared as below:

“ (1) Every person who –

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<sup>78</sup> The Mizoram Municipalities Act 2007 (As amended in 2015). Aizawl: Aizawl Municipal Corporation. p. 16.

(a) is not less than 18 years of age on the qualifying date, and

(b) is ordinarily resident in a municipal area, shall be entitled to be registered in the electoral roll for that municipal area.

(c) is a citizen of India, who belongs to a Scheduled Tribe;

(d) notwithstanding anything contained in clause (c) of Sub-Section (1), permanently resident Gorkhas and their direct descendants as notified by the State Government, who are not otherwise disqualified, shall be entitled to be registered in an electoral roll.

(2) No person shall be entitled to be registered in the electoral roll for any municipal area in more than one place.

(3) No person shall be entitled to be registered in the electoral roll for any municipal area if his name has already been registered as a voter in the electoral roll of any other municipal area, municipal corporation or panchayat area”.

The roll for each Ward shall be revised by reference to the qualifying date - (a) before each general election to the municipality; and (b) before each by-election to fill a casual vacancy in a seat of Councillor.

The revision of roll under sub-rule (1) may be done either intensively or summarily or partly intensively and partly summarily, as the Commission may direct.

When the roll or any part thereof is to be revised intensively in any year, it shall be prepared afresh and Rules 11 to 27 *ibid* shall apply in relation to such revision as they apply in relation to the first preparation of a roll.

When the roll or any part thereof is to be revised summarily in any year, the Electoral Registration Officer shall cause to be prepared a list of amendments to the relevant parts of the roll on the basis of such information as may be readily available and publish the roll together with the list of amendments in draft, and the provisions of Rules 16 to 27 shall apply in relation to such revision as they apply in relation to the first preparation of roll. Further, the Act provides that the SEC has made



preliminary publication of electoral roll after preparation or revision which has always been followed by final publication after disposal of claims and objections in the manner prescribed in the Act.<sup>79</sup>

Any person aggrieved by any order of the Municipal Electoral Registration Officer (MERO) with regard to any entry in omission from the electoral roll may within fifteen days from the date of final publication of the electoral roll appeal to the District Municipal Election Officer (DMEO). The decision of such appellate authority shall be final and binding.

### **Preparation and Management of Electoral Rolls for Autonomous District Councils in Mizoram**

The MSEC is also vested with the superintendence direction and control of the preparation of Electoral Rolls for all the elections in Mara, Lai and Chakma Autonomous District Councils. The eligible qualifications for becoming electors in these Autonomous District Councils are:<sup>80</sup>

“Every person who is-

- (a) a citizen of India belonging to any Schedule Tribe;
  - (b) an ordinarily resident in any constituency within the Mara Autonomous District Council, Lai Autonomous District Council and Chakma Autonomous District Council;
  - (c) not below the age of eighteen years on the qualifying date,
  - (d) not of unsound mind and does not stand so declared by any competent court;
- and

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<sup>79</sup> The Mizoram Municipalities Act 2017 (As amended in 2015). Aizawl: Aizawl Municipal Corporation. p. 17.

<sup>80</sup> The Mara Autonomous District Council (Constitution, Conduct of Business etc.) Rules, 2002. (Published Vide No.C.11018/1/2001-DCA, dt. 2.3.2012 in the Mizoram Gazette - Extra Ordinary Vol. XXXVI dt. 14.3. 2007), p. 50.

- (e) for the time being not disqualified from voting under the provisions of any law relating to corrupt or illegal practice or other offences in connection with the election shall be entitled to vote at any election to the District Council of the Mara, Lai and Chakma Autonomous District.”

According to the established Rules for the management of Electoral Rolls for the Autonomous District Councils viz, ‘The Mara Autonomous District Council (Constitution, Conduct of Business, etc.) Rules, 2002’ as amended, The Lai Autonomous District Council (Constitution, Conduct of Business, etc.) Rules, 2010 as amended and The Chakma Autonomous District Council (Constitution, Conduct of Business, etc.) Rules, 2002 as amended, there is an electoral roll for every constituency for election to the Mara, Lai and Chakma Autonomous District Councils prepared in accordance with the rules provided for each Autonomous District. These Rules include:

“(a) The electoral roll of a constituency of the Mizoram Legislative Assembly prepared in accordance with the provisions of Section 23 of the Representation of the People Act, 1950 (No. 43 of 1950) in as much as it relates to the areas comprised within the constituencies of the District Council of Mara/Lai/Chakma Autonomous District shall as and when revised be an electoral roll for the purposes of the general elections to the District Council.

b) There shall be conducted a summary revision of the electoral rolls for inclusion deletion or correction of names in the electoral roll of the District Council preceding any election to the Council-constituencies/constituency by such time frame as may be decided and notified by the State Election Commission.”

The entire process of revision of electoral rolls should be completed on or before the date fixed for filing nomination papers for the general elections to the District Council.

## **Electoral Management during the conduct of democratic elections**

It is learned that the MSEC ensures its credibility and legitimacy on the elections they administer through various initiatives. Greater public information and sufficient sensitization, fine-tuning of electoral management, transparency and capacity building and empowerment of the citizens are key areas which are undertaken by the Mizoram State Election Commission. The Commission's initiatives on the Electoral Law and process, and rights and duties of the voters, effective application of Laws and enforcement Model Code of Conduct (MCC), preparation of Electoral Rolls for elections to Local Bodies, various issues pertaining to the conduct of elections are highly remarkable. Further, attempts are being made to improve the existing procedures and norms and streamline the existing system with close and active cooperation from political parties, other stakeholders and the State Government.

The following are the important initiatives undertaken by the MSEC for General Elections to Village Councils during the last 13 (thirteen) years namely:

Declaration of DC and DLAO/EO as DEO and Asst. DEO respectively as a measure to actively involve the Deputy Commissioner in the actual conduct of Elections with greater accountability.

Appointment of Headmasters, Teachers of High School and Middle School as Returning Officer and Presiding Officer wherever possible as a measure for upgrading the status of Returning Officers and Presiding Officers.

Single Ballot Box and Common Ballot Paper for each Village Council as a measure to check and eliminate the corrupt practice of selling and buying of votes due to defective systems hitherto reportedly rampant.

Introduction of indelible ink to prevent duplication of voting.

Introduction of forms for claims & objections during Summary revision of Electoral Rolls for Elections to Village Councils.

Introduction of Model Code of Conduct as a measure to raise awareness of the importance and necessity of having fair Elections, free from money and muscle power including all unfair practices.

Appointment of Senior Officers as Election Observers as a measure to effectively enforce the Model Code of Conduct and ensure smooth conduct of elections in all the polling stations.

The above measures brought about 'Changes' in the primitive and outdated grass-root level Electoral System prevailing since 1974. The reforms introduced by the MSEC particularly Single Ballot Box and Common Ballot Papers for each Village Council have effectively checked and eliminated the corrupt practice of selling and buying ballot papers deliberately not cast or inserted into the ballot boxes by some voters who had unhealthy intent of mind to sell the ballot papers outside the polling station. This corrupt practice was reported to be rampant in all earlier Village Council Elections.

Before and after the announcement of the schedule for elections to rural and urban local bodies, Mizoram SEC, other election machinery at various levels and the State Government have to carry out multiple activities, apart from the activities as aforementioned, such as: -

- Delimitation of Constituencies Municipal Wards and Local Councils by the State Government.
- Planning of detailed arrangements.
- Reservation Seats for women in AMC by draw of lots by rotation.
- Rationalization and setting up of polling stations.
- Appointment of Polling personnel after creating a database and their management for election-related activities and imparting training to polling personnel and various groups.
- Procurement and preparation of polling materials including Ballot Boxes.
- Building voter awareness, use of EVMs, Model Code of Conduct, etc.

- Requisitioning/hiring of vehicles for polling parties, micro observers, police forces and other officials.
- Loaning of EVMs from ECI and keeping a record of EVMs, Security measures for EVMs including its safe custody, First Level Checking of EVMs, Randomization of EVMs, etc.
- Meeting with political parties on various issues.
- Law and order measures to prevent booth capturing etc., and security plan.
- Setting up of control room
- Observance of Model Code of Conduct.
- Electoral offenses / corrupt practices – Prevention and taking strong action against defaulters.
- Appointment and briefing of Observers.
- Printing of Postal Ballot Papers & Ballot Papers for EVMs.
- Preparation of Counting plan, Identification of Counting Centers and Security arrangements thereof.
- Holding meetings/workshops of recognized political parties to explain the process of expenditure monitoring, MCC & other legal provisions.
- Monitoring of Election Expenditure by candidates in respect of Municipal bodies.

### **Notification for General Elections to Village Councils**

As soon as may be after the publication of the final electoral rolls, the MSEC in consultation with the DEO has to publish a list of Village Councils for which the election is to be held giving each Council/Constituency a distinctive Village number and showing several vacancies to be filled in each by such election.<sup>81</sup> A general election to the Village Councils shall be held on or before the expiration of the duration of the existing local bodies or on their dissolution if any and the SEC shall call upon every constituency to elect members of the Village Council in accordance with their respective election rules within such time as may be specified in such notification. As

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<sup>81</sup>*Ibid.* p. 6

provided under Rule 37 of the Mizoram (Election to Village Council) Rules, 2014, for the purpose of holding elections to fill ordinary or casual vacancies in the Village Council, the SEC has, by notification in the Official Gazette, to appoint<sup>82</sup>-

- “a) the last date for making nominations which shall be the seventh day after the date of publication of the first mentioned notification or, if that is a public holiday, the next succeeding day which is not a public holiday;
- b) the date for the scrutiny of nominations, which shall be the day immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;
- c) the last date for the withdrawal of candidature, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;
- d) the date or dates on which a poll shall, if necessary, be taken which or the first of which shall be a date not earlier than the fourteenth day after the last date for the withdrawal of candidatures; and
- e) the date before which the election shall be completed”.

### **Notification for General Elections to Local Councils**

As provided under Rule 36 of the Mizoram Municipalities (Election to Local Council) Rules, 2015, as soon as may be after the publication of final electoral rolls under Rule 33 or 34 as the case may be, the State Election Commission, in consultation with the District Municipal Election Officer(DMEO), has to publish a list of Local Councils for which election is to be held, giving each Locality a distinctive Locality number and showing the number of vacancies to be filled in each by such election.

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<sup>82</sup> The Mizoram Election to the Village Council Rules, (2014), State Election Commission. Retrieved on 6<sup>th</sup> May, 2023 from <https://sec.mizoram.gov.in/uploads/attachments/9ce341849610bbef158473dbdd77d6bc/15-the-mizoram-election-to-village-council-rules-2014.pdf> .p. 9.

As provided under Rule 37 of the Mizoram Municipalities (Election to Local Council) Rules, 2015, DMEO has to issue a Notification for General Election to Local Councils following the provisions of the said Rules:-

“(1) A general election to Local Councils shall be held on or before the expiration of the duration of the existing Local Councils or on their dissolution, if any, and the State Election Commission shall call upon every Constituency to elect members of the Local Council in accordance with this Rule within such time as may be specified in such notification.

(2) For the purpose of holding elections to fill ordinary or casual vacancies, the State Election Commission shall by a notification in the Official Gazette, appoint –

(a) the last date for making nominations which shall be the seventh day after the date of publication of the first mentioned notification or, if that is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for the scrutiny of nominations which shall be the day immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c) the last date for the withdrawal of candidature, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date or dates on which a poll shall, if necessary, be taken which or the first of which shall be a date not earlier than the fourteenth day after the last date for the withdrawal of candidatures; and

(e) the date before which the election shall be completed;

(f) the date before which the Executive body of each Local Council shall be formed.

(3) (a) Where general election is to be held otherwise on the dissolution of the existing Local Council, no such notification shall be issued earlier than 6(six) months prior to the date on which the duration of the Local Council would expire.

(b) When a Local Council is dissolved, election to constitute the Local Council for the remaining period of the fixed tenure, shall be completed before the expiry of 6(six) months from the date of its dissolution”.

### **Notification for General Elections to Municipality**

As provided under Rule 30 of the Mizoram Municipalities (Election of Councillors) Rules, 2007, as soon as the notification calling upon a Municipality to elect Councillors is issued, the Commission shall, by notification, appoint –

(a) the last date for filing nominations, which shall be the seventh day after the date of the notification, or if that day is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for scrutiny of nominations, which shall be the day immediately following the last date for filing nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday; and

(c) the last date for withdrawal of candidatures, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding which is not a public holiday.

(d) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the fourteenth day after the last date for the withdrawal of candidatures; and

(e) appoint the date before which the election shall be completed.

It is learned that there are no such detailed provisions for Notification of General Elections to Autonomous District Councils and Sinlung Hills Council under their respective Rules.



### **Timeline for the issue of notification in respect of Local Council & Village Council**

- a) The period between the announcement of the schedule of elections to the Local Councils/Village Councils by the SEC and the issue of notification for the elections to the Local Councils/Village Councils by the SEC shall not exceed 14(fourteen) days.
- b) The notification for election to Local Councils/Village Councils shall be issued on a date giving time not less than 7(seven) days ahead of the date appointed for the last date of filing of nominations.
- c) The date or dates of the poll shall be fixed leaving at least 21(twenty-one) days between the date fixed for withdrawal of candidature and the actual date of poll for preparation of ballot boxes, ballot papers and other election materials.<sup>83</sup>

It is learned that there is no such detailed Timeline for the issuance of Notification of General Elections to Municipality, Autonomous District Councils and Sinlung Hills Council under their respective Rules.

### **Public notice of intended election in respect of all Elections**

After the issuance of a notification by the MSEC, the RO of any elections shall give public notice of the intended election in such form and manner as may be prescribed inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

A candidate shall deposit a security deposit along with his nomination paper which shall be refunded to him at once in the case of his withdrawing the candidature or as early as possible after the conclusion of the election unless he forfeits the deposit.<sup>84</sup>

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<sup>83</sup> Mizoram Municipalities (Election to Local Councils) Rules, *Op.Cit.*, p. 13.

<sup>84</sup>*Ibid.* p. 14.

## **Scrutiny of nominations in respect of all Elections**

On the date appointed for the scrutiny of nominations, the candidates and one person duly authorized in writing by each candidate but no other person may attend at such place and time as the RO of any election may appoint for such scrutiny. The RO shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered in time. The RO shall then examine the nomination papers and decide all objections which may be made to any nomination and may either on such objection or on his own motion after such summary inquiry, if any, as he thinks necessary reject any nomination on any of the following grounds namely:<sup>85</sup>

- a) that the candidate is either not qualified or disqualified for being elected as a member of the Council or Corporation under the provisions of the Act or Rules enacted by the State Government.
- b) that there has been a failure to comply with the provisions of the nomination filed under the election rule such as failure to file his own nomination duly countersigned by a witness who is an elector of the constituency, failure to submit within the stipulated time and hour and failure to make a security deposit.
- c) that the signature of the candidate/thumb impression on the nomination paper is not genuine:

Provided that the nomination of a candidate shall not be rejected merely on the ground of any incorrect description of his name or of any other particulars relating to the candidate as entered in the electoral roll if the identity of the candidate, as the case may be, is otherwise established beyond a reasonable doubt.

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<sup>85</sup>*Ibid.* p. 14

## **Provisions of Polling Stations**

The RO shall subject to such directions as may be issued by the MSEC, on this behalf provide a sufficient number of polling stations for every Village Council, Local Council, Constituency and Municipal Ward and shall publish in such manner as the Commission may direct a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided. The following arrangements shall be made at polling stations:<sup>86</sup>

- 1) Outside each polling station there shall be displayed prominently-
  - a) notice specifying the polling area, the electors of which are entitled to vote at the polling station and when the polling area has more than one polling station, the particulars of the electors so entitled; and
  - b) a copy of the list of contesting candidates.
- 2) At each polling station, there shall be set up one or more voting compartments in which electors can record their votes free from observation.
- 3) The Returning Officer shall provide at each polling station a sufficient number of ballot boxes, copies of the relevant part of the electoral roll ballot papers, instruments for stamping the distinguishing mark on ballot papers and articles necessary for electors to mark the ballot papers.

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<sup>86</sup>*Ibid.* p. 28-29.

### **Fixing the time of the Poll**

The State Election Commission has to fix the hours during which the poll will be taken and the hours so fixed shall be published by notification in the official gazette. Normally, the total period allotted on any one day for polling shall not be less than eight hours.<sup>87</sup>

### **Adjournment of Poll in Emergency**

Whenever a poll is adjourned due to the proceedings of the election at any polling station being interrupted or obstructed by any riot or open violence or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity or any other sufficient cause, the RO concerned shall immediately report the circumstances to the appropriate authority and the SEC, and shall as soon as may be with the previous approval of the SEC appoint the day on which the poll shall re-commence and fix the polling station or place at which and the hours during which the poll will be taken and shall not count the votes cast at such election until such adjourned poll shall have been completed.<sup>88</sup>

### **Fresh Polls in Case of Destruction of Ballot Boxes**

If at any election any ballot box used at Polling Station is unlawfully taken out of the custody of the Presiding Officer or is accidentally or intentionally destroyed or lost or is damaged or tampered with to such an extent that the result of the poll at that Polling Station cannot be ascertained; or any such error or irregularity in the procedure, as is likely to vitiate the poll, is committed at a Polling Station, the Presiding Officer shall forthwith report the matter to the RO and the DEO/DMEO. Thereupon, the DEO/DMEO shall, after taking all material circumstances into account and in consultation with the State Election Commission, either-<sup>89</sup>

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<sup>87</sup> *Ibid.* p. 19.

<sup>88</sup> *Ibid.*, p.23

<sup>89</sup> *Ibid.* p.25

declare the poll at that Polling Station to be void; appoint a day and fix the hours for taking a fresh poll at that Polling Station and notify the day so appointed and the hours so fixed in such manner as he may deem fit; or issue such directions to the Returning Officer as it may deem proper for the further conduct and completion of the election provided the Commission is satisfied that the result of a fresh poll at that polling station or place will not in any way affect the result of the election or that the error or irregularity in the procedure is not material.

### **Electoral Management after the Elections**

(a) Counting of Votes:

Counting of votes has to be taken up as soon as possible after the close of the poll, where EVMs are not used, at the place and time as appointed by the RO and in the presence of the candidates or their Election Agents. The RO may appoint any public servant or servants available, as may be necessary, to assist him in the counting of votes. In the case of elections where EVM is used, the MSEC has to appoint the date of counting normally after a lapse of at least one day from the poll date.

A Contesting Candidate or his Election Agent may appoint in the prescribed manner one or more persons but not exceeding such number as may be prescribed by the SEC to be present as his Counting Agent or Agents at the counting of votes and when any such appointment is made notice of the appointment has to be given in the prescribed manner to the RO.

(b) Publication of election results:

1) The RO shall prepare the election results and send the results to the MSEC and also to the DEO/DMEO.

2) The RO shall also display the election result in the prescribed Form in the Notice Board of the Constituency/Ward.

3) On receipt of all the results from the DEO or DMEO or RO, the MSEC has to publish the election results in the Official Gazette.<sup>90</sup>

### **Electoral Management for conducting elections to Local Bodies in West Bengal**

The superintendence, direction and control, inter alia, of all elections to Panchayats and Municipalities are vested in the WBSEC in terms of 243K Article read with 243 ZA (1) of the Constitution of India and Section 5(1) of the West Bengal State Election Commission Act, 1994 and the word ‘elections’ includes the entire process of election which consists of several stages and it embraces many steps, some of which have an important bearing on the process of choosing a candidate by the electorate.

Democratic elections at various levels in our country require effective electoral management to implement Election laws, to apply sophisticated technology, electronic voting machines, etc, and to manage personnel, resources and dissemination of public information. So, electoral management in West Bengal also entails the engagement of personnel to perform the tasks with high integrity and careful management of resources, stakeholders’ relationships, technology and public information dissemination in an organized manner. Therefore, the key tasks of Election machinery, among others, include recruitment or deployment of election staff, selection of the method to compile the various records, selection of voting method or technologies, the establishment of regular systems of evaluation for both the staff and the technologies used, management of a network of stakeholders involved in conducting elections, effective communication with the public on polling and counting days. Electoral management of elections for people’s representatives in the Rural and Urban Local Bodies broadly covers three sets of related activities, such as organizing, monitoring and certifying elections.

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<sup>90</sup>*Ibid.* p.29

## **Electoral Management before and after the announcement of the Election to Local Bodies**

In order to ensure free, fair and impartial elections to the various local bodies in the State, WBSEC appointed statutory authorities and the officer or staff so employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of, all elections are deemed to be on deputation to the State Election Commission for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the Commission. The administrative machinery normally appointed by SEC are as below: -

*District Panchayat Election Officer / District Municipal Election Officers:* State Government Officers designated as District Election Officers in all the Districts in the State. The District Panchayat Election Officers/ District Municipal Election Officer co-ordinate and supervise all works in the respective districts or in the area within their jurisdiction in connection with the preparation or revision of electoral rolls and the conduct of all elections to the Local Bodies subject to the superintendence, direction and control of the State Election Commission. The Commission provides funds for meeting elections expenditure through the District Panchayat Election Officers/ District Municipal Election Officers.

*Assistant District Panchayat Election Officers/Assistant District Municipal Election Officers:* The State Government Officers have been designated as the Assistant District Panchayat Election Officers and Assistant District Municipal Election Officers for all elections to Local Bodies and Municipal Elections in their respective Districts to assist the District Election Officer/District Municipal Election Officer in connection with all works of election.

*Panchayat/Municipal Electoral Registration Officers:* The State Government officials have been designated as Municipal or Panchayat Electoral Registration Officers in consultation with the Government to prepare the electoral roll for each constituency or

ward. The Electoral Registration Officers shall prepare or revise the electoral roll as per the direction of the State Election Commission from time to time.

*Assistant Panchayat/Municipal Electoral Registration Officers:* The State Government officials have designated one or more persons as Assistant Municipal or Panchayat Electoral Registration Officers to assist the Electoral Registration Officers in the performance of their functions as necessary.

*Panchayat/Municipal Returning Officers:* The State Election Commission shall, in consultation with the State Government, designate Panchayat/Municipal Returning Officers from the officials of the State Government for every election. It is the general duty of the Returning Officer to do all such acts and things for conducting the elections as provided by the Act and Rules or Orders made thereunder.

*Assistant Panchayat/Municipal Returning Officers:* The State Election Commission appoints Assistant Panchayat/Municipal Returning Officers to assist the Panchayat/Municipal Returning Officers in the performance of his function.

*Presiding Officers and Polling Officers:* District Panchayat Election Officer / District Municipal Election Officer appoints a Presiding Officer for each polling station for the polling duty. It is the general duty of the Presiding Officer at a polling station to ensure that the poll is conducted in a free and fair manner. In addition to the Presiding Officers, Polling Officers are also appointed for each polling station to assist the Presiding Officers in the smooth conduct of the election.

*Election Observers:* The State Election Commission appoints senior officials of the State Government as Election Observers to oversee the process of elections and revision of electoral rolls. The Election Observers shall assist the Commission in ensuring a fair and equitable election and shall discharge other functions as may be entrusted by the Commission.

As a result of the commitment and dedication of the said officials with the cooperation of the State Government, Political Parties, Contesting Candidates, Civil Society, other Stakeholders and all the electors who turned out to exercise their



franchisee, the WBSEC conducted all the General Elections and By-Elections during the past decades in a smooth, free and fair manner.

### **Electoral Management during the Preparation /Revision of Electoral Rolls**

West Bengal SEC being duly constituted by the State Government is vested with the power to supervise direct and control the preparation of the Electoral Rolls for democratic elections to all the Rural & Urban Local bodies' elections. The legal provisions and practices for the time being in force in the State may be enumerated below: -

#### **(A) Electoral Rolls for Panchayat Election**

Subject to the provisions of Section 4 of the West Bengal SEC Act 1994, the Panchayat Electoral Registration Officer (PERO) shall prepare and revise an electoral roll for each Block within his jurisdiction. The Act, inter alia, provides that an electoral roll shall consist of Parts relating to the Gram Panchayat Constituencies delimited for the last general elections and such Parts shall be assigned consecutive serial numbers. It further provides that there shall be one electoral roll in any area for elections to Gram Panchayats, Panchayat Samitis, and Zilla Parishads or Siliguri Mahakuma Parishad Constituencies. The Act also provides that the names of electors in each 'Part' of the electoral roll shall be arranged according to 'Mohalla' 'Para' or 'House Number' unless the District Panchayat Election Officer (DPEO), subject to any general or special order by the Commission, determines in respect of any Part that the alphabetical order is more convenient or that the names shall be arranged partly in one way and partly in another.<sup>91</sup>

The eligibility for registration of voters is based on the provisions of Section 16 of the Representation of the People Act 1950 such as<sup>92</sup>

(a) Every person who is not less than 18 years of age on the qualifying date, and

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<sup>91</sup> West Bengal State Election Commission. (2022). *Panchayat Election Manual 2022 Volume 1*. West Bengal State Election Commission. Kolkata. p. 31.

<sup>92</sup> *Ibid.*, p. 32.

- (b) a person who is ordinarily a resident in that constituency shall be entitled to be registered in the electoral roll pertaining to that constituency;
- (c) No person shall be entitled to be registered in the electoral roll for more than one constituency;
- (d) No person shall be entitled to be registered in the electoral roll for any constituency more than once.

If in any case, a question arises as to whether a person is ordinarily resident of any area at any relevant time the question shall be determined by reference to all the facts of the case and such determination shall be made subject to the provisions of sub-section (1) to (6) of section 20 of the Representation of the People Act, 1950. The electoral roll for each Block shall be prepared with reference to a qualifying date as may be specified, by order, by the Commission and shall come into force immediately upon its final publication after at least fifteen days of the publication of the draft of such electoral roll. The electoral roll for a Block shall be recorded in writing be revised wholly or in part with reference to the qualifying date before each general election to any Panchayat and before each by- election to fill a casual vacancy in a seat allotted to the constituency and be revised in any year if such revision has been directed by the Commission with reference to a qualifying date as may be specified in such direction.

Notwithstanding anything contained in section 34 of the West Bengal Panchayat Election Act, the Commission may order in writing for the adoption of the electoral roll for the election of members to the West Bengal Legislative Assembly for the time being and to any election to the Panchayats from any Block. The correction of entries in electoral rolls was made under three circumstances only if the Block Panchayat Electoral Registration Officer is satisfied and thinks fits the application.

In order to include names in the electoral rolls, any person whose name is not included in the electoral roll of a Block may apply to the Panchayat Electoral Registration Officer in the prescribed Form for inclusion of his name in the electoral roll. If the Panchayat Electoral Registration Officer is satisfied that the applicant is entitled to be registered in the electoral roll direct his name to be included therein. The

Civil Court shall not have any jurisdiction to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency. It also cannot question the legality of any action by or under the authority of a Panchayat Electoral Registration Officer or of any decision given by any authority appointed under this Act for the preparation or adoption of any such electoral roll as the case may be.

(B) Electoral Rolls for Municipal Elections

The electoral roll for every Municipality shall consist of the electoral rolls for all the Constituencies within the Municipality and the electoral rolls of a Constituency shall be divided into different 'Parts' for different urban localities in that Constituency. The electoral roll for the time being in force for the election of Members to the West Bengal Legislative Assembly may at the discretion of the State Election Commissioner be adopted as the electoral roll for the election of members of Municipalities.<sup>93</sup>

The West Bengal Municipal Elections Act of 1994 provides that the electoral roll for each Municipality shall be prepared and revised by a Municipal Electoral Registration Officer (MERO). The MERO shall be appointed by the State Election Commissioner in consultation with the State Government under sub-section (1) of Section 6 of the West Bengal SEC Act 1994.<sup>94</sup> The MERO may subject to any prescribed restrictions employ such persons as he thinks fit for the preparation and revision of the electoral roll for the Municipality. Every Assistant Municipal Electoral Registration Officer (AMERO) shall subject to the direction and control of the MERO be competent to perform any of the functions of the MERO.<sup>95</sup>

Elections to the Local Bodies are now held on the basis of universal adult suffrage like the elections to the Parliament and State Legislature. Therefore, the

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<sup>93</sup> The West Bengal Municipal Elections Act 1994 (West Bengal Act XXXIV OF 1994. Chapter III 'Electoral Rolls for Municipality) p. 6.

<sup>94</sup> *Municipal Election Manual*. (2015). Kolkata: West Bengal State Election Commission. p. 2.

<sup>95</sup> West Bengal State Election Commission. (2018). *Municipal Election Manual*. Retrieved on 23<sup>rd</sup> October, 2022 from [http://wbsec.gov.in/files/contents/acts\\_rules/Municipal\\_Election\\_Manual\\_2015.pdf](http://wbsec.gov.in/files/contents/acts_rules/Municipal_Election_Manual_2015.pdf). p. 20.

electoral rolls for the Municipal Constituencies are logically and conveniently based on the relevant parts of the electoral rolls for the Assembly and Parliamentary Constituencies. To facilitate such utilization of Assembly electoral rolls for Municipal elections, the West Bengal SEC Act 1994 provides for the adoption of the electoral rolls for the time being in force for the election of members to the West Bengal Legislative Assembly for the election of a member to a Municipality. Subject to this provision of the West Bengal SEC Act 1994, the West Bengal Municipal Elections Act 1994 and the West Bengal Municipal Elections (Registration of Electors) Rules 1995 framed thereunder lay down the manner in which the municipal electoral rolls shall be prepared and revised.<sup>96</sup> It follows from all these provisions that<sup>97</sup>-

- (1) normally the electoral rolls for municipal constituencies shall be prepared by adopting the electoral rolls for the time being in force for Assembly Elections;
- (2) as soon as revised Assembly Electoral Rolls are published, steps should be taken to adopt the relevant parts of the roll for municipal constituencies in terms of the guidelines that may be issued by the Commission;
- (3) the adopted Assembly Electoral Rolls become the basic roll for the municipal elections. Claims and objections to that roll are to be dealt in accordance with the provisions of the West Bengal Municipal Elections (Registration of Electors) Rules 1995.

The entire process of all these revisions of electoral rolls should be completed on or before the date fixed for filing nomination papers for the general elections to the Local Bodies.

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<sup>96</sup> *Municipal Election Manual*. (2015). Kolkata: West Bengal State Election Commission. p. 11.

<sup>97</sup> *Ibid*.

### **Fixation of Election Dates**

Unlike Mizoram, West Bengal State Government shall in consultation with the State Election Commission by notification, fix the date or dates on which and the hours during which the poll will be taken in the Municipalities and Panchayats. The poll on any day shall continue for a period of not less than eight hours without interruption.

### **Appointment of Dates for Nominations**

As soon as the notification calling upon a Municipality and Panchayat to elect a member or members is issued, the State Election Commission shall by notification appoint the dates of various stages of election in the manner as follows-

The last date for making nominations shall be the seventh day in case of Municipal elections and twenty-four days in case of Panchayats election after the date of publication of the first mentioned notification or if that day is a public holiday, the next succeeding day which is not a public holiday.

The date for the scrutiny of nominations shall be the day immediately following the last date for making nominations or if that day is a public holiday, the next succeeding day which is not a public holiday. Generally, one or more successive dates may be appointed for the scrutiny of nominations;

The last date for the withdrawal of candidatures which shall be the second day after the last date for the scrutiny of nominations or if that day is a public holiday, the next succeeding day which is not a public holiday;

On the issue of a notification under section 37 of the Municipal Elections Act and section 43 of the Panchayats Elections Act, the Municipal Returning Officer or District Panchayat Returning Officer, in their respective authority shall in such form and manner as may be prescribed, give public notice of the intended election inviting nominations of candidates for such election and specifying the place at which the nomination papers shall be delivered.

## Scrutiny of Nominations

On the date fixed for the scrutiny of the nomination of the candidates, their election agents, one proposer of each candidate and one other person duly authorized in writing by each candidate but no other person may attend at such time and place as the Municipal Returning Officer or District Panchayat Returning Officer may appoint and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates, which have been delivered within the time and in the manner laid down in West Bengal Municipal Elections Act, 1994 and West Bengal Panchayat Elections Act, 2003.

The Returning Officer shall then examine the nomination papers and has to decide all objections which may be made to any nomination all may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary reject any nomination on any of the following grounds:

-that on the date fixed for the scrutiny of nominations, the candidate either is not qualified or is disqualified for being chosen to fill the seat under the Acts *ibid*;<sup>98</sup>

-that there has been a failure to comply with any of the provisions of section 40 or section 41 of the Municipal Elections Act, 1994 and section 45 or section 46, or section 47 of the Panchayat Elections Act 2003. These provisions generally pertain to the filling of nominations on or before the stipulated times, completion of the nomination paper in the prescribed form, obligations of ten proposers for a non-recognized political party, candidate qualifications for reserved seats in relation to women caste or tribes etc., that the signature of the candidate or the proposer on the nomination papers is not genuine.

The Municipal or Panchayat Returning Officer shall hold the scrutiny on the date appointed on this behalf under clause (b) of section 37 *ibid*<sup>99</sup> in case of Municipal

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<sup>98</sup> *Municipal Election Manual*. (2018). Kolkata: West Bengal State Election Commission. Retrieved on 9<sup>th</sup> May, 2013 from

[file:///C:/Users/CHONG'S/Downloads/Documents/Municipal Election Manual 2015 5.pdf](file:///C:/Users/CHONG'S/Downloads/Documents/Municipal%20Election%20Manual%202015%205.pdf) . p.37

<sup>99</sup> *Ibid*, p.38

elections and clause (b) of section 43 *ibid* in case of Panchayat elections<sup>100</sup>. The Returning Officer shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control. Immediately after all the nomination papers have been scrutinized and decisions accepting or rejecting the same have been recorded, the Municipal or Panchayat Returning Officer shall prepare a list of validly nominated candidates that is to say candidates whose nominations have been found valid, and affix it on his notice board.

### **Allotment of Symbol and Publication of List of Contesting Candidates**

Immediately after the expiry of the period within which candidates may withdraw their candidature, the Municipal Returning Officer or Panchayat Returning Officer shall forthwith consider the allotment of symbols in the prescribed manner to the candidates who have not withdrawn their candidature. The allotment of any symbol by the Panchayat Returning Officer or Municipal Returning Officer to a candidate shall be final. Immediately after the allotment of symbols under section 45 of the Municipal Elections Act, 1994 and section 51 of the Panchayat Elections Act, 2003, the Returning Officer shall prepare and publish such form and manner as may be prescribed a list of contesting candidates, that is to say, candidates who were included in the list of validly nominated candidates and who have not withdrawn their candidature within the said period.

### **Electoral Management during the conduct of democratic elections**

It is learned that the WBSEC ensures its credibility and legitimacy on the elections they administer through various initiatives. Greater public information and sufficient sensitization, fine-tuning of electoral management, transparency and capacity building and empowerment of the citizens are key areas which are undertaken by the West Bengal State Election Commission. The Commission's initiatives on the Electoral Law and process, and rights and duties of the voters, effective application of

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<sup>100</sup> West Bengal Panchayat Elections Act. (2008). *Op.Cit.*, p. 42.

Laws and enforcement of Model Code of Conduct, preparation of Electoral Rolls for elections to Local Bodies, various issues pertaining to the conduct of elections are highly remarkable. Further, attempts are being made to improve the existing procedures and norms and streamline the existing system with close and active cooperation from political parties, other stakeholders and the State Government.

Before and after the announcement of the schedule for elections to rural and urban local bodies, WBSEC, other election machinery at various level and the State Government have to carry out multiple activities, such as: -

- Delimitation of Constituencies Wards/Constituencies by the Commission.
- Advance planning of detailed arrangements.
- Reservation Seats for women, ST/SC by draw of lots by rotation.
- Rationalization and setting up of polling stations.
- Appointment of Polling personnel after creating the database and their management for election-related activities and imparting training to polling personnel and various groups.
- Procurement and preparation of polling materials including Ballot Boxes.
- Building voter awareness, use of EVMs, Model Code of Conduct etc.
- Requisitioning/hiring of vehicles for polling parties, micro observers, police forces and other officials.
- Loaning of EVMs from ECI and keeping a record of EVMs, Security measures for EVMs including their safe custody, First Level Checking of EVMs, Randomization of EVMs, etc.
- Meeting with political parties on various issues.
- Law and order measures to prevent booth capturing etc., and security plan.
- Setting up and Activation of Control Room
- Enforcement of Model Code of Conduct.
- Electoral offenses / corrupt practices – Prevention and taking strong action against defaulters.
- Appointment and briefing of Observers.
- Printing of Postal Ballot Papers / Ballot Papers for EVMs.



- Preparation of Counting plan, Identification of Counting Centers and Security arrangements thereof.
- Holding meeting/workshops of recognised political parties to explain the process of expenditure monitoring, MCC & other legal provisions.
- Monitoring of Election Expenditure by candidates in respect of Municipal bodies.

### **Electoral Management after the Elections**

#### 1) Counting of Votes

In every Local Bodies' election where a poll is taken votes shall be counted by or under the supervision and direction of the Panchayat or Municipal Returning Officer at such a place as would be determined by the State Election Commission and each contesting candidate his/her election agents and his counting agent shall have a right to be present at the time of counting.<sup>101</sup>

#### 2) Declaration of Results

Section 70 of the West Bengal Municipal Election Act 1994 and section 76 of West Bengal Panchayat Elections Act 2003 provide that when the counting of the votes has been completed, the Presiding Officer (PO) or the Panchayat Returning Officer (PRO) or Municipal Returning Officer (MRO), as the case may be, shall in the absence of any direction by the Commission to the contrary, forthwith declare the result of the election in the manner provided by this Act or the Rules made thereunder.<sup>102</sup>

#### 3) Report and Publication of the Results

As provided under section 71 of the West Bengal Municipal Election Act 1994, as soon as the result of an election has been declared, the Municipal Returning Officer shall report the result to the appropriate authority and the Commission who shall

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<sup>101</sup>Section 73 of The West Bengal Panchayat Elections Act, 2003, p. 53.

<sup>102</sup> West Bengal Municipal Elections Act 1994. *Op.Cit.*, p.48.

immediately publish the names of elected members in the Official Gazette<sup>103</sup>. In the case of Panchayat elections, as provided under section 77 of West Bengal Panchayat Elections Act 2003, as soon as after the result of an election has been declared, the Panchayat Returning Officer shall report to the District Panchayat Election Officer and the Director of Panchayat and Rural Development, West Bengal and the West Bengal State Election Commission; and the Director of Panchayat and Rural Development, West Bengal shall cause to be published in the official Gazette the declarations containing the names of the elected candidates.<sup>104</sup>

4) Destruction Loss etc. of Ballot Papers at the time of counting

If at any time before the counting of votes is completed any Ballot Papers or any Electronic Voting Machines (EVM) used at a Polling Station or at a place fixed for the poll are taken out of the custody of the Returning Officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with or in case of any Electronic Voting Machine (EVM) develops mechanical or electronic failure during the counting of votes to such an extent that the result of the poll at that Polling Station or place cannot be ascertained, the Returning Officer shall forthwith report the matter to the District Election Officer, who shall report the matter forthwith to the Commission. Thereupon, the State Election Commission after taking all material circumstances into account, either-

- a) direct that the counting of votes be stopped and declare the poll at that Polling Station to be void ; appoint a day, and fix the hours, for taking a fresh poll at that Polling Station or place and notify the date so appointed and hours, so fixed in such manner as it may deem fit, or
- b) if satisfied that the result of a fresh poll at that Polling Station or place will not, in any way, affect the result of the election, issue such directions to the Panchayat/Municipal Returning Officer as it may deem proper for the resumption and

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<sup>103</sup>*Ibid.* Section 71. P. 78

<sup>104</sup> West Bengal Panchayat Elections Act 2003. *Op.cit.*, p. 54

completion of the counting and for further conduct and completion of the election in relation to which the votes have been counted.

5) Fresh Poll in the Case of Destruction etc. of Ballot Boxes or Voting Machines

a) In any election of the Panchayats/Municipalities any ballot box or any ballot paper or any electronic voting machine used or intended to be used at the polling station at any time before or after the commencement of the poll or during counting is unlawfully taken out of the custody of Presiding Officer or is accidentally or intentionally destroyed or is lost or is damaged or tampered with to such an extent that the results of the poll at the polling station cannot be ascertained or any voting machine develops a mechanical failure during the recording of votes, the Presiding Officer shall immediately report the matter to a Returning officer and the Returning officer shall immediately report to the District Panchayat/Municipal Election Officer. Thereafter, by taking all the material circumstances into account, District Panchayat/Municipal Election Officer shall send a complete report to the State Election Commission. The SEC may allow the completion of the election or give the order or directions by an order specifying its decision and the action to be taken.

b) Where a poll at a polling station is declared to be void due to accidentally or intentionally destroyed or is lost or is damaged or tampered with to such an extent that the results of the poll at the polling station cannot be ascertained or any voting machine develops a mechanical failure during the course of the recording of votes. The District Panchayat/Municipal Election Officer should immediately report the matter to the State Election Commission and the State Government. The Commission shall by notification fix a date and time for taking the fresh poll and thereupon the District Panchayat/Municipal Election shall fix the polling station at which the poll should be taken.

6) Fresh election when an election is set aside

When an election is declared void by the Court and a fresh election is ordered, the seat or seats of the returned candidate shall be deemed to be vacant from the date of the order of the Court and the State Government in consultation with the State

Election Commission shall forthwith take necessary steps for holding such fresh election.<sup>105</sup>

### **The attitudes of the State Governments toward their State Election Commissions**

The State Governments often delay Local Bodies' elections on purely political considerations. They can do so because they retain some powers relating to the conduct of elections under the State Acts and Rules. The SEC has to depend upon the State Government for logistic support that includes staff and finances. Besides certain important powers like issuance of election notification, delimitation of constituencies, earmarking of reserved seats etc. are retained by the State Governments in one way or another. Considering all these, there is a strong case for further strengthening the hands of the SECs by incorporating elaborate and specific provisions in the Constitution itself. Sometimes, the SECs have to fight long battles against the State Governments in order to fulfill their Constitutional duties to hold elections as per the provisions of law. In order to ensure the smooth conduct of Local Bodies' elections, the SECs should function independently from the State Governments and encourage interface with the ECI. However, independent functioning of the Commissions is always compromised due to the indifferent attitudes of the State Government towards SECs.

Electoral Management is essentially a technical task. The administrative system adopted and the institution that manages the system should, therefore, have technical capabilities. This is true if the electoral management body is part of the government structure and electoral administrators are civil servants; and it is equally true if the electoral management body is a separate, independent agency with its own personnel and policies. Almost every electoral law calls for a neutral administration of elections<sup>106</sup>. In fact, neutral and non-partisan electoral management enhances free, fair and credible elections over the years in both States. However, the Field Study

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<sup>105</sup> Section 103 of The West Bengal Panchayat Elections Act, 2003

<sup>106</sup> Retrieved on 6<sup>th</sup> May, 2023 from <https://aceproject.org/ace-en/topics/ei/eif/eif01/default>

reveals that the politicization of decision-making in the election process appears to have paralyzed the entire process of election to local bodies as well.

## **Conclusion**

It was found during the course of studies that there was no political interference in the day-to-day micro-management of elections in the Commissions. The main issue that cripples the smooth process of election, however, was that of enforcement of the Model of Code of Conduct in an impartial manner. Most of the State Election Commissioners were handpicked from amongst the higher echelon of bureaucracy, who were normally committed to the policies of the party in power. In such an environment, the question of impartiality or neutrality in the strict enforcement of the Model Code of Conduct becomes highly debatable.

Even though electoral law requires all election machinery and officials to be impartial and to exercise their powers and duties independently and they are expected to fulfill their duties in a non-partisan manner, finalization of election schedule, phasing of poll date and deployment of security forces are normally done in due consultation with the State Government or the party in power.

The absence of financial independence is another important factor that does not allow the Commissions to work effectively as timely and adequate allocation of funds is still a matter of challenge time and again. It is apparent that increasingly the State Election Commissions have also started using EVMs more and more and they need to buy their own EVMs. However, the SEC of Mizoram could not afford to buy its own EVM and had to depend on the loaning of EVMs from the Election Commission of India (ECI) till today. It was learned that loaning of EVMs/VVPATs by ECI to SECs is not obligatory on ECI and there is no Constitutional or legal basis to cast such obligation on ECI. ECI is loaning EVMs/VVPATs to SECs purely as a measure to promote the use of electronic voting in local bodies' elections to improve their efficiency. Under the circumstances, the State Government must honour the Constitutional mandate to fully finance expenditure for the conduct of local bodies' elections which rests with them.

Electoral management usually includes mechanisms for disseminating useful information to stakeholders in a timely and systematic manner. Parties and candidates have to know when and how to register, and how to gather the information that might be required for campaigning-related issues. Various procedures and guidelines are developed, devised and issued by the SEC from time to time so as to ensure that effective feedback mechanisms for swiftly identifying problems, and for receiving and systematically addressing complaints from candidates and others during the election process are put in place. With the management tools and control mechanisms provided by information technology, the SEC also developed and operated effective systems in line with the initiatives of ECI. A computerized voter list and randomization of EVMs and polling personnel using computer software based on database are a breakthroughs in electoral management. However, the adoption of new technology may not be sustainable or cost-effective due to financial constraints and a lack of digital literacy among the stakeholders. Hence, the emerging application software needs to be made user-friendly and cost-effective.

As a matter of fact, since electoral management requires huge public resources, the statutory authorities of electoral management are responsible for using it efficiently and economically. They are also responsible for ensuring that these resources are used in compliance with laws and regulations on the use of public assets, and with electoral legislation. The SEC has to ensure that it has control systems in place, properly safeguarding financial and material resources. However, it is learned that the budgeting, accounting, and monitoring systems are not properly put in place in the SEC. In view of this, public disclosure of the election budget and expenditures should be made mandatory to increase the transparency of the process and which in turn can help protect the credibility of the SEC.

## **CHAPTER-VI**

### **RESULTS AND DISCUSSION**

#### **Introduction**

To understand the whole working system of the SEC (SEC) in West Bengal and Mizoram, a total of thirty-three questions have been prepared and structured interviews were organized with the key functionaries and stakeholders from both the SECs in West Bengal SEC and Mizoram respectively. The questions were prepared based on six major parameters, such as questions related to the organizational structure and status of SECs in West Bengal and Mizoram, questions related to the administrative set-up of both the SECs, questions related to the role and functions of SECs in the conduct of elections in their respective States, a question related to the issues, problems and challenges faced by the SECs both in West Bengal and Mizoram, questions relating to the relationship between their respective State Governments and SECs and finally, the question relating to the opinions of the respondents about the scope of improvement for the key functionaries from both the SECs. The results of structured interviews based on pre-set questions have been tabulated for comparison and are shown in a table format. These structured-open-ended interviews have covered the State Election Commissioner from both States, Group ‘A’ officials and some retired key functionaries of SECs from both States.

#### **6.2 Data Analysis in Relation to the Organization of Mizoram State Election Commission and West Bengal State Election Commission**

The data analysis about the Organizational structure and status of the SECs in West Bengal and Mizoram includes four interview questions and it has been tabulated in the form of a comparison table. These questions include the reason for setting up of the SEC in their State, the level of Constitutional status provided by West Bengal and Mizoram State Governments, the status of their office building, and the organizational problems faced by both the SEC.

Q. What are the reasons responsible for setting up the SEC in West Bengal and Mizoram?

*Table 11: Setting up of the State Election Commission in West Bengal and Mizoram*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Reasons for the setting up of the State Election Commission	For Implementation of the 73 <sup>rd</sup> and 74 <sup>th</sup> Constitutional Amendment Acts in West Bengal	Funding issues for urban development & planning and a loan from ADB and World Bank. The urgent need for implementation of Reform Agenda as enjoined by the Govt. of India. For the conduct of the Municipal Election in Aizawl.

Source: Field Study conducted during January 2023

Table 11 provided that the Election Commission in West Bengal was set up following the implementation of the Constitution's 73<sup>rd</sup> and 74<sup>th</sup> Amendment Acts. The Act, inter alia, provided the establishment of an SEC for conducting local body elections. However, in the case of Mizoram, the setting up of the SEC is mainly due to the pressure from the Central Government to establish a Municipal Council and its election of a Municipality as mandated by the Constitution to get funding for urban development and planning, and a loan from Asian Development Bank and the World Bank.

Q. Do you find the SECs in India, particularly your SEC, are occupying their status to play their role as mandated by the Constitution?

*Table 12: State Election Commissioner Status as per the Constitution in Mizoram and West Bengal*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Level of Constitutional Status Provided to SECs	Judge of the High Court as per the provision of the Constitution Article 243K (2)	Chief Secretary

Source: Field Study conducted during January 2023

Table 12 provided a comparison of the prevailing status of the State Election Commissioner in West Bengal and Mizoram. The West Bengal SEC was provided with a similar status mandated in the Constitution vide Article 243K (2), a similar status to a Judge of the High Court. Meanwhile, Mizoram and other North-Eastern States Election



Commissioner do not occupy the status mandated by the Constitution. The Mizoram SEC is accorded a similar status to the Chief Secretary of the State.

Q. Has the SEC in your State ever faced any organizational problems? If so, please specify the reasons.

*Table 13: Organization Problems in Mizoram and West Bengal SEC*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Organizational Problems of SEC in the State	No Comment	Selection of SEC Personnel Absence of Legal Cell Absence of Research Cell

Source: Field Study conducted during January 2023

Table 13 provides structured interview responses from key functionaries of West Bengal and Mizoram SEC. The West Bengal SEC personnel have no comment on this question, whereas Mizoram SEC officials have responded and have not encountered any remarkable organizational problems. However, the Mizoram State Election Commissioner believed that the selection of personnel in the conduct of the election, and the absence of Legal Cell and Research Cell in the functioning of the SEC are the main limitation of the Organization of Mizoram SEC.

Q. Does your SEC has its owned building or rent-free accommodation or accommodated in a rented building?

*Table 14: Status of SEC Office Building*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Status of SEC Office Building	Accommodated in a rented building	Accommodated in a rented building

Source: Field Study conducted during January 2023

Table 14 shows that both the SECs do not have their own building and they are accommodated in a rented building.

### 6.3. Analysis of Data in Relation to the Administration of Mizoram State Election Commission and West Bengal State Election Commission

Data analysis with regard to the administration of the SEC in West Bengal and Mizoram contains components of four questions regarding the adequacy of the 73<sup>rd</sup> and 74<sup>th</sup> Amendment Acts of the Constitution in the administration of the SEC, opinion on whether single or multi-member Commission for SEC, questions on the appointment of State Election Commissioner, and whether the Constitutional status and administrative power were given to the State Election Commissioner in West Bengal and Mizoram. These interview questions have been tabulated and shown in a comparison table below.

*Table 15: Opinion of Mizoram and West Bengal SEC on Multi-Member Commission of SEC*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Opinion on changing a single-member SEC to Multi-Member SEC like ECI	No Comment	Single Member Commission is sufficient but Commission staff or personnel should be increased.

Source: Field Study conducted during January 2023

Table 15 highlights that the West Bengal State Election Commissioner refused to comment or have no opinion regarding the increase of SEC members from a single to a multi-member body similar to the Election Commission of India, while the Mizoram State Election Commissioner is of the view that in a small and peaceful State like Mizoram, a single member Commission is sufficient. However, instead of increasing the member in the SEC, an increase of personnel in the SEC office is necessary at the moment. On the other hand, the majority of other respondents are in favour of a multi-member Commission.

Q. Do you think it would be fair/better that the State Election Commissioner be appointed by the Governor on the recommendation of a Collegium and Oath should be administered by the Governor?

Table 16: Opinion on Governor Appointing State Election Commissioner on the recommendation of a Collegium

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Opinion on Governor appointing State Election Commissioner on the recommendation of a Collegium and administering of an Oath	No Comment	The current practice is still good.

Source: Field Study conducted during January 2023

Table 16 provided an opinion about the appointment of a State Election Commissioner on the recommendation of the Collegium. The West Bengal SEC opted not to comment on this topic whereas, the Mizoram Election Commission is of the view that the current practice holds good.

Q. Is the present status of the State Election Commissioner as mandated by the 73<sup>rd</sup> & 74<sup>th</sup> Constitutional Amendment Acts not adequate?

Table 17: Opinion on the Status of SEC as Mandated by 73<sup>rd</sup> & 74<sup>th</sup> Constitutional Amendment Act

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Opinion on the adequacy of the 73 <sup>rd</sup> and the 74 <sup>th</sup> Constitutional Amendment Acts on SEC	Adequate	Partially adequate because Constitutional provision is too sketchy and ambiguous for the appointment of a Constitutional post like State Election Commissioner.

Source: Field Study conducted during January 2023

Table 17 shows the results of the opinion given by the key functionaries of the State Election Commission in West Bengal and Mizoram on the adequacy of the 73<sup>rd</sup> and 74<sup>th</sup> Amendment Acts mandated by the Constitution. The West Bengal SEC viewed the 73<sup>rd</sup> and 74<sup>th</sup> Amendment Acts of the Constitution as adequate for the functioning of the SEC within the State, whereas, the Mizoram SEC opined that the Constitutional provision is too sketchy and ambiguous for the appointment of a Constitutional post like State Election Commissioner. Hence, partially adequate.

Q. Is the present status of the State Election Commissioner of your State as bestowed by the State Government not in sync with the provisions under the Constitution?

*Table 18: Status of State Election Commission in Sync with the Provisions under the Constitution*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Is the status of the SEC is in sync with the Provision under the Constitution of India?	In Sync with the Constitution	Not in sync with the Constitution as the Status of a High Court Judge is not accorded to SEC Mizoram

Source: Field Study conducted during January 2023

With regard to the above interview question, Table 18 reveals that the status of the State Election Commissioner of West Bengal is in sync with the Constitutional provisions. However, MSEC is of the view that it is not in sync with the Constitution as the status of a High Court Judge has not been accorded to SEC Mizoram till today.

#### **6.4. Data Analysis in Relation to the Role, Functions and Experience of Mizoram State Election Commission and West Bengal State Election Commission in Conducting of Elections**

The primary data analysis on the role, functions and experience in the conduct of elections by West Bengal and Mizoram SEC was extracted from ten interview questions. The questions cover a wide range of the role and functions of the SEC such as the process of preparation of electoral rolls, authorities of registration or de-registration of political parties in the Local Bodies elections, opinion on the SEC authority of phasing and fixing of poll date, the most challenging elections conducted by SEC in West Bengal and Mizoram; cases of Judicial intervention in the poll process, the instances of non-availability of funds from the Government, opinion on the deployment of Central Paramilitary Force in the Local Bodies' election, application of Anti-Defection Law in local bodies, role of SEC in comparison with Election Commission of India and effectiveness of Model Code of Conduct for free and fair elections. The interview responses have been tabulated and shown in a comparison table below.

Q. What are the elections conducted by the SEC in your State? What is the process of preparation for Electoral Rolls and conduct of democratic elections in your State?

Table 19: Conduct of Elections by SEC and Process of Preparation of Electoral Rolls in West Bengal and Mizoram

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Conduct of Elections and preparation of Electoral Rolls	Elections to Municipalities and Panchayats are conducted by WBSEC. WBSEC adopts electoral rolls published by the Election Commission of India as mother roll.	Elections to Local Councils, Village Councils, Municipalities, Autonomous District Councils, and Sinlung Hills Council are conducted by MSEC. WBSEC also adopts electoral rolls published by the Election Commission of India as mother roll.

Source: Field Study conducted during January 2023

Table 19 indicated that West Bengal SEC conducted only Municipalities and Panchayats elections, whereas, Mizoram SEC conducted elections to Village Councils & Local Councils, Municipalities, Autonomous District Councils under Sixth Schedule, and Sinlung Hills Council (SHC).

The role of West Bengal SEC and Mizoram SEC is very limited in the preparation of electoral rolls since it adopts electoral rolls published by the Election Commission of India as mother rolls and they conducted only summary revisions of electoral rolls in the year of elections. It was also pointed out that elections and summary revisions of electoral rolls were physically carried out by the concerned District Administration.

Q. Who is the authority for the Registration/De-registration of political parties in connection with Elections to Local bodies in your State?

Table 20: Authority for Registration/De-registration of Political Parties in Local Bodies Election

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	The authority for the Registration/De-registration of political parties in connection with Elections to Local bodies in the State	Election Commission of India	Election Commission of India

Source: Field Study conducted during January 2023

Table 20 depicts that with regards to the authority for the Registration/De-Registration of political parties in the Local Bodies elections, the Election Commission

of India is the authority in both West Bengal and Mizoram. The authority or responsibilities of Registration/De-Registration of political parties are not vested with the SECs in India. It is the domain of the Election Commission of India.

Q. Do you think the SEC should be the final authority on phasing and fixing the date or dates of elections?

*Table 21: Interview Opinion on the SEC Authority of Phasing and Fixing of Date for Election*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Opinion on SEC to be the Final Authority for Fixing and Phasing of Poll Date	The decision should be taken through mutual consultation with stakeholders like Government.	The decision should be taken through mutual consultation with stakeholders like Government.

Source: Field Study conducted during January 2023

Table 21 highlights the opinion of key functionaries of SECs of West Bengal and Mizoram on the questions as to whether the SEC should be the final authority on phasing and fixing the date or dates of election. Here, both the key functionaries have a similar opinion which they do agree with is the vesting of final authority for phasing and fixing of election dates to SEC. At the same time, they also share a common view that this authority in question should be exercised only after mutual consultation with the State Government and other stakeholders.

Q. Of the kinds of elections conducted by the SEC in your State, which election is the most challenging one?

*Table 22: Comparison of Most Challenging Elections Conducted by SEC in West Bengal and Mizoram*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Most Challenging Election	Elections to Municipalities and Panchayats are equally challenging.	Village Councils and Local Council elections are most challenging than the election of Municipalities.

Source: Field Study conducted during January 2023

Based on the data collected through structured interviews with key functionaries from West Bengal and Mizoram SEC, Table 22 provided that it is equally challenging to conduct elections in Municipalities and Panchayats in West

Bengal. However, in the case of Mizoram, Village Councils and Local Councils elections were the most challenging elections conducted by the SEC.

Q. Has your SEC witnessed judicial interventions during the poll process? If yes, what was the main reason for such an intervention?

*Table 23: Cases of Judicial Intervention in the Poll Process under West Bengal and Mizoram SEC*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Cases of Judicial Intervention	There were instances of Judicial intervention relating to the installation of CCTVs in the polling stations, Fixing/phasing of poll dates, deployment of Central Armed Police Forces, Deployment of IAS Officers as observers, postponement of poll dates due to COVID-19, etc	No Judicial Intervention so far.

Source: Field Study conducted during January 2023

Table 23 shows that there were instances of Judicial intervention relating to the installation of CCTVs in the polling stations, Fixing/phasing of poll dates, deployment of Central Armed Police Forces, Deployment of IAS officers as observers, postponement of poll dates due to COVID-19, etc in West Bengal. Meanwhile, the MSEC has not so far come across any judicial intervention to date.

Q. Have you come across instances of non-availability of election funds from the Government in time?

*Table 24: Interview answers on the instances of Non-Availability of Funds from the Government*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Instances of Non-availability of Funds	No Experience so far	No Experience so far

Source: Field Study conducted during January 2023

Based on the structured interviews with the key functionaries of the SEC in West Bengal and Mizoram, Table 24 provided that both the SECs have not experienced

non-availability of election funds from their respective State Governments during the conduct of elections, revision of electoral rolls, etc.

Q. Do you think the deployment of Central Paramilitary Forces in the local bodies' elections as in the case of Assembly and Parliamentary elections is necessary?

*Table 25: Interview Opinion on Deployment of Central Paramilitary Force in the Local Bodies Election*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Opinion on Deployment of Central Paramilitary Forces in the Election to Local Bodies	Depends on the situation on a case-to-case basis	Not necessary

Source: Field Study conducted during January 2023

Table 25 provides an informed opinion on the deployment of Central Paramilitary Forces in the Local Bodies' elections where WBSEC is of the view that it depends on the situation on a case-to-case basis, while the MSEC opines that it is not necessary to deploy CAPF for Village and Local level elections in the State.

Q. While the SECs had a similar role to play with regard to Elections of urban and rural local bodies with the Election Commission of India, do you think SECs possess either the same degree of authority or the same kind of resources that were available to the Election Commission of India as observed by the Apex Court in *Kishansing Tomar vs- the Municipal Corporation of City of Ahmedabad & Ors*, vide Judgment & Order dated 19/10/2006.?

*Table 26: Role of SEC with Urban and Rural Elections as Compare to the Election Commission of India*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	SEC Role and Authority with Comparison to Election Commission of India on Conducting Urban and Rural Elections	No comment	State Election Commission possesses a certain level of similar authority in comparison with the Election Commission of India, but it faces inadequate resources in comparison with ECI.

Source: Field Study conducted during January 2023

With regard to the above interview question, Table 25 provided that West Bengal SEC refused to comment on this topic while Mizoram SEC experienced that to a certain degree, the SEC possesses a similar authority and role in the conduct of



elections to its administrative jurisdiction, but it has come across inadequate resources in terms of finance, human resources, and material in comparison with the Election Commission of India.

Q. Do you have any provisions for the application of Anti-Defection Law in Local bodies in your State?

*Table 27: Application for Anti-Defection Law in Local Bodies*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Application for Anti-Defection Laws in Local Bodies	It is not within the ambit of the work of the SEC	No such provisions available to enforce

Source: Field Study conducted during January 2023

Table 27 shows that both West Bengal SEC and Mizoram SEC have no provisions for the application of the Anti-Defection Law. The Anti-Defection Law is outside the purview of both SECs and they do not have Acts and Rules to enforce at their end.

Q. Do you think the Model Code of Conduct is really effective to ensure free and fair elections? If not, your suggestions for its improvement or otherwise?

*Table 28: Effectiveness of Model Code of Conduct for Free and Fair Elections*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Effectiveness of Model Code of Conduct for Free and Fair Elections in the State	The Model Code of Conduct is effective	Model Code of Conduct is partially effective.

Source: Field Study conducted during January 2023

With regard to the above research study question, Table 28 provided that the officials from the West Bengal SEC find the Model Code of Conduct effective enough to ensure free and fair elections. However, there was a mixed response from the officials of Mizoram SECs, thus it can be concluded that the Model Code of Conduct is partially effective for conducting free and fair elections. Though political parties and candidates adhere to the Model Code of Conduct and are cautious about the violations of the Code in Mizoram, a major drawback is that there are no penal provisions and

no effective laws are being formulated for effective enforcement of the Model Code of Conduct till date.

### **6.5. Analysis of Data regarding the Relationship between the State Governments and State Election Commissions**

The data analysis regarding the relationship between State Government and SEC in West Bengal and Mizoram is collected through structured interviews with the Commissioners and key officials from both the SEC in West Bengal and Mizoram. The study covers an area of the conflict of interest or clash of powers between State Governments and SECs, and the level of State Government commitment to strengthening the institution of SECs as per the status mandated by the Constitution of India. The interview responses have been tabulated and presented in a comparison table below.

Q. In the past, was there any clash of powers and functions/ conflict of interest between the State Government and the SEC? If so, please specify.

*Table 29: Conflict of Interest between State Government and State Election Commission*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Any Clash of Powers and Functions or Conflict of Interest Between the State Government and the SEC	No comment	No clash of Powers and Functions till date. State Government is very cooperative with the State Election Commission

Source: Field Study conducted during January 2023

Table 29 shows the results of research interview questions regarding the conflict of powers and functions or the conflict of interest between the State Government and the SEC. The West Bengal SEC refused to offer any comments on this question whereas the Mizoram SEC feels that the State Government is very cooperative and they do not face any issues about the autonomy and exercising authority of SECs on the conduct of elections in the State.

Q. Do you think your State Government is willing to strengthen the institution of SEC so far as its Constitutional status, independence and authority are concerned? If not, what could be the apparent reasons?

Table 30: State Government Level of Commitment to Strengthening of State Election Commission

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	State Government level of commitment to strengthen the institution of SEC as its Constitutional status, independence, and authority	No comment	State Government does not interfere with the autonomy and authority of the State Election Commission. State Government will not hesitate to strengthen the SEC of its Constitutional status, independency and authority.

Source: Field Study conducted during January 2023

Table 30 highlights the interview responses from the SEC of West Bengal and Mizoram with regard to the question of the State Government’s level of commitment to strengthening the SEC on its Constitutional Status, independence and authority. West Bengal Election Commission has no comment in this regard whereas the Mizoram SEC believes that since the State Government does not interfere in the autonomy and authority of the SEC, the State Government will not hesitate to strengthen the SEC of its Constitutional status, independence and authority. However, no proposals have been made about the strengthening of the Mizoram SEC at the moment.

#### **6.6. Data Analysis on the Issues, Problems, and Challenges of the State Election Commission**

The research study has also raised three important questions in an interview with the Commissioner and officials regarding the issues, problems and challenges faced by the SEC in West Bengal and Mizoram. These questions cover problems regarding staffing and personnel for the elections, issues and challenges faced by the SECs on conducting free and fair elections, and areas of concern over electoral reforms within the States. The analysis of the responses was tabulated and presented in a comparison table below.

Q. Is the SEC staffed with sufficient personnel before and during elections? Do you think a Separate State Election Service should be created for the free and fair conduct of elections in your State?

Table 31: Problems regarding Mizoram and West Bengal SEC Personnel Before and After Election

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Whether staffed with sufficient number of personnel before and during elections?	No comment	Generally, more or less sufficient. Needs to be strengthened in terms of the number of Staff especially personnel having skills and knowledge in Information Technology.
2.	Need for separate State Election Service	No comment	If possible, it is necessary, but, in reality, it may not be practicable.

Source: Field Study conducted during January 2023

With regards to the question of staffing before and during elections, Table 31 highlights that the key functionaries of the West Bengal SEC do not comment on this while their counterparts in Mizoram SEC are of the view that it was more or less sufficient. However, in the field of Information Technology, the respondents from the Mizoram SEC feel that it needs to strengthen its personnel in terms of number and technical knowledge before and during the elections.

Table 31 also mentions that the West Bengal SEC has no comment on the question regarding the need for a separate State Election Service meanwhile the Mizoram SEC has welcomed the introduction of a separate State Election Service, but they believe that it is impossible and not practicable in a state like Mizoram.

Q. Has the SEC faced issues, problems and challenges while performing its role to conduct free and fair democratic elections? If so, what are the problems faced by it?

Table 32: Issues, Problems and Challenges of West Bengal and Mizoram SEC on Conduct of Free and Fair Democratic Elections

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Issues, Problems and Challenges of SEC on the conduct of free and fair elections.	Similar to those elsewhere in the country	No uncontrollable issues and challenges so far, but due to inadequate and inefficient personnel in the conduct of elections pose some concerns during the elections.

Source: Field Study conducted during January 2023

Table 32 highlights the results of the study on problems, issues and challenges faced by SEC in West Bengal and Mizoram. The West Bengal SEC has not mentioned specific issues and challenges but made it clear that the problems and challenges faced by WBSEC are similar to those issues faced elsewhere in the country. Meanwhile, the Mizoram SEC has mentioned that there are no uncontrollable issues and challenges in connection with conducting the free and fair election so far, however, at times there were instances of inadequacy and inefficiency in personnel which results in some concern in the conduct of free and fair elections in Mizoram.

Q. What is the area of concern for Electoral Reforms in Local Bodies' Elections in your State so far as Local Bodies' Elections are concerned to address Money Power, Muscle Power, etc.?

Table 33: Area of Concern for Electoral Reforms

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Area of concern to address Money Power, Muscle Power etc. for Electoral Reforms.	Can only be shared in mutual discussion	So far, no area of concern for Electoral Reforms at the level of Local Bodies' Elections, it is manageable. However, a more elaborate code of conduct for observance by political parties and candidates should be formulated.

Source: Field Study conducted during January 2023

Table 33 shows the responses to the question regarding the area of concern for electoral reforms to address Money Power, Muscle Power, etc., initiated by the SEC in West Bengal and Mizoram. The officials from West Bengal SEC would like to share their experiences and views only through mutual discussions, whereas the

officials from Mizoram SEC responded that they have not come across any unmanageable area of concern which calls for electoral reforms in the State.

### **6.7. Data Analysis on the Opinion Relating to the Scope of Improvement for West Bengal State Election Commission and Mizoram State Election Commission**

The framework of primary data collection regarding the opinion of key functionaries from West Bengal and Mizoram SEC on the matters of the scope of improvement in electoral administration in their respective SEC was drawn through six interview questions. These questions include the scope for improvement in electoral management for local bodies elections, opinion on the creation of a Common Platform for Institutional Mechanism to the Election Commission of India and the SEC, opinion on mandatory or compulsory voting, opinion on the applicability of E-Voting in the Local Bodies elections, the official's opinion on the use of EVM or Balloting System in the conduct of elections, and the opinion on the introduction of NOTA/Negative or Neutral Voting in Local Bodies elections. The responses to these questions were tabulated and presented in a comparison table between West Bengal and Mizoram SEC below.

Q. Do you find any scope for improvement in electoral administration of the Local Bodies' elections in your State? If so, please specify.

*Table 34: Scope for Improvement in Electoral Administration of Local Bodies Elections*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Any scope for improvement in electoral administration of Local Bodies' elections	No comment	No specific scope for improvement so far.

Source: Field Study conducted during January 2023

Table 34 provided the interview results on the scope for improvement in the Electoral administration of Local Bodies' elections. West Bengal SEC has no comment on this topic whereas the Mizoram SEC has provided that since the establishment of SEC is well-grounded and configured, it has no specific scope for improvement so far.

Q. Do you think an institutional mechanism should be created to bring the Election Commission of India and the SECs on a common platform for coordination by learning from each other's experiences and sharing resources?

*Table 35: Opinion on the Creation of a Common Platform for Institutional Mechanism between the Election Commission of India and SEC*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Opinion on the creation of a Common Platform for Institutional Mechanism between the Election Commission of India and the State Election Commission for learning and sharing experiences.	Generally accepted that sharing is always beneficial.	A formal mechanism would be difficult to be created for ECI and SEC as their purview is different. However, if such a mechanism is available, it would be beneficial for SEC.

Source: Field Study conducted during January 2023

Based on the results of the above interview question, Table 35 highlights that the West Bengal Election Commission generally accepted the opinion about creating an institutional mechanism to provide a common platform for the Election Commission of India and the SEC where they can learn from each other and share their experiences. On the other hand, the Mizoram SEC is of the view that though it would be beneficial for the SEC to create an institutional mechanism, it would be difficult to create such an institution since the purview of the Election Commission of India and the SEC is different. Meanwhile, an annual conference and meetings are organized where they could share their issues and problems from time to time.

Q. Do you think voting should be made mandatory/ compulsory in the local bodies' elections under the laws?

*Table 36: Opinion on Mandatory or Compulsory Voting*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Opinion on whether Voting should be made compulsory or mandatory in the Local Bodies' Elections	Not needed	Not necessary.

Source: Field Study conducted during January 2023

Table 36 provided the opinion about compulsory or mandatory voting in the local bodies' elections. The West Bengal SEC and Mizoram SEC shared the same opinion about this and they believe that since India is a democratic nation, it is inappropriate to make laws for compulsory voting in the Local Bodies' elections.

Q. Do you think E-Voting should be made applicable in the local bodies' elections under the laws?

*Table 37: Opinion on the Applicability of E-Voting in the Local Bodies Elections*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Opinion on whether E-Voting should be made applicable in the Local Bodies' elections	May be explored weighing down the pros and cons carefully.	For future use, it is encouraged, but pros and cons must be looked into first.

Source: Field Study conducted during January 2023

With regard to the opinion on whether E-Voting should be made applicable in the local bodies' elections under the laws, Table 37 shows that both West Bengal and Mizoram SEC have shared the same opinion that E-Voting should be encouraged for future use, however, comprehensive study and a precautionary measure should be first taken before it is made applicable in the Local Bodies' elections.

Q. Do you think EVM is better than the Balloting system for voting in the local bodies' election?

*Table 38: The opinion on EVM and Balloting System*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Opinion on whether EVM or Balloting system is better	EVM has certain advantages.	EVM is much better

Source: Field Study conducted during January 2023

On the questions about the comparison of EVM and the Balloting system, Table 38 provided that the key functionaries under West Bengal Election Commission are of the view that EVM has some advantages whereas the key functionaries of Mizoram SEC have a positive stronger opinion in favour of the EVM than the Balloting system. Not only they had believed that EVM is much better than the Balloting system,



but they are also appreciating and supporting the adoption of technologies in the areas of election management.

Q. Do you think NOTA / Negative or Neutral voting should be introduced in Local Bodies' elections?

*Table 39: Opinion on the introduction of NOTA/Negative or Neutral Voting in Local Bodies' Elections*

Sl. No.	Questions for Comparison	West Bengal State Election Commission	Mizoram State Election Commission
1.	Opinion on the introduction of NOTA/Negative or Neutral Voting in Local Bodies' Elections	This is a point to ponder.	Not necessary

Source: Field Study conducted during January 2023

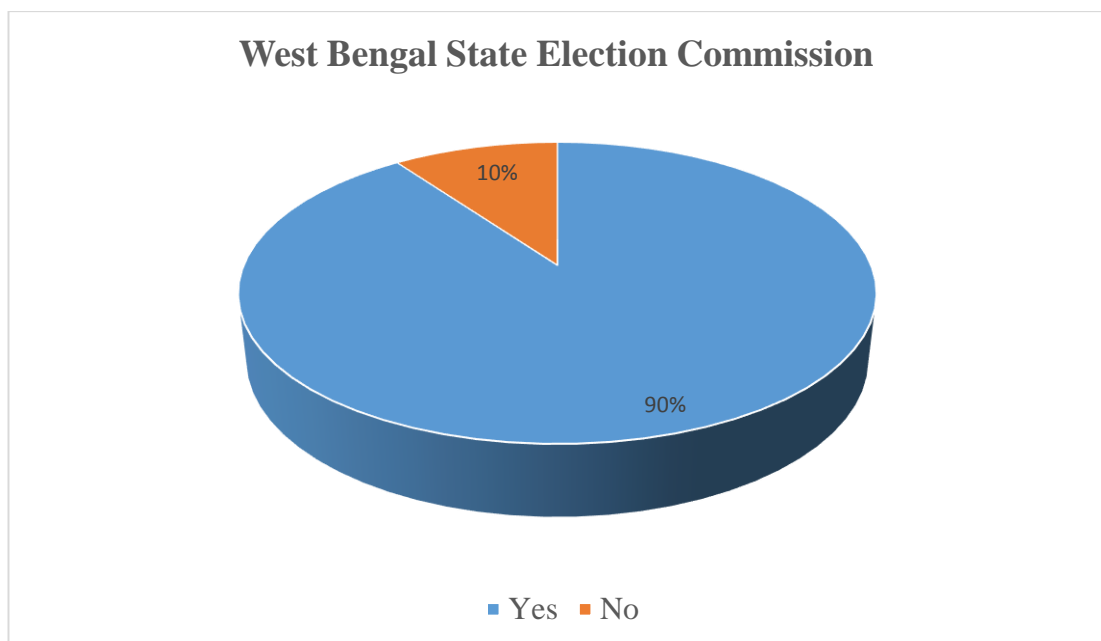
Regarding the question as to whether NOTA/Negative or Neutral voting should be introduced in Local Bodies' elections, Table 39 shows that the Officials from the WBSEC believe that it is worth to make serious consideration and study. However, Officials from the MSEC believe that it is not necessary since voters are generally well-informed about the candidates of Local Bodies' elections. On the other hand, there are no legal provisions for introducing NOTA/Negative or Neutral Voting in Local Bodies' elections.

## 6.8 Analysis of Questionnaire Responses

In order to have a further in-depth study on the role and functions of the State Election Commission on the process of the elections in the State of West Bengal and Mizoram, a set of ten questionnaires was prepared and distributed to the Government officials, civil servants, media personnel, civil societies, and political party representative from the West Bengal and Mizoram. A total of 67 feedback was received out of which 47 feedback was from Mizoram and 20 feedback was from West Bengal. In West Bengal, more than 50 questionnaires have been distributed however, only a handful of feedbacks from Government officials, Political Parties, media persons, and civil societies have been received. Thus, the following charts represent the research findings from the questionnaires related to the general opinion on the administrative functions of the State Election Commission in the State of West Bengal and Mizoram.

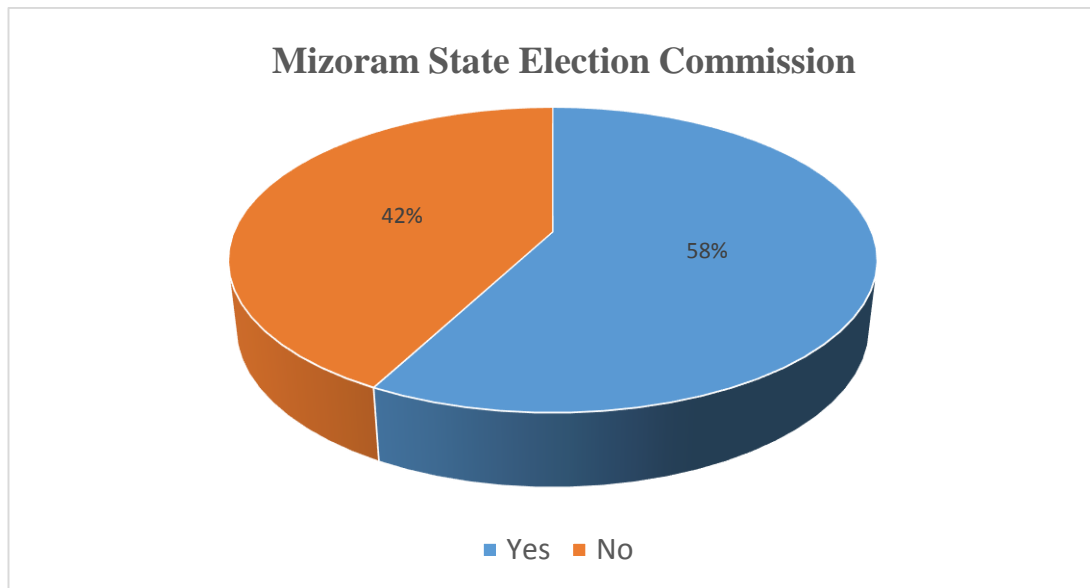
**Do you find the SECs in India, particularly WBSEC/MSEC, are occupying their status to play their role as mandated by the Constitution? (18 Yes, 2 No -WBSEC) (26 Yes, 19 No -MSEC)**

*Chart 3: Role of WBSEC*



Source: Field Study conducted during January 2023

Chart 4: Role of MSEC

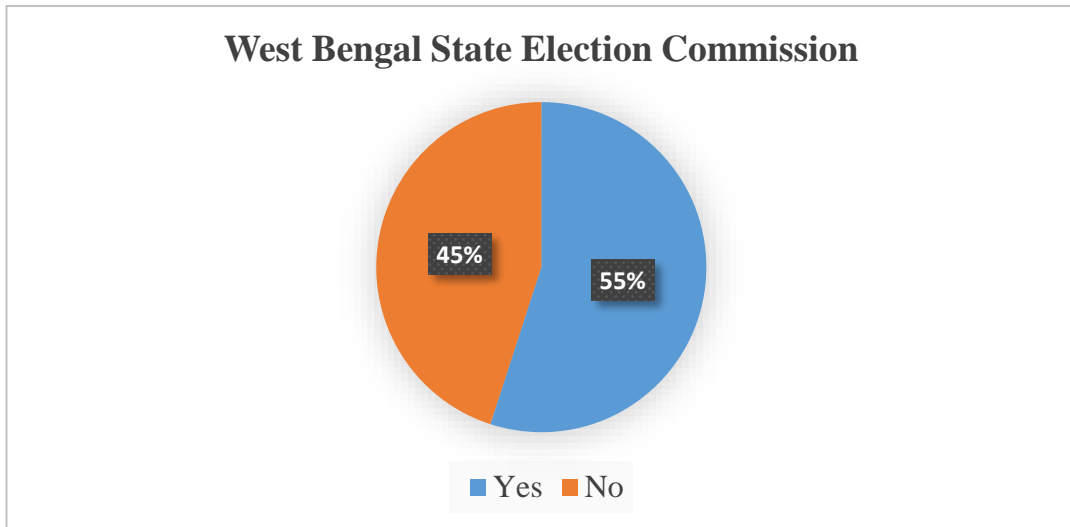


Source: Field Study conducted during January 2023

Based on the analysis of the questionnaire, Chart 3 shows 90 percent of the West Bengal respondents and 58 percent of Mizoram respondents believe that State Election Commission is occupying the status as mandated by the Constitution while only 10 percent of West Bengal respondents and 42 percent respondents from Mizoram believe that State Election Commission does not occupy the status mandated by the Constitution.

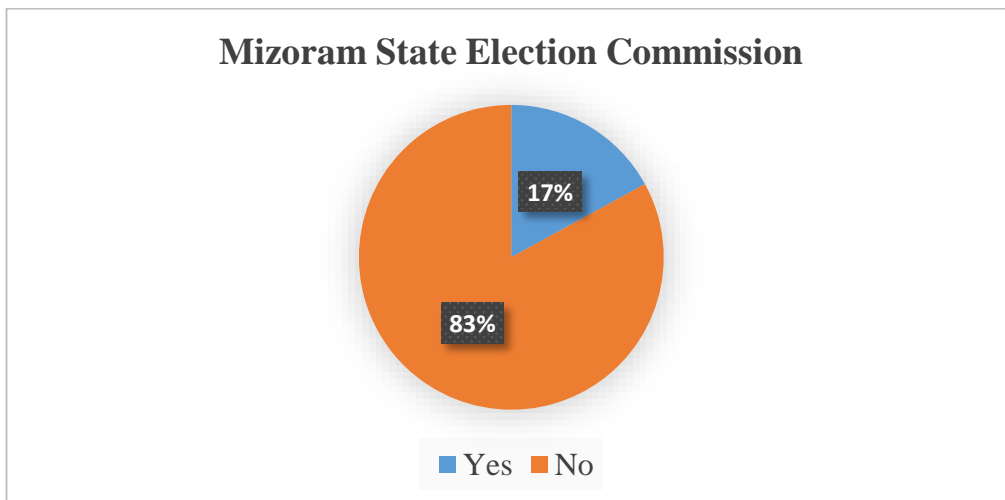
**Do you think your State Government is willing to strengthen the institution of SEC so far as its Constitutional status, independence, and authority are concerned? (WBSEC Yes 11, No 9) (MSEC Yes 8, No 39)**

Chart 5: Strengthening of WBSEC



Source: Field Study conducted during January 2023

Chart 6: Strengthening of MSEC



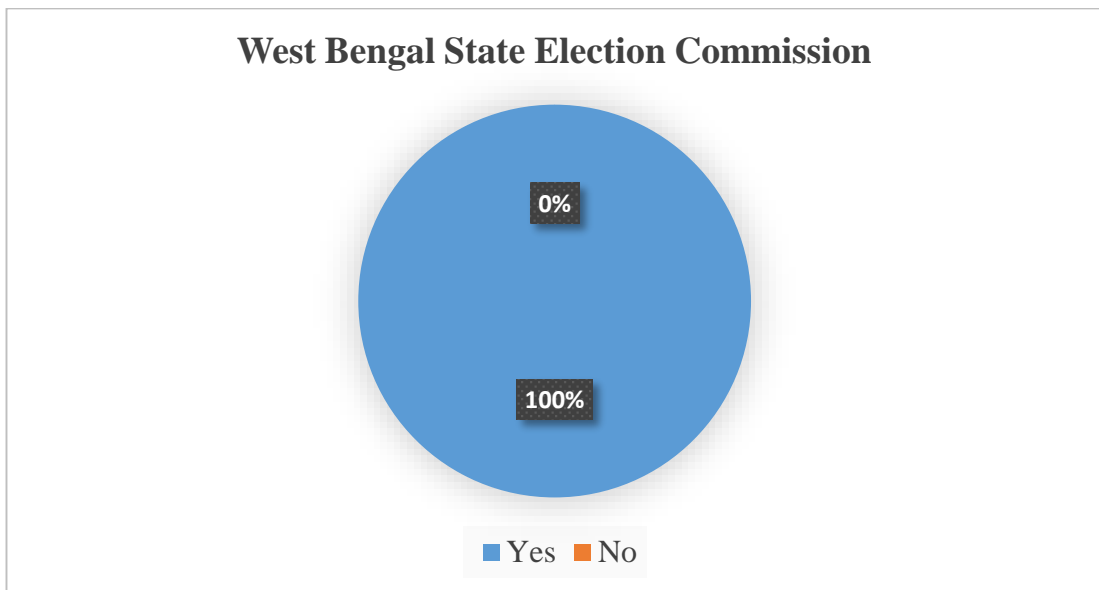
Source: Field Study conducted during January 2023

The above two charts provided the analysis of questionnaire responses from West Bengal and Mizoram. About the question of whether the State Government is willing to strengthen the State Election Commission in accordance with the Constitution, 55 percent of responses from West Bengal and 17 percent of responses from Mizoram have claimed that the State Government is willing to strengthen the State Election Commission in line with the Constitutional provisions, while, 45 percent of responses and 83 percent of responses from West Bengal and Mizoram

respectively are of the view that the State Government is not willing to strengthen the State Election Commission.

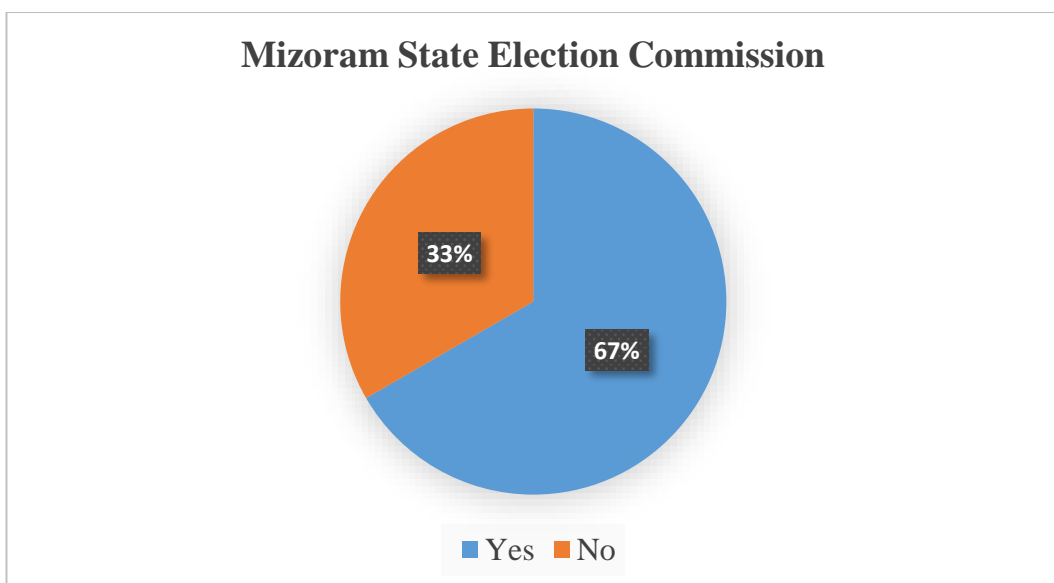
**Should the State Election Commission be made a Multi-Member Commission like the Election Commission of India? (WBSEC Yes 20, No 0) (MSEC Yes 30, No 15)**

*Chart 7: Multi-Member Commission on WBSEC*



Source: Field Study conducted during January 2023

*Chart 8: Multi-Member Commission on MSEC*

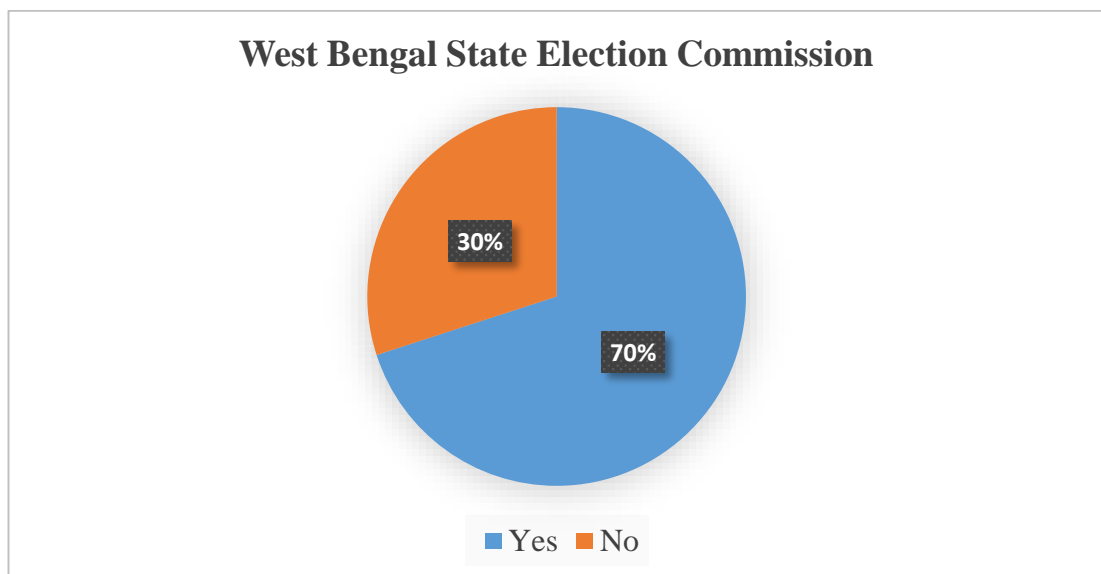


Source: Field Study conducted during January 2023

Based on the analysis of the question - “Should State Election Commission be made a Multi-Member Commission like Election Commission of India”, Chart 7 and Chart 8 provided that West Bengal responses have 100 percent support for the Multi-Member Commission while 67 percent of respondents also supported the same in the case of Mizoram. Meanwhile, 33 percent of Mizoram respondents are against the Multi-Member Commission.

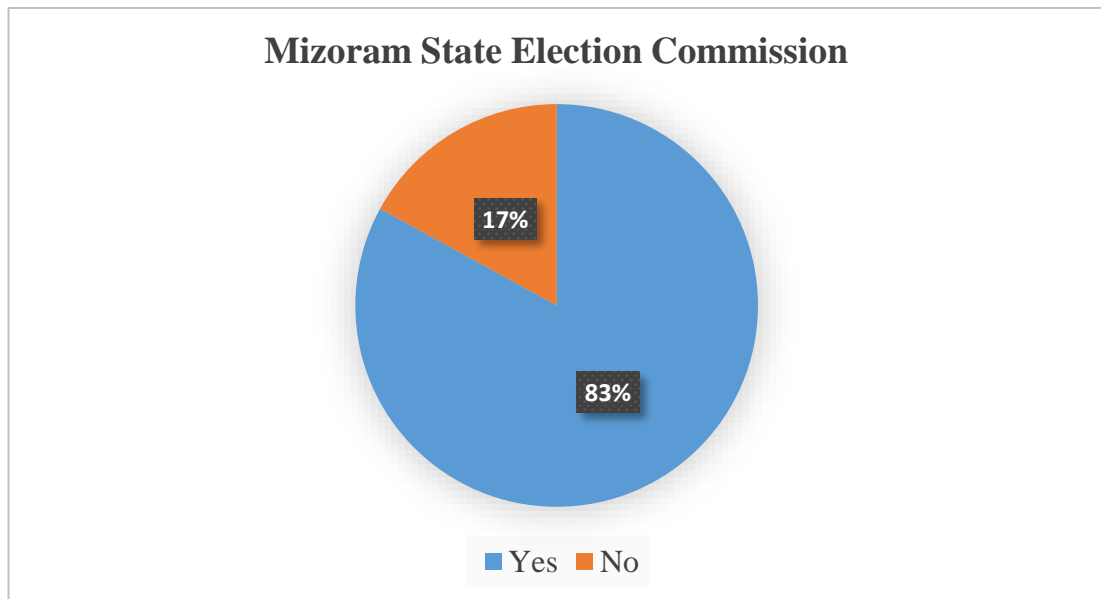
**Do you think it would be fair/better that the State Election Commissioner be appointed by the Governor on the recommendation of a Collegium comprising of the Chief Minister, Leader of Opposition, Speaker, Minister concerned, etc. and Oath should be administered to SEC by the Governor? (WBSEC Yes 14, No 6) (MSEC Yes 39, No 8)**

*Chart 9: Appointment of State Election Commissioner, WBSEC*



Source: Field Study conducted during January 2023

Chart 10: Appointment of State Election Commissioner, SEC

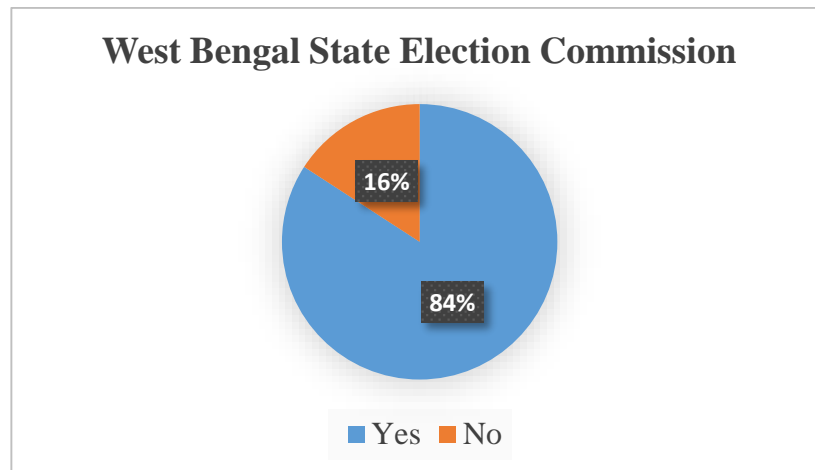


Source: Field Study conducted during January 2023

Chart 9 and Chart 10 show the analysis of responses to a questionnaire from West Bengal and Mizoram about the question of whether the State Election Commissioner be appointed by the Governor on the recommendation of a Collegium comprising the Chief Minister, Leader of Opposition, Speaker, Minister concerned, etc. and Oath should be administered to SEC by the Governor. 70 percent of the respondents from West Bengal supported the proposition while 30 percent did not approve of the claim. Meanwhile, the same question response analysis is shown in Chart 10 which provided that the responses from Mizoram and 83 percent supported the claim while 17 percent were not in favour of the claim.

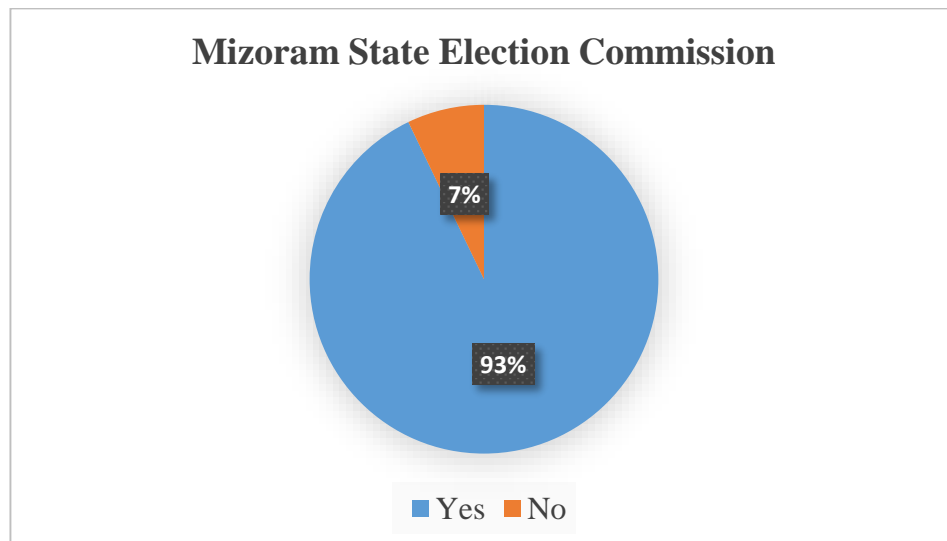
**Do you think the State Election Commission should be the final authority on phasing and fixing the date or dates of elections? (WBSEC Yes 17, No 3) (MSEC Yes 39, No 3)**

*Chart 11: Fixing the date or dates of elections in WBSEC*



Source: Field Study conducted during January 2023

*Chart 12: Fixing the date or dates of elections in MSEC*



Source: Field Study conducted during January 2023

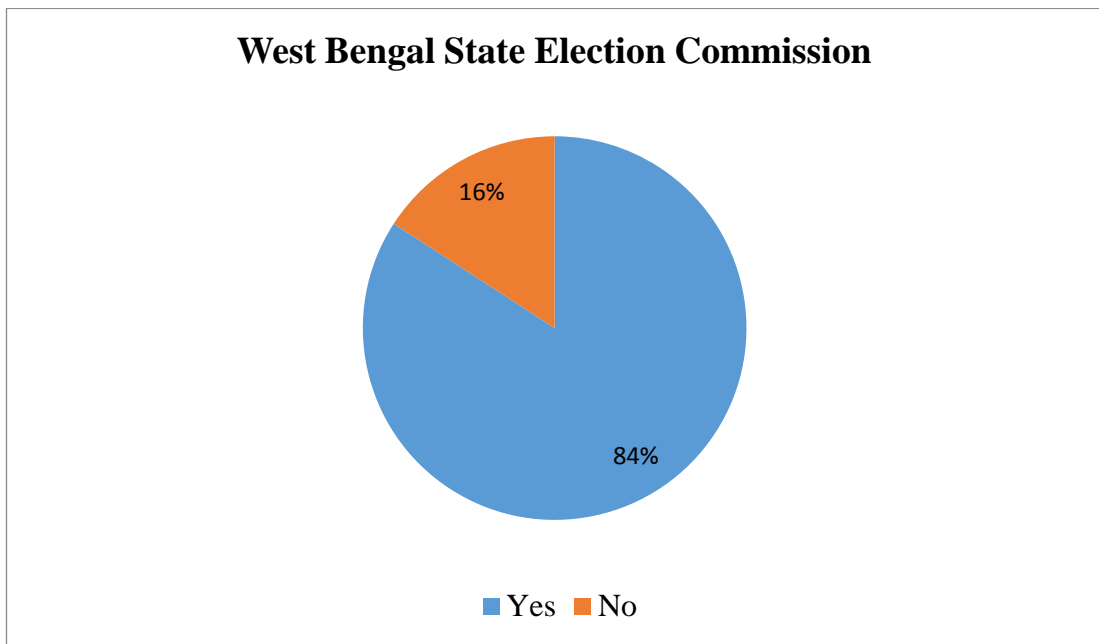
Based on the questionnaire analysis, Chart 11 and Chart 12 provided that out of all the responses, 84 percent from West Bengal and 93 percent from Mizoram supported the State Election Commission's final authority on phasing and fixing the date or dates of elections while 16 percent from West Bengal and 7 percent from



Mizoram disapproved of State Election Commission's final authority on phasing and fixing of the date or dates of elections.

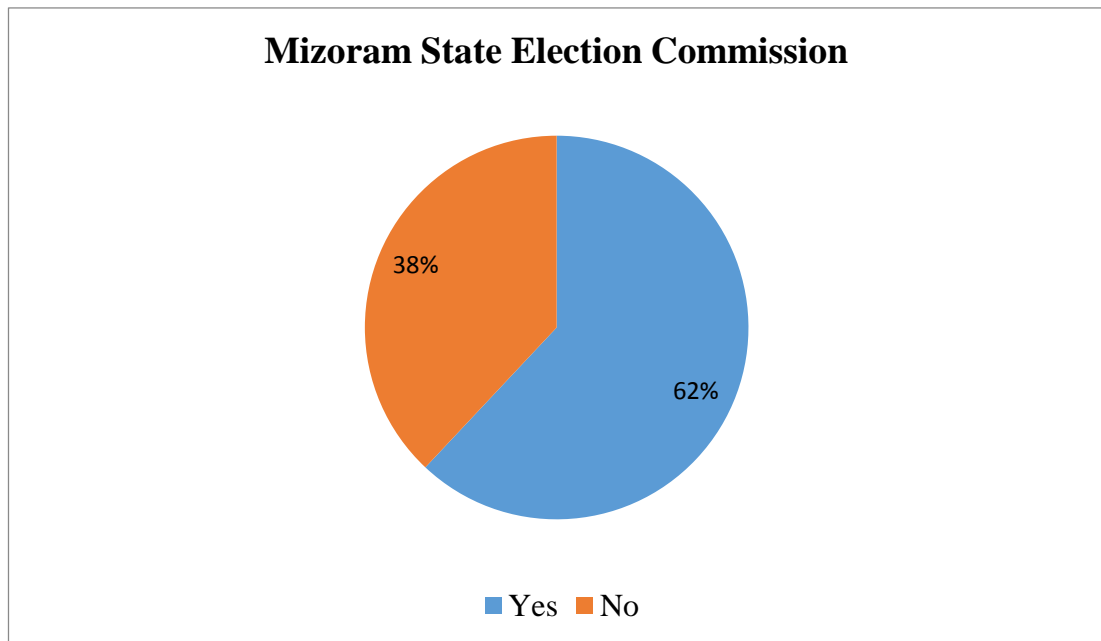
**Do you think voting should be made mandatory/compulsory in the local body's election under the laws? (WBSEC Yes 17, No 3) (MSEC Yes 29, No 18)**

*Chart 13: On mandatory/compulsory votes in WBSEC*



Source: Field Study conducted during January 2023

Chart 14: On mandatory/compulsory votes in MSEC

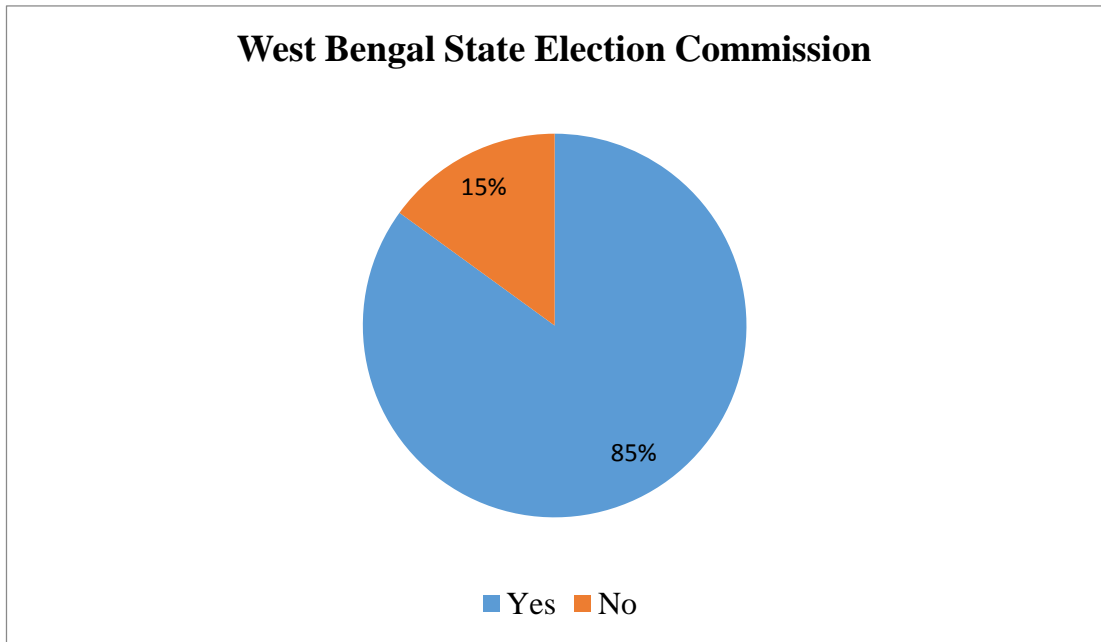


Source: Field Study conducted during January 2023

Chart 13 and Chart 14 provided the analysis of the responses from West Bengal and Mizoram respectively about the opinion on voting should be made mandatory/compulsory in the local bodies' election under the law. 84 percent of West Bengal respondents and 62 percent of Mizoram respondents opined that voting should be made compulsory or mandatory while 16 percent and 38 percent of respondents from West Bengal and Mizoram respectively are against compulsory or mandatory voting in local bodies' elections.

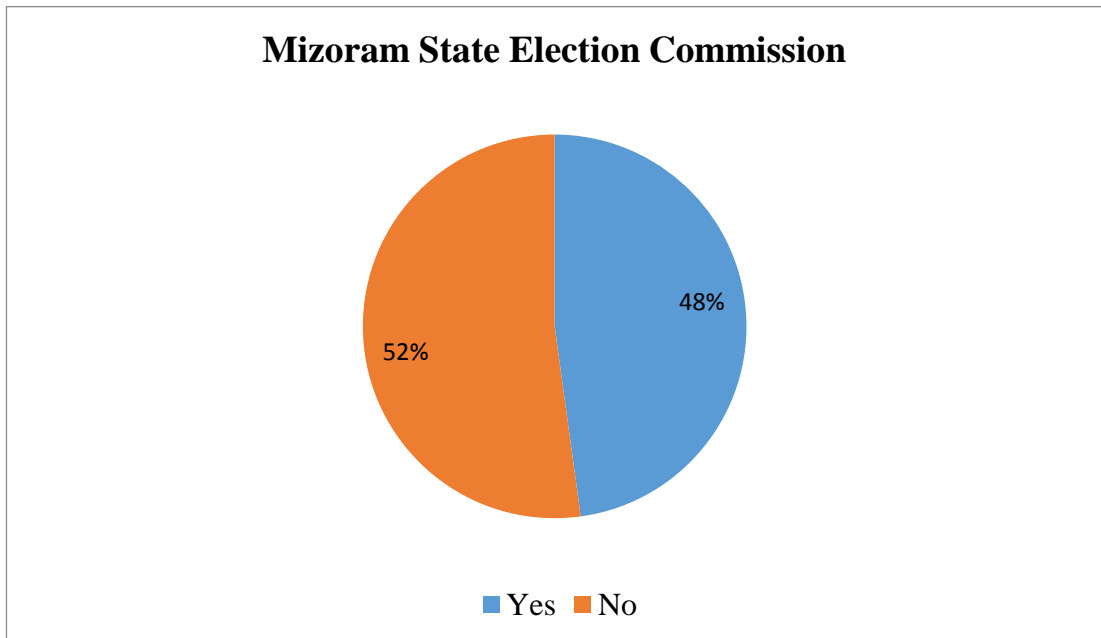
**Do you think E-Voting should be made applicable in the local bodies' elections under the laws? (WBSEC Yes 17, No 3) (MSEC Yes 22, No 24)**

Chart 15: E-Voting in WBSEC



Source: Field Study conducted during January 2023

Chart 16: E-Voting in MSEC



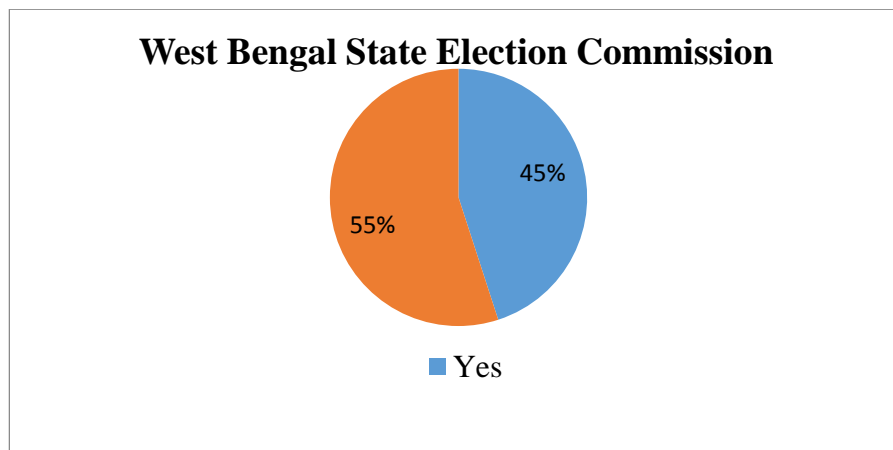
Source: Field Study conducted during January 2023

About the question of whether Electronic Voting should be made applicable in the local bodies' elections under the law. Chart 15 and Chart 16 provided an analysis

of the responses from West Bengal and Mizoram respectively. While 85 percent of the respondents from West Bengal are comfortable with E-Voting being made applicable in the local bodies' elections under the law, only 48 percent of respondents from Mizoram agreed with the proposition. Whereas 15 percent of respondents from West Bengal disagreed with the claim, 52 percent of respondents from Mizoram disagreed with the same.

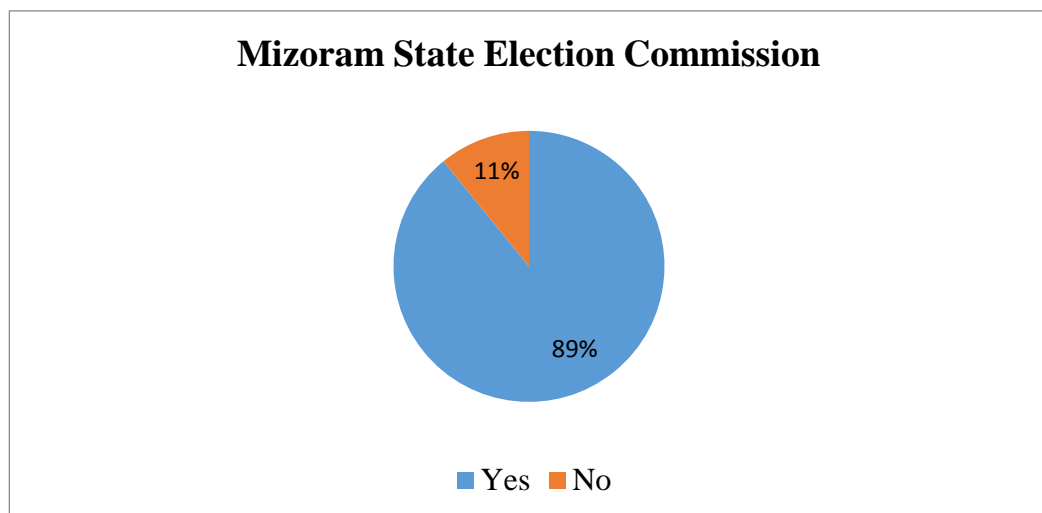
**Do you think EVM is better than the Balloting system for voting in the local bodies' election? (WBSEC Yes 3, No 4) (MSEC Yes 41, No 5)**

*Chart 17: EVM-vrs- Balloting system under WBSEC*



Source: Field Study conducted during January 2023

*Chart 18: EVM –vrs-Balloting system under MSEC*

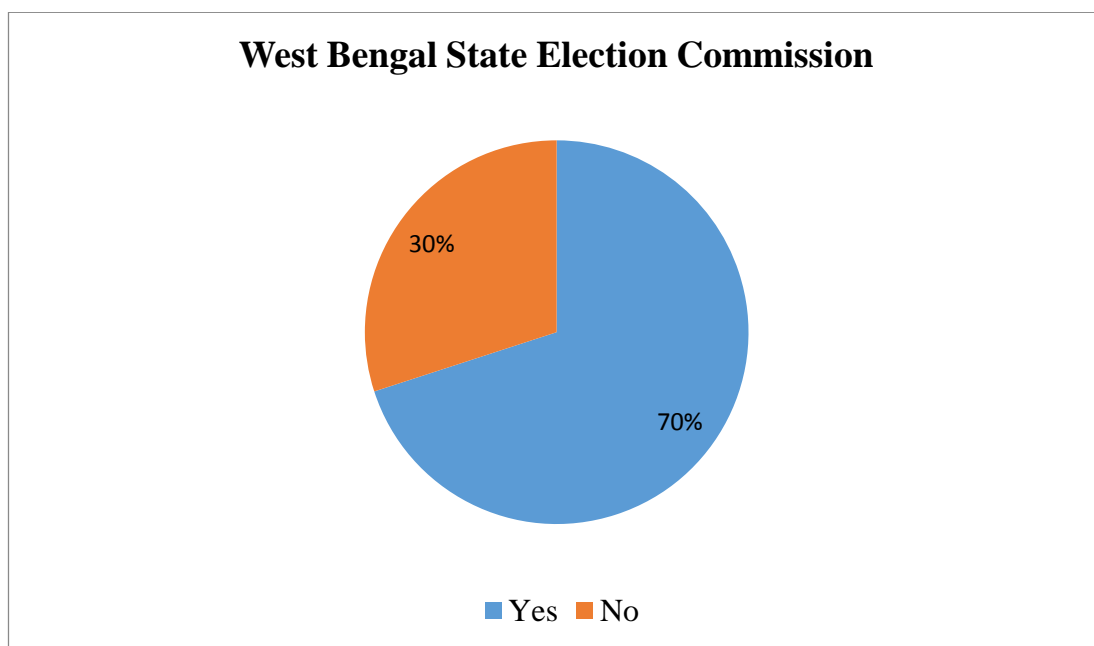


Source: Field Study conducted during January 2023

With regard to the question on choosing EVM or the Balloting system for elections to local bodies, Chart 17 analyzed that 45 percent of the respondents have chosen EVM while 55 percent of the respondents have chosen the Balloting system in West Bengal. However, the case is completely different in Mizoram since Chart 18 shows that a majority of respondents which is 89 percent have chosen the EVM system while only 11 percent are of the view that the Balloting system is better than the EVM system.

**Do you think NOTA/Negative or Neutral voting should be introduced in Local Bodies' elections? (WBSEC Yes 14, No 6) (MSEC Yes 37, No 9)**

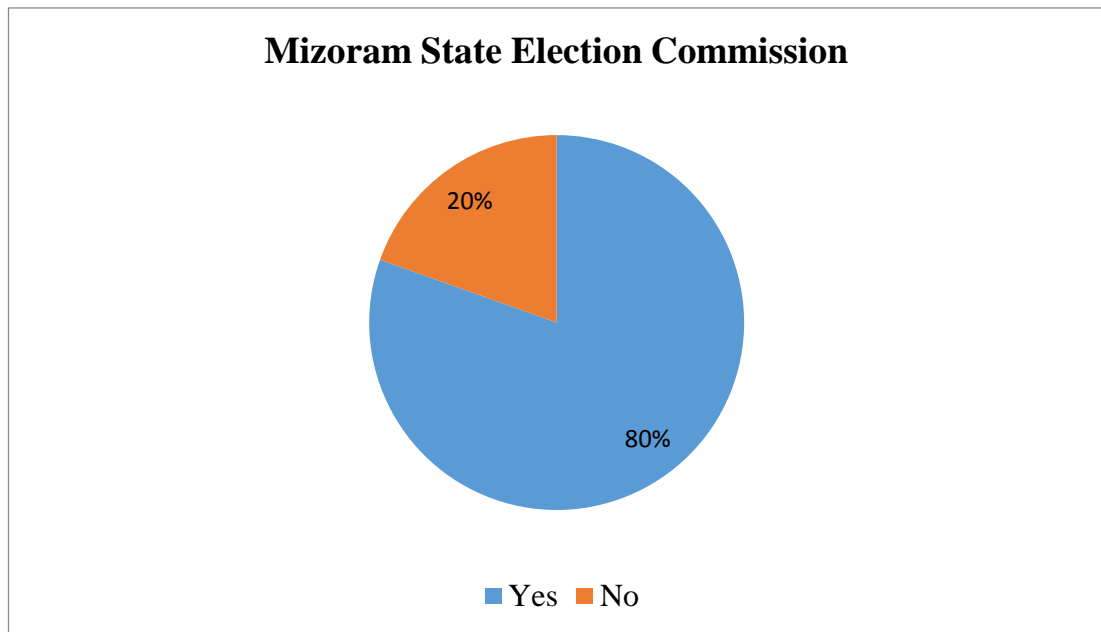
*Chart 19: NOTA/Negative or Neutral voting under WBSEC*



Source: Field Study conducted during January 2023

Chart 19 represents the analysis of responses from West Bengal on the question of whether NOTA/Negative or Neutral voting should be introduced in Local Bodies' elections. 70 percent of the respondents supported the introduction of NOTA/Negative or Neutral voting in the Local Bodies' elections while 30 percent of the respondents disapproved of it.

Chart 20: NOTA/Negative or Neutral voting under MSEC

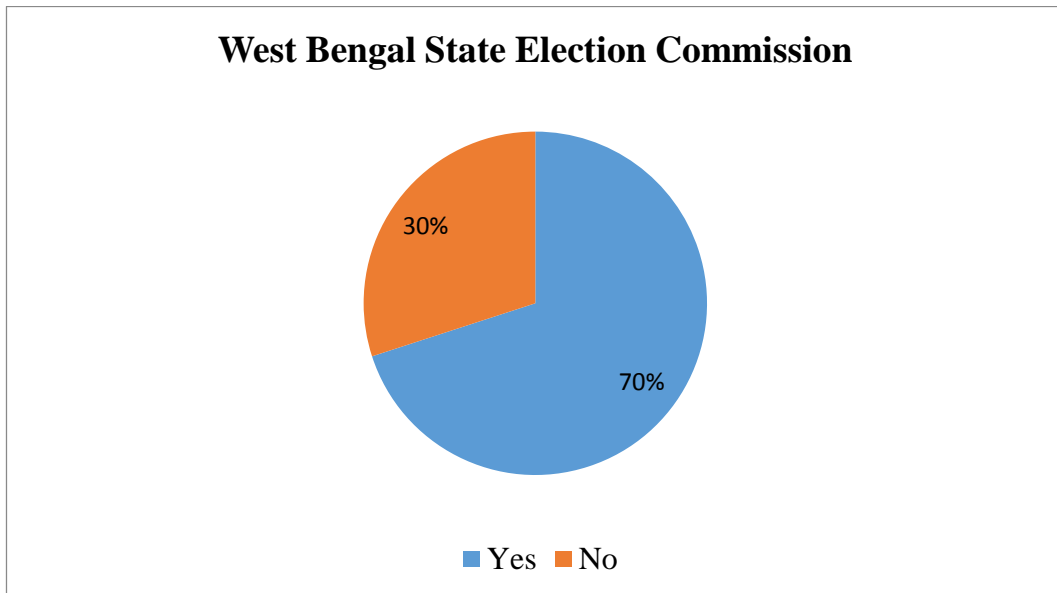


Source: Field Study conducted during January 2023

Chart 20 represents the analysis of the responses from Mizoram on the question of whether NOTA/Negative or Neutral voting should be introduced in Local Bodies' elections. A huge majority that is 80 percent of the respondents have supported the introduction of NOTA/Negative or Neutral voting in Local Bodies elections while only 20 percent of the respondents have disapproved of it.

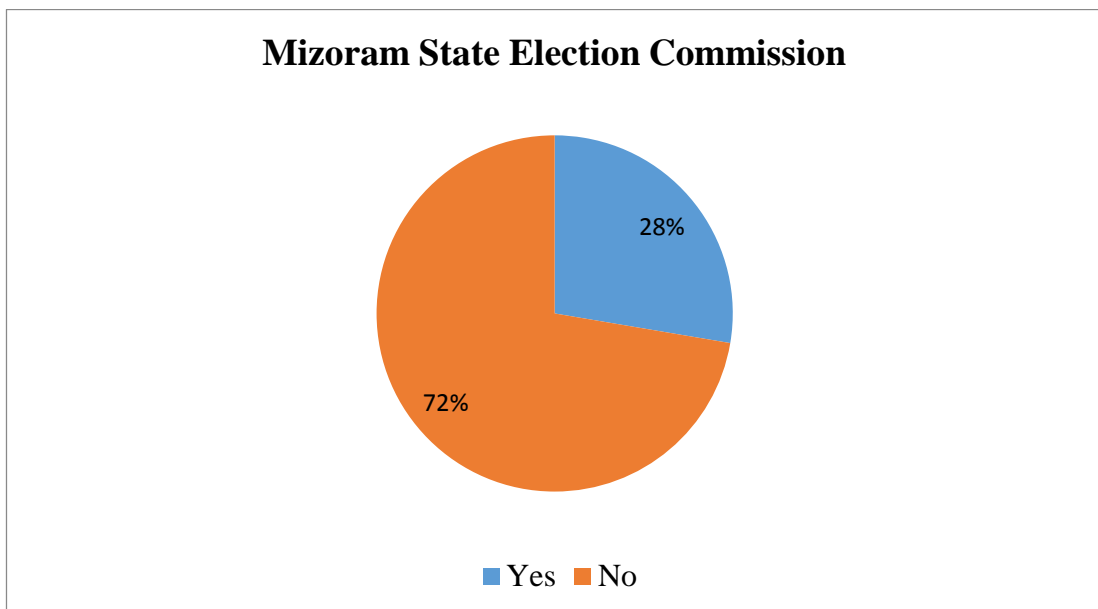
**Do you think the Model Code of Conduct is really effective to ensure free and fair elections? (WBSEC Yes 14, No 6) (MSEC Yes 13, No 34)**

*Chart 21: Perception of Model Code of Conduct under WBSEC*



Source: Field Study conducted during January 2023

*Chart 22: Perception of Model Code of Conduct under MSEC*



Source: Field Study conducted during January 2023

Chart 21 and Chart 22 provided an analysis of the responses on the effectiveness of the Model Code of Conduct in ensuring free and fair elections in West Bengal and Mizoram. In West Bengal, a huge majority of the respondents that is 70 percent claimed that the Model Code of Conduct has ensured free and fair elections while only 28 percent of respondents from Mizoram supported the claim. Meanwhile, only 30 percent of the respondents did not agree with the claim in West Bengal while 72 percent of the respondents of Mizoram did not agree with the claim.

### **Organizational Problems and Challenges of SECs**

The present study reveals that organizationally, one of the the most critical problems and challenges faced by the SECs in Mizoram and West Bengal is the selection of personnel to work with the Commission. The top-level administrative body was mostly on a deputation and transfer basis and the Commission's role in the selection of personnel is very limited and they do not directly interfere in the selection process. It is mostly carried out by the State Government which has created a ground for favouritism and nepotism in the selection of key personnel in the State Election Commission. Apart from this, even the post of State Election Commissioner was also occupied on a part-time basis by the Top-ranking Officials of the State Government. While elections and bye-elections to local bodies are required to be held regularly, this created administrative inconvenience within the organization itself.

Besides, the State Election Commission in West Bengal and Mizoram do not have their building and they were accommodated in a rented building which created unwarranted problems to a certain extent with the independent functioning of the Commissions. The absence of legal cells and the absence of research cells were also among the organizational problems in both the State Election Commissions.

Constitutionally, the State Election Commissioner should occupy the same status as a Judge of the High Court. While West Bengal State Election Commissioner enjoyed the same status as a High Court Judge, the State Election Commissioner, Mizoram does not enjoy the same rank and privileges as that of the High Court Judge. It occupies the same rank and privileges as the Chief Secretary of the State till date.



## **Suggestions**

Based on the study of the setup of SEC and its present status in the States of West Bengal and Mizoram, the following suggestions have been made for the effective functioning of the Commissions.

- 1. A full-time Commissioner and increasing of Tenure:** The State Election Commissioner must be a full-time post and he should have tenure of not less than five years or up to 65 years of age, whichever is earlier.
- 2. Status of a High Court Judge:** The State Election Commissioner, Mizoram must also have the status of a High Court Judge regardless of the size and population of the State. This will enhance the independent functioning and credibility of the Commission.
- 3. Comprehensive Law from the Constitution:** A comprehensive law for the functioning of the State Election Commission and broad conditions of service of the State Election Commissioner need to be laid down in the Constitution itself and the Commissioner's stature and autonomy should be of no lesser degree than the Election Commissioner of India.
- 4. Immunity from the Constitution:** All protection and immunity given to the Election Commission of India must also be made available to the State Election Commissions in the Constitution itself by adding a new Article or by amending the existing Articles.
- 5. Building and Infrastructure:** The State Government should make available infrastructure, equipment, and buildings for the State Election Commission to ensure the independent functioning and dignity of the State Election Commission.

## **Administrative Set up of State Election Commission of Mizoram and West Bengal**

The State Election Commission's administrative structure in West Bengal and Mizoram has similar characteristics. Their management is hierarchical, and the organization follows the three-tier structure generally accepted as a standard method

of managing a large distributed organization. An important feature of three-tiered management is that communication usually flows from top to bottom with little direct communication between the lower level and upper level. Since there is no uniform pattern of the administrative structure of the State Election Commissions in India, each State has created its own administrative posts, which will manage the Commission. Comparatively, the West Bengal State Election Commission has three higher-level administrative posts as Secretary, Additional Secretary, and Joint Secretary or Deputy Secretary, whereas, the State Election Commission, Mizoram has four higher-level administrative posts such as Secretary, Deputy Secretary, Under Secretary, and Superintendent. In the middle-level of administration, West Bengal Election Commission has five posts: Accounts Officer, Special Officer, Section Officer, PA to Commissioner & Ex-officio or Assistant Secretary and Senior PA.

The top-level administrative posts of West Bengal and Mizoram State Election Commission were involved in the day-to-day affairs of the organization. They are the main level functionaries responsible for setting goals, guiding, creating plans, and supervising the entire organization. The mid-level posts provide secretarial support, suggestions, etc., for the action to be taken by the Commission and assist in the day-to-day affairs of the organization. Their primary task is to divert the organization's activities towards achieving the goals set by the top-level administration. They do not have direct authority in decision makings, however, they have direct contact daily with the lower employees and they exert a powerful influence on the organization, as they have technical skills and experience in the particular work that they are assigned.

### **Problems and Challenges**

The Election Commission of India has a separate and big Secretariat of its own, with the service conditions of its officers and staff being regulated by the rules made by the President under Article 309 of the Constitution, similar to other Departments and Ministries of the Government of India in connection with Union matters. However, in the case of the State Election Commission in India including

West Bengal and Mizoram have a very small establishment to carry out substantive and administrative works of the Commission. The absence of a separate Secretariat created inadequacy of the Commissions in the collection of information and data essential for the administration and management of elections. It has also resulted in an inadequacy of staff who have the necessary experience and technical expertise to enable the Commission to effectively discharge its duties and responsibilities.

The role and responsibilities of the State Election Commissioner in the management of day-to-day affairs of the Commission are not envisaged in the Constitution. Thus, the administrative functions to manage the organization are largely affected by the competency and personality of the Commissioner. The absence of uniform rules for the Commissioner's administrative responsibilities has created the absence of a uniform administrative structure in the management of the State Election Commissions in India. This has created a wide difference in the administrative structures, employee flexibility and freedom to access information and the opinion of each State Election Commission in India.

The study also explores that there was a discrepancy in the provision of actual requirements of personnel in the office of the SEC and the sanctioned posts in the office of the State Election Commission in West Bengal and Mizoram. It also reveals that some key posts of officers have also been lying vacant for a considerable period of time, for instance, the posts of Deputy Secretary, Under Secretary, PS to State Election Commissioner, and Accounts Officers of State Election Commission, Mizoram are lying vacant during the study period. It is also observed that a large number of State Election Commission offices are facing a shortage of technical personnel in the field of computer/information technology. This in turn has a direct effect on the administrative functioning of the State Election Commission, especially in Mizoram and West Bengal.

### **Suggestions**

Based on the study of the prevailing conditions, problems and challenges in the administrative set-up of the State Election Commission of West Bengal and

Mizoram, the following suggestions have been made for the effective functioning of the Commissions: -

**Independent Secretariat:** The State Election Commission should have an independent Secretariat on the lines of the Lok Sabha, Rajya Sabha, and Registries of the Supreme Court and High Courts. An independent Secretariat will enable the Commission to choose and appoint officials considered suitable by the Commission without any interference from the State Executive.

**Uniform Law for Administrative Set-up:** To have similar standards and entity, each State Election Commission including the State of West Bengal and Mizoram should have a similar administrative setup which is backed by a separate secretariat. A uniform set of baseline parameters for managing day-to-day affairs will serve as an important principle to which extent delegation of power should be conferred, guidance and supervision of the work to achieve a larger Commission's goal and the optimum utilization of the personnel in the Commission.

**Creation of State Election Service:** Since local bodies' elections and by-elections have been held at regular intervals, the problems concerning the deployment of personnel in the State Election Commission office can be solved by creating a separate State Election Service and recruiting the service personnel should be made by a recruiting agency, which has competency and expertise in the recruitment of election officials and staff in a timely manner. This will effectively increase the efficiency of the State Election Commission in the field of documentation of election work, computation and analysis, communicative functions, liaisoning, maintenance of accounts, and administration in the conduct of elections within the State.

### **Electoral Roll Management of State Election Commission in West Bengal and Mizoram**

The power of superintendence, direction and control of the preparation of the electoral rolls of the Local Bodies viz, Panchayats and Municipalities in West Bengal,

is vested in the West Bengal State Election Commission. In the case of Mizoram, the power of superintendence, direction, control, and preparation of electoral rolls for local bodies including the Autonomous District Councils in Mizoram is vested in the State Election Commission which performs its functions in accordance with the Act and Rules as the State Government may enact from time to time. The Election Commission of India is responsible for the preparation and maintenance of Electoral Rolls for Assembly Constituencies and Parliamentary Constituencies. The electoral rolls for the territorial Assembly and Parliamentary Constituencies are prepared under the provisions of Sections 15 and 13D of the Representation of the People Act 1950 and the Registration of Electors Rules, 1960. It is noteworthy that elections to Assembly and Parliamentary constituencies are held on the basis of common electoral rolls. Meanwhile, the responsibility of preparation of electoral rolls of rural and urban local bodies rests with the State Election Commission concerned under Articles 243K and 243ZA of the Constitution of India.

The provisions of section 4 of the West Bengal State Election Commission Act, 1994, provided that the Panchayat Electoral Registration Officer shall prepare and revise an electoral roll for each Block within his jurisdiction. The West Bengal Municipal Elections Act, 1994 also provided that the electoral roll for each Municipality shall be prepared and revised by a Municipal Electoral Registration Officer appointed by the State Election Commission in consultation with the State Government under sub-section (1) of Section 6 of the West Bengal State Election Commission Act, 1994. In the case of Mizoram, sub-section (1) of Section 345 of the Mizoram Municipalities Act, 2007 vested the State Election Commission of Mizoram, with the power to supervise, direct and control the preparation of the electoral rolls for and conduct all elections to the Village Councils. The electoral roll shall be revised either intensively or summarily or partly intensively and partly summarily as the State Election Commission may direct. To prepare electoral rolls for elections to the Local Bodies, the State Election Commission may appoint officers such as Roll Observers, District Election Officers, Electoral Registration Officers, and Assistant Electoral Registration Officers. The Mizoram Municipalities Act, 2017 also provided four conditions for the preparations of electoral rolls for a Municipal

Ward. It further stated that the electoral roll for a municipal ward shall be prepared, revised, or corrected by the State Election Commission as per the provision of the Mizoram Municipalities Act and such rules as may be made by the State Government on this behalf.

### **Problems and Challenges**

Based on the studies, it is found that the Election Commission of India has been receiving requests from several State Election Commissions from time to time to have a system of common electoral rolls for ECI and SECs. However, the extant law does not permit common electoral rolls. While electoral rolls for Assemblies and Parliamentary constituencies are prepared and maintained under the provisions of the Representation of the People Act 1950, the electoral rolls for rural local bodies are prepared under the Acts and Rules of the concerned States and the electoral rolls of Urban local bodies are prepared and maintained under the Municipalities Acts or Municipal Corporation Acts of the concerned States. These laws differ widely and, therefore, it is not possible to have a common electoral roll under the law. Meanwhile, the electoral rolls of local bodies are prepared ward-wise. Wards do not have common geographical boundaries with territorial Assembly Constituencies.

Though some States have a law that allows them to adopt the electoral roll of ECI as the roll for local bodies in the States, the process of claims and objections under their respective Acts or Rules has to be followed for the preparation of local bodies' electoral rolls. ECI rolls cannot simply be adopted under the law by local bodies in most cases without following this process. Even though the Commission has prescribed a database structure where the details of wards, panchayats, municipalities and municipal corporations have to be entered in the master (control) tables yet this information has not been filled in the control tables by most States. Filling this information will require field verification of the entry of each voter. This is not only an enormous task, but also difficult to do. Moreover, officers of the Election Commission have no statutory authority to make a ward-wise electoral roll.

The study also finds that several complaints are received about bogus voters,

especially in the border areas since there were instances of local public pressure during the electoral roll revisions and issuing of fake identity certificates by the public officials in order to enroll the claimants as valid electors. This kind of problem has been prevalent throughout history, especially in the States of West Bengal and Mizoram which have a long line of international borders.

### **State Election Commission Role, Power and Functions in the Conduct of Elections in West Bengal and Mizoram**

As mandated by the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts, Article 243ZA with Article 243K provide that superintendence, direction, and control relating to the conduct of all elections of Panchayats and Municipalities are to be the responsibility of the State Election Commission. Article 243U, incorporated through the Constitutional amendment, provides for fixing the tenure of all local bodies at five years; and in case of dissolution before the expiry of five years, the local bodies would go for re-election within a period of six months of dissolution. These Constitutional provisions enjoin the SEC to conduct regular elections after the expiry of every five years, and whenever these are required in between for the residue term only.

#### **Power to Make an Appointment of Officers**

The State Election Commission has the power to appoint administrative machinery for conducting elections of Village Councils, Municipalities and Autonomous District Councils in the case of Mizoram. Direct or indirect appointment powers include the appointment of officers for conducting elections including District Panchayat/Municipal Election Officer, Election Observer, Panchayat/Municipal Returning Officer, Assistant Returning Officer, Electoral Registration Officer at Panchayat or Municipalities, Assistant Electoral Registration Officer, Presiding Officers and Polling Officers.

## **Power to Conduct Elections**

The West Bengal State Election Commission Act of 1994 and The Mizoram (Constitution of State Election Commission) Rules 2008 have provided the power to conduct Local Bodies elections in their respective State. The West Bengal State Election Commission has conducted elections in 118 Municipalities or Notified Areas, 7 Municipal Corporations, and thousands of Panchayats whereas, the State Election Commission, in Mizoram, has conducted elections in 550 Village Councils, 3 Autonomous District Councils, 83 Local Councils, and 1 Municipal Corporation.

The West Bengal State Government shall, in consultation with the State Election Commission, by notification, fix the date or dates on which, and the hours during which, the poll will be taken in the Municipalities and Panchayats. The poll on any day shall continue for a period of not less than eight hours without interruption. In the case of Mizoram, the State Election Commission has the power to fix the hours during which the poll will be taken and the hours so fixed shall be published by notification in the official gazette. Section 350 of the Mizoram Municipalities Act, 2007, provides that the total period allotted on any one day for polling shall not be less than eight hours between 7:00 A.M to 5:00 P.M.

## **Suggestions**

The policy measures that would improve their functioning may be suggested as under: -

The State Election Commissioner must be a full-time post and he should have tenure of at least five years or up to 65 years of age, whichever is earlier. The State Election Commissioner, Mizoram must also have a status of a High Court Judge regardless of the size and population of the State. Towards this end, a comprehensive law for the functioning of the State Election Commission and broad conditions of service of the State Election Commissioner needs to be laid down in the Constitution itself and his stature and autonomy should be of no lesser degree than the Election Commissioners of India. It is also essential that all protections afforded to the Election



Commission of India should also be made available to the State Election Commissions in the Constitution itself by assigning a new Article or by amending the existing Articles.

The State Election Commission be made a three-member body like the Election Commission of India as a single State Election Commissioner could be more vulnerable to pressure by the State Government and other groups from time to time.

As the current system of appointment of State Election Commissioners is political, there is no possibility of complete neutrality on the part of the State Election Commissioners and such an approach would strike at the very foundation of the Commission as a neutral body. Only one can wish the continued smoothness and fairness in the conduct of Local bodies' elections provided the State Election Commissioners are appointed by the Governor on the recommendation of the Collegium consisting of the Chief Minister, Leader of Opposition, Speaker, Minister concerned, etc. It may also be made mandatory for the appointed State Election Commissioners to take oath before assumption of office.

The State Election Commissioners may be empowered with the powers of a Civil Court to deal with election-related cases under the appropriate laws.

In order to ensure its independence and sanctity, every State Election Commission should have its own building.

There should be an institutional mechanism to bring the Election Commission of India and the State Election Commissions on a common platform for coordination by learning from each other's experiences and sharing resources.

A separate and exclusive Article/Part under which matters concerning State Election Commissioners Viz. Constitution of the Commissions, the appointment of State Election Commissioners, and their conditions of service as in the case of the Public Service Commission under Chapter II of Part XIV of the Constitution be assigned to make it more powerful and effective.

Given the law-and-order problems, as may be encountered during the Panchayat elections, especially in West Bengal, adequate provision of law for the deployment of Central Armed Police Forces (CAPF) as in the case of Assembly and Parliamentary elections should be made.

There should be proper manpower assessment, training, and planning in the context of the emerging role of the State Election Commission.

The Election Commission of India under Art 324 (6) can requisition both the State and Central Government personnel. However, under Art 243K (3), the State Election Commission cannot requisition Central Government employees. In a State like West Bengal where more than 5 lakh civil personnel are required to conduct the Panchayat Election, it becomes difficult for the State Election Commission to conduct the election in a free and fair manner only with the help of State Government staff alone. In view of this, there should be an amendment to the Constitution relating to the provision under Art 243K (iii) to the effect that the central employees can be requisitioned for conducting the local elections.

In view of the law-and-order problems, sometimes it becomes extremely difficult for the State Election Commission to ensure Panchayats and Municipality elections in a free and fair manner, especially in West Bengal, there should be adequate provision of (CAPF) in the local bodies' elections as in the case of Assembly and Parliamentary elections.

There should not be any instances of disparity in the allocation of funds for Parliament and Assembly elections conducted by the Election Commission of India and Local bodies' elections conducted by the State Election Commissions. The norms set by the Election Commission of India may be followed so far as fund allocation is concerned. Allocations for the State Election Commission including expenditure on local body elections and administrative expenses should be provided in the State's main budget since the period when a general election is due is known in advance.

The State Election Commissions should be provided with adequate funding for meeting office expenses, both on infrastructure and personnel, use of ICT to facilitate their functioning and building of database on various aspects of the election. Separate financial powers should be prescribed for the State Election Commission. The State Election Commissions should have the discretion to divert funds to different heads of accounts while incurring election-related expenditures. They should have the flexibility for procurement and expenditure.

In the case between West Bengal State Election Commission-vs-Govt. of West Bengal, the Hon'ble High Court has questioned during the trial that although the State Government imposes taxes and levies on various counts, why does it refrain from collecting taxes for conducting free and fair elections for the sake of democracy? Keeping in view of the remarks made by the Hon'ble High Court at Calcutta vis-a-vis all the all-India experiences, there should be a separate budgetary head for the allocation of funds to the State Election Commission in the General Budget of the State Government. In addition, the election funds can be mobilized by imposing a levy on voters as is being practised by the Government of Maharashtra in the Municipal elections.

It is not out of place to reiterate that the State Governments should make available infrastructure for the State Election Commission specifically on four aspects: (a) Office building of the State Election Commission, (b) Office equipment including EVMs (c) Separate IT Cell including personnel and (d) Adequate officers & Staff including legal experts.

It is observed that the State Election Commission Bill was formulated by the SEC, Mizoram and submitted to the State Government on 21<sup>st</sup> February 2013, but the Bill has not been tabled before the State Legislative Assembly till 2022. This is highly required to streamline the fractured mandate given by various laws of local bodies in line with Constitutional provisions as mandated under the 73<sup>rd</sup> & 74<sup>th</sup> Constitutional Amendments.

## **Suggestions for Electoral Reforms**

The election is an integral part of democracy. It is the duty of the State Election Commission to hold free and fair elections. The process of election needs regular reforms to overcome the problems faced during the election. The Election Commission of India has brought in many reforms, which are quite essential to have free and fair elections. Even the political parties have expressed their support for these reforms. With this in mind, several proposals have been sent to the State Government to amend the necessary Acts to make provisions to include electoral reforms. The following are the few important reforms suggested by the studies.

### **1. Use of Electronic voting machines**

The introduction of electronic voting machines would save time, manpower solve storage problems, prevents invalid votes and facilitates easy counting. It is an eco-friendly measure that saves paper and in turn, helps to preserve forest resources.

### **2. Ceiling limit on the election expenditure by the candidates**

The Election Commission of India has a fixed ceiling on the expenditure incurred by candidates in elections to the Assembly and Parliament but the said procedure is not implemented in elections to local bodies thereby enabling affluent candidates to spend more money to influence the voters and eclipse the chances of winning of genuine candidates. Hence, it is the considered view of the State Election Commissioners across the country that the ceiling limit on the election expenditure by the candidates in the election to local bodies will ensure free and fair elections.

### **3. Appointment of State Election Commission Observers**

Appointment of senior officers as Observers by the State Elections Commission would prohibit any influence that may be exercised by candidates and political parties on local officials who are engaged in election duty at the time of local body elections. This system is already in vogue in the Election Commission of India.

**4. To ensure uniformity in the prohibition of public meetings during elections.**

The Representation of People Act, 1951 provides for the prohibition of public campaigns and meetings etc., 48 hours before the end of the poll which is not so in the relevant acts of local bodies. Hence, it is desirable to bring necessary amendments existing in the State Acts.

**5. Registration of Associations and Bodies as Unrecognised registered political parties**

The State Election Commission has no powers under the existing acts to recognize political parties. Presently the National parties and the State parties are recognized by the Election Commission of India and the same is being adopted by the State Election Commission. Regarding unrecognized registered political parties, the Election Commission of India registers the parties which are having their offices throughout the country, which may run in the several hundred. But, for the sake of convenience, the State Election Commission is adopting a policy wherein the parties which have given their registered office address in the concerned States are being treated as unrecognized registered political parties. This is creating problems for several political parties as they have their registered office outside the State where they are contesting elections and want to claim priority while allotting free symbols. Hence, suitable rules have to be made to empower the State Election Commission to register unrecognized political parties.

**7. Expenditure of the State Election Commission shall be charged to the Consolidated Fund of the State**

In the light of the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional amendments, general elections to local bodies shall be held once in 5 years by the State Election Commission and by-elections are held as and when the seats become vacant. It is obligatory on the part of the State Election Commission to conduct an election in time. To conduct elections, funds are required and the State Election Commission has to depend on the

State Government for allotment of grants. Many times, the grants are not received in time and elections cannot be conducted as per the schedule. Hence, the expenditure of the Commission could be charged to the Consolidated Fund of the State as is in vogue in the Election Commission of India.

## **Conclusion**

The interview responses revealed the issues and challenges the SECs are baffled with and the concern of the officials and non-officials while raising critical issues that could have an impact on future local bodies' elections.

On close perusal of the interview responses, it is quite clear that the most challenging part for SECs is not that of holding elections but the functions and roles of the SEC, which the political executives and higher-level officials failed to understand and accept from time to time. The Constitutional status of the SEC as autonomous and independent in its authority is not fully realized and accepted by the State Governments. Meanwhile, for the conduct of free and fair elections, the SEC does not face any such big issues as the administrative machineries of elections have so far given good cooperation and support.

The introduction of emerging technologies including EVMs and online voting systems through E-Voting has become a big challenge for the SECs. Although SECs are aware that the introduction of electronic voting machines for all local bodies' election would save time and manpower, solves storage problems, prevents invalid votes, and facilitates easy counting, it is still a long way to introduce in all the elections to Local Bodies due certain reasons. This issue needs to be looked into by the Central Government and it should come forward to support the SECs.

Organizational problems like building and other infrastructure, staffing and financial matters need to be addressed by the Central and State Governments with proper examination and understanding.

In taking into account the tussle between Govt. of West Bengal and WBSEC on the issue of the phasing of polls and fixing of poll dates in the recent past, the majority of the respondents were of the view that SEC should be the final authority on phasing and fixing of the dates of election.

It is disheartening to learn that a good number of respondents are not in favour of mandatory voting/compulsory voting and E-Voting at present as the voting percentage is still quite satisfying at the local bodies' elections. This calls for an in-depth study of the emerging technological challenge and low voter turn-out amongst the youth.

A majority of the respondents are of the view that the Model Code of Conduct is not effective enough to control money and muscle power. This has indicated that elections have been a game of money and muscle power. Towards this end, the State Government should address this important issue by way of legislation or administrative measures.

On top of the above, the following three issues need to be addressed to bring about electoral reforms: -

- 1) Since the present status of SEC as mandated by the Constitution is not adequate, or not fully adequate, the Constitutional provisions, which are too ambiguous, need a re-look or enrichment.
- 2) The creation of a Separate State Election Service in respect of key officials for posting in SEC's Office and DEO's office needs to be examined and considered in the future.
- 3) SEC should have Rule-making authority under the Acts enacted by the State Government. This will considerably enhance its status and power, and the people will realize the nature and purpose of SEC too. This is an initiative, which highly required to address the holding of elections in a critical or unprecedented situation like the Covid-19 pandemic.
- 4) To ensure free and fair elections, the State Election Commission always seeks the cooperation of various Non-Governmental Organizations/Civil Society during the run-up to the election and for Poll Day management, which, however, does not have any locus standi. This kind of involvement needs to be legalized or formalized for the larger interest of all stakeholders.

Finally, it is desirable to see any dramatic transformation in the functioning of the State Election Commission, somewhat on the pattern of the Election Commission

of India, so that it gets its legitimate and long overdue stature and respect in the eyes of the common man who wishes to see a cleaner, truly representative and honest grassroots democracy so essential for sustainable development at all levels in our country.



## **CHAPTER-VII**

### **CONCLUSION**

#### **Brief Summary of the Study**

The electoral process is the key element for democratizing the structure of local governments. The 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts, 1992 not only provided Constitutional recognition to the local governments in India but also incorporated the provision for the State Election Commission (SEC) to conduct the democratic elections of Local Governments in a free and fair manner. The 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Acts, 1992, have brought Part IX and Part IXA of the Constitution of India into force to deal with matters relating to the constitution, composition and the functional ambit of the Panchayats and Municipalities respectively. By virtue of Articles 243K and 243ZA, the responsibility of superintendence, direction and control of the preparation of electoral rolls and the conduct of elections to the Panchayats and Municipalities have been vested in the SEC. Under these Constitutional provisions, many States have framed their Acts and Rules relating to the composition and functions of the SEC to conduct elections to their Panchayats and Municipalities. After a lapse of three decades since the enactment of the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts, 1992, the present study attempts to assess the role and functions of the SECs of Mizoram and West Bengal and offer suitable suggestions for improving the performance of electoral machinery in conducting democratic elections to the Local bodies.

#### **Chapterization**

The whole study has been divided into seven Chapters. The *first* Chapter is an introductory Chapter, which has brought out a study of the meaning of elections and elections conducted prior to the British rule in India. It has also looked into the elections conducted during the British regime and in the post-independence period.

This Chapter also contained a review of the literature, a statement of the research problem, objectives, research questions and scope of the study along with the methodology used for the study.

The *second* Chapter on the *Evolution of State Election Commissions in India* has traced the evolution of State Election Commissions (SECs) in India, especially in the post-73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments, 1992. This Chapter has also attempted to have an insight into the background of democratic elections conducted by the SECs for Village Councils, Autonomous District Councils, Sinlung Hills Council and Urban Local Bodies in Mizoram, and Panchayati Raj Institutions and Urban Local Bodies in West Bengal.

In the *third* Chapter - on *Organizational Structure and Personnel Administration of State Election Commissions of Mizoram and West Bengal*, an attempt has been made to study the organizational structures of SECs in Mizoram and West Bengal. It has also briefly made a comparative study of the organizational structures and personnel administration of the two SECs under study. While studying the personnel administration of the two SECs, the focus of the study is on the mode of appointment, Recruitment Rules, composition, tenure and salary of the State Election Commissioners in the two States.

The *fourth* Chapter on the *Role, Powers, and Functions of State Election Commissions of Mizoram and West Bengal* has studied the roles, powers and functions of the SECs in Mizoram and West Bengal with a view to understanding whether the State Election Commissioners in the two States practically enjoy their powers and play their roles as mandated by the Constitution of India. It has also looked into the extent of commitments made by the two State Governments for strengthening the institutions of SECs.

In the *fifth* Chapter on *Performance of State Election Commissions of Mizoram and West Bengal in Electoral Management*, the main focus is on electoral management pertaining to the preparation of electoral rolls, the conduct of democratic elections at the Panchayats or local level and Municipality and the role of SECs in connection with

delimitations of Constituencies. Besides, it has made an attempt to explore the attitudes of the concerned State Governments towards their respective SECs.

The *sixth* Chapter on *Results and Discussion* has made an attempt to analyze and interpret the primary data collected through structured interviews. The interpretation and tabulation of data have been divided into six major parameters, such as data related to the organizational structure and status of SECs, administrative setup, role and functions in the conduct of elections, the relationship between the State Governments and the SECs, problems and challenges, and finally, the opinions of key functionaries from the two SECs about the scope of their improvement.

The *seventh* Chapter is the Concluding Chapter which has brought out the summary and research findings of the whole study. Based on the findings so made, it has made some suggestions for the improvement of the performance of the two State Election Commissions in the conduct of elections to the Local bodies and also for the elimination of barriers in electoral management.

## **Major Findings**

The entire course of study is guided by Research Questions which have been framed and incorporated in the research proposal. Originally, *four* research questions have been raised to be answered in the present study. But, in the course of the study, the original research questions have produced one more research question. So, in this portion of the last Chapter, an attempt has been made to answer all those research questions, one after another, with the help of the data collected from key functionaries, officials, and retired Commissioners of Mizoram SEC and the West Bengal SEC through questionnaires and semi-structured interviews. Thus, based on materials collected from different sources, this study has come out with the following major findings:

The *first* research question is “*What are the role and status of the State Election Commissions in India as mandated by the Constitution?*” This research question has been answered with reference to relevant Articles of the Constitution of India. According to the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts, 1992, and Article

243K read with Article 243ZA, the role of each SEC is to conduct regular elections of Panchayats and Municipalities after the expiry of every five years, and whenever these are required in between for the residue term only. Though Article 243 U of the Indian Constitution provides for fixing the tenure of all local bodies at five years, in case of dissolution before the expiry of five years, the Local Bodies would go for re-election within a period of six months of dissolution.

In the case of Mizoram, the SEC shall, in consultation with the State Government, fix the date or dates and hours of the poll. The Mizoram SEC has the power to appoint election officials to conduct elections to Municipal Bodies, Autonomous District Councils, Village Councils, etc. Briefly, the Mizoram (Constitution of State Election Commission) Rules 2008 has empowered Mizoram SEC to conduct elections to Village Councils, Autonomous District Councils, Local Councils and Municipalities.

According to the West Bengal State Election Commission Act of 1994, the West Bengal State Government shall, in consultation with the SEC, by notification, fix the date or dates on which, and the hours during which, the poll will be taken in the Municipalities and Panchayats. In West Bengal, there was once a tussle arising from the question of whether it is the State Government or the West Bengal SEC that has the final authority on fixing the date of poll in the elections to local bodies in the State. For this reason, the West Bengal SEC and the State Government had been at loggerheads for over nine months over the holding of the Local Bodies' elections in 2013. The core of the dispute was the question on whether it was the State Government or the SEC that had the final say in the conduct of the elections. Ultimately, the Supreme Court decided the case in favour of the West Bengal SEC.

Regarding the conduct of local bodies' elections, both the SECs can make direct or indirect appointments of officers to be deployed as District Election Officer, District Panchayat/Municipal Election Officer, Election Observer, Panchayat or Municipal Returning Officer, Assistant Returning Officer, Presiding Officers and Polling Officers. However, they are debarred from the deployment of Central Government Officials and CAPF for election purposes.

Simultaneously, to answer the research question on the status of State Election Commissions in India, reference has been made to the relevant Articles of the Constitution of India based on which SECs have been constituted in Mizoram and West Bengal. Article 243K of the Constitution provides for setting up of SECs and this Article is almost identical to Article 324 of the Constitution of India for setting up of Election Commission of India (ECI). The SECs which have been created in many States are empowered to supervise Municipal and Panchayat elections.

Although the SECs of Mizoram and West Bengal have a similar mandate, they are independent of each other and draw powers from different laws. The SEC in Bengal draws its powers from the West Bengal State Election Commission Act, 1994. The Mizoram SEC has been constituted under Sub-section (a) of Section 345 of the Mizoram Municipalities Act, 2007 to conduct Local Bodies. Clause (c) of sub-rule (1) of Rule 2 of the Mizoram (Constitution of State Election Commission) Rules, 2008 defines 'Local Bodies' as to mean Municipalities, Autonomous District Councils and Panchayats and Village Councils. The West Bengal State Election Commissioner has been given the status and privileges of a High Court Judge whereas the State Government of Mizoram is not yet ready to give the State Election Commissioner the status of a Judge of the High Court.

The *second* research question is, "*What are the Organizational Structures and System of Personnel Administration in the State Election Commissions of West Bengal and Mizoram?*" In an attempt to answer this research question, the set-up of the two SECs have been examined. With regard to the formation of the Commissions, SECs of Mizoram and West Bengal are single-member Commissions comprising the State Election Commissioner. The organizational structure and staffing patterns of Mizoram SEC and West Bengal SEC are slightly different and are yet to be uniformly institutionalized legally and operationally.

Organizationally, the SECs of both Mizoram and West Bengal have three-tier administrative structures with a traditional hierarchy and a narrow span of control in their organizational management where communication usually flows from top to bottom with little direct communication between the lower level and upper level.

Mizoram SEC has top-middle-lower-level employees in the form of 1-1-1-1-3-3 whereas West Bengal SEC has a top-middle-lower level in the form of 1-1-1-5-4-4.

The office of the SEC in both States normally comprises of Secretary, Joint Secretary, Deputy Secretary, and Under Secretary at the top-level management. The middle-level in WBSEC consists of the Account Officer, Special Officer, P.A to Commissioner & Ex-Officio Assistant Secretary, Senior PA, Superintendent and Stenographer Grade I. They assist the top-level management in their day-to-day functions. The third-level consists of Junior Accountant, Head Assistant, UDA and Computer Programme Assistant.

There is no uniform pattern of the administrative structure of the SECs in India and each State has created administrative posts to manage the Commission. Comparatively, Mizoram SEC has four top-level administrative posts, such as Secretary, Deputy Secretary, Under Secretary and Superintendent, whereas West Bengal SEC has three top-level administrative posts, such as Secretary, Addl. Secretary and Joint Secretary. The top-level administrative posts of Mizoram and West Bengal SECs are involved in the day-to-day affairs of the organization and are responsible for setting goals, planning and supervising the entire organization.

In the middle level of administration, West Bengal SEC has five posts: Accounts Officer, Special Officer, Section Officer, P.A to Commissioner & Ex-Officio Assistant Secretary, and Senior PA. The primary task of mid-level officials is to translate the organizational activities toward achieving the goals set by the top-level administration. As they have direct contact daily with the lower employees, the mid-level officials can exert considerable influence on the organization with the help of their technical skills and experience in the work assigned to them.

The *third* research question is, “*How far the State Governments of Mizoram and West Bengal are committed to strengthening their respective institutions of the State Election Commission so far as independence and authority are concerned?*” In response to this research question, it has been found that both the SECs function under the control of their respective State Governments, in terms of funds, conduct of elections, appointment of the Commissioner and office accommodation. This has

created some constraints for SECs in conducting free and fair elections and, sometimes, they need to wait for the directions of the State Governments. Hence, it appears that the SEC cannot maintain its independence of functioning on several occasions. The major constraints of the SECs in performing their role to ensure free and fair elections may be highlighted below:

- 1) No proper accommodation or separate buildings for the Commission.
- 2) Inadequate permanent staff.
- 3) Inadequate infrastructural support from the State Government.
- 4) Lack of cooperation from the Political executives and higher echelons of the States' bureaucracy.

At present, there is a great deal of disparity between the funds provided for Parliament and Assembly Elections conducted by ECI and the Local bodies' elections conducted by the SEC. The SEC requires adequate funding for meeting Office Expenses, both on infrastructure and personnel.

With regard to office accommodation, both the SECs of Mizoram and West Bengal do not have any permanent office buildings and are accommodated in rented buildings till date. This clearly indicates a lack of commitment on the part of Govt. of Mizoram and Govt. of West Bengal to strengthen the Institution of SEC as far as status, independence and authority are concerned.

The Constitution mandates that the State Election Commissioner cannot be removed except in a like manner and on like ground as in the case of a Judge of a High Court. In sync with the Constitutional mandate, the West Bengal State Election Commissioner has been provided with the status of a Judge of the High Court. But, the present status of the State Election Commissioner in Mizoram is that of Chief Secretary to the State Government which is lower than the status mandated in the Constitution Article 243K (2). It is to be noted that, after the conclusion of every election, the State Election Commissioners can become parties to litigation on the election results and are liable to be summoned by the High Courts for personal appearances during the

proceedings. This creates an anomalous situation where the Constitutional authority is summoned by the Court.

The *fourth* research question is, “*What has been the attitude of the State Governments to State Election Commissions?*” It was ascertained during the study that the State Governments often delay Panchayat/Local Bodies’ Elections on purely political considerations. They can do so because they retain some powers relating to the conduct of elections under the State Acts and Rules. The SEC has to depend upon the State Government for logistic support that includes staff and finances. Besides certain important powers like issuance of election notification, delimitation of constituencies, earmarking of reserved seats etc. are retained by the State Governments in one way or another. Considering all these, there is a strong case for further strengthening the hands of the SECs by incorporating elaborate and specific provisions in the Constitution itself. Sometimes, the SECs have to fight long battles against the State Governments in order to fulfil their Constitutional duties to hold elections as per the provisions of law. In short, the independent functioning of the Commissions are always compromised due to the indifferent attitudes of the State Government towards SECs.

It was also found that both the SECs function under the control of their respective State Governments, in terms of funds, the conduct of elections, the appointment of the Commissioner and building for office accommodation. This has created a baffling constraint for SECs in conducting free and fair elections and, sometimes, they need to wait for the directions of the State Governments. Hence, it is apparent that the SEC cannot maintain its independence of functioning as envisaged by the Constitution.

The *fifth* research question that needs to be answered is, “*What are the issues, problems and challenges faced by both the State Election Commissions in performing their role to ensure free and fair elections and the policy measures that would improve their functioning?*” During the course of the study, the SECs of Mizoram and West Bengal were found facing various issues, problems and challenges while performing their duties to ensure free and fair elections. Some of those are:



(a) Lack of Manpower

It has been found that there is a huge discrepancy between the posts sanctioned by the State Government and the actual deployment of personnel in the offices of SECs. Strangely enough, some key posts of officers have also been lying vacant for a considerable period of time. The staff and officers working in the office of the SEC are not properly manned. A large number of SECs are suffering from technical personnel, especially computer experts. It directly affects the functioning of the Commission, especially in the field of documentation of election work, computation and analysis, communicative function, liaisoning, accounts, etc.

(b) Deployment of Security Forces

During Panchayat elections in West Bengal in 2013, the West Bengal SEC requested the State Government to arrange for 800 Companies of CAPF to enforce law and order for ensuring free and fair Panchayat elections. It may be mentioned that West Bengal ranks high on political rivalry among the political parties and political violence in India. Keeping in view the past experience on security matters, West Bengal SEC made a proposal for deployment of the Central Police Force which was rejected by the West Bengal Government. This led the West Bengal SEC to file a writ petition in the Calcutta High Court which gave a clear instruction to the State Government that the shortfall of security personnel must be fully compensated for by the State Government by bringing in CAPFs as well as security personnel from other States to the satisfaction of the West Bengal SEC. Subsequently, the Division Bench of Calcutta High Court and the Supreme Court of India reaffirmed the order passed by the Single Bench of Calcutta High Court. The Judgment of the Calcutta High Court is a landmark Judgment on many counts particularly with regard to deployment of Central Forces during Panchayat and Municipality elections. After this Judgment, other SECs may also urge their respective State Governments for the deployment of Central Police Forces as may be required during local bodies' elections.

(c) Information Technology Experts

Application of Information Technology (IT) Experts and computerization which are facilitating work in other areas of governance and the electoral processes of

the ECI are not being used by both the SECs due to lack of IT-related capacity in terms of hardware, software and personnel.

(d) Allowances and Remuneration

The allowances and remuneration permitted for staff deployed for the preparation, revision of electoral rolls and for the conduct of elections are often inferior to what is available for similar jobs done by the ECI. As a result, the personnel deployed have an impression that the work of the SEC is inferior to that of elections conducted by the ECI.

(e) Fund

Due to a lack of awareness of the functioning of the State Election Commission during the preceding decades, adequate resources were not made available to the SECs by the State Governments. The process of obtaining funds from the State Government was often quite protracted which put the SECs under pressure to make several proposals to the State Government. This has led to operational difficulties at the time of conducting elections.

(f) Delimitation of Constituencies

In many States of India, the power of delimitation of Local Government Constituencies has been retained by the State Government. As a result, in many cases particularly in urban areas, the SECs have to wait until a Delimitation exercise is completed by the State Governments for conducting elections. This has become a big problem for the SECs in conducting democratic elections for the Local-Self Governments.

**Suggestion for Improvement in the functioning of the State Election Commissions in West Bengal and Mizoram**

With the consideration of the above major findings of the study, the following policy measures are suggested for improving the working of the State Election Commissions (SECs) in Mizoram and West Bengal:

- 1) The State Election Commissioner must be a full-time post with tenure of five years or up to 65 years of age, whichever is earlier. Like other State Election Commissioners, the State Election Commissioner of Mizoram should be accorded the status of a High Court Judge regardless of the size and population of the State. Towards this end, a comprehensive law and broad conditions of service of the State Election Commissioner need to be put in place and his stature and autonomy of functioning should be of no lesser degree than the Election Commissioners of ECI.
- 2) The SECs may be made a multi-member body like the ECI as a single State Election Commissioner could be more vulnerable to pressure from the State Government and other pressure groups from time to time.
- 3) As the current system of appointment of State Election Commissioner is totally political, there is no possibility of ensuring complete neutrality on the part of the State Election Commissioners. For ensuring smooth and fair conduct of elections to local bodies, the State Election Commissioners should be appointed by the Governor on the recommendation of a Collegium consisting of the Chief Minister, Leader of the Opposition, Speaker of the Legislative Assembly, etc. It may also be made mandatory for the appointed State Election Commissioners to take oath before assumption of office.
- 4) The State Election Commissioners may be empowered with the powers of a Civil Court to deal with election-related cases under the appropriate laws.
- 5) In order to ensure its independence, dignity and sanctity, every SEC should have its own buildings.
- 6) There should be an institutional mechanism to bring the ECI and the SECs on a common platform for learning from each other's experiences and sharing resources.
- 7) A separate and exclusive Article/Part under which matters concerning State Election Commissioners Viz. Constitution of the Commissions, the appointment of State Election Commissioners, and their conditions of service as in the case of the Public Service Commission under Chapter II of Part XIV of the Constitution be assigned to make it more powerful and effective.

8) In view of the recurrence of law-and-order problems during elections to Local Bodies, especially in West Bengal, adequate provision for the deployment of CAPF in the local elections as in the case of Assembly and Parliamentary elections should be made in the appropriate Laws.

9) There should be a proper manpower assessment, training and planning in the context of the emerging role of the SECs.

10) Under Art 324 (6), the ECI can requisition both the Central Government and the State personnel for election duty. However, under Art 243K (3), the SECs can requisition only State Government employees. In a State like West Bengal where more than 5 lakh civil personnel are required to conduct the Panchayat Elections, it becomes difficult for the SEC to conduct the elections in a free and fair manner without the help of Central Government employees. In view of this, there should be an Amendment to the Constitution relating to the provision under Art 243K (iii) to the effect that the Central Government's employees can be requisitioned for conducting elections to the Local Bodies.

12) There should not be any instances of disparity in the allocation of funds for Parliament and Assembly elections conducted by the ECI and elections to the Local bodies conducted by the SEC. The norms set by the ECI may be followed so far as fund allocation is concerned. Allocations for SEC including expenditure for conducting elections to Local Bodies should be clearly provided in the State's main budget.

13) The SECs should be provided with adequate funding for meeting office expenses, both on infrastructure and personnel, use of ICT to facilitate their functioning and creation of a database on various aspects of the elections. Separate financial powers should be prescribed for the SECs. The SECs should have the discretion to divert funds to different heads of accounts while incurring election-related expenditures. They should have the flexibility for procurement and expenditure.

14) In the case between West Bengal SEC -*vs*- Government of West Bengal, the Hon'ble High Court has, during the trial, questioned that, although the State

Government imposes taxes and levies on various counts, why does it refrain from collecting taxes for conducting free and fair elections for the sake of democracy? Keeping in view of the remarks of the Hon'ble High Court at Calcutta vis-a-vis Pan-India experiences, the election funds can be mobilized by imposing a levy on voters as is being practised by the Government of Maharashtra in the Municipal Elections.

15) The State Governments should make infrastructure available for the SEC specifically in four aspects: (a) Office building of the SEC, (b) Office equipment including EVMs (c) Separate IT & Research Cell including personnel and (d) Adequate Officers & Staff including Legal Experts.

16) It is observed that the SEC Bill was formulated by the SEC of Mizoram and the same was submitted to the State Government on 21<sup>st</sup> February 2013, but the Bill has not been tabled before the State Legislative Assembly till 2022. This is highly required to streamline the fractured mandate given by various laws of Local Bodies in line with the Constitutional provisions as mandated under the 73<sup>rd</sup> & 74<sup>th</sup> Constitutional Amendments.

17) Under the existing Acts, the SEC has no powers to recognize political parties. Currently, the National parties and the State parties are recognized by the ECI and the same is being adopted by the SECs. Regarding unrecognized registered political parties, the ECI registers the parties which are having their offices throughout the country, which may run in the several hundred. It is desirable that suitable rules have to be enacted to empower the SECs to register political parties for the States separately.

### **Limitations of the Study**

Despite an attempt to minimize the range of limitations throughout the study, the study is not free from limitations.

The study was carried out in two different States having different environments and administrative set-ups as well as cultures. The aims and objectives of the study were also found to be too broad and a comparative study should be carried out with reference to institutions or agencies which have a similar nature of duty, role, and

organizational setup. Since the number of Officers and staff in the two SECs is very small, the sample size also becomes too small affecting the units of analysis used in the present study.

The study has encountered the issue of limited access to interviewees especially in West Bengal due to travel restrictions and lockdown during the COVID-19 pandemic and the non-cooperative attitude of some Staff of the SECs. Moreover, the West Bengal SEC is one of the most controversial SECs in the country so far as judicial interventions and poll-related violence are concerned. The collection of data from the staff of West Bengal SEC was challenging due to their reluctance to be interviewed, on several occasions, by the researcher.

### **Scope for Further Study**

The Constitution envisages State Election Commissions (SEC) for every state to ensure a free and fair election and empower them with certain Constitutional safeguards to secure their independent functioning. Given their status and role, an in-depth and broader study may further be made in the following areas:

- 1) Autonomy of the State Election Commission in various States;
- 2) Appointment, Role and Status of State Election Commissioners in various States;
- 3) Introduction of Electoral Reforms by various State Election Commissions;
- 4) A Comparative Study of the Election Commission of India and State Election Commissions;
- 5) A critical study on Constitutional Provisions relating to State Election Commissions and State Laws on Elections;
- 6) Judicial Interventions on the functioning of the State Election Commission since 1993.

## **Conclusion**

In conclusion, it may be reiterated that the Constitution of India was amended in 1992 through the 73<sup>rd</sup> and 74<sup>th</sup> Amendments in order to provide legal sanctity to the Local Self-Governments (LSGs), giving LSGs their rightful place in the process of nation-building. Towards this end, Article 243K & Article 243ZA were incorporated to establish an SEC in every State as a Constitutional body with powers of superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats and Municipalities in the State.’ The SEC consists of a State Election Commissioner who is appointed by the Governor for a fixed tenure and cannot be removed from his office except in a like manner and on the like grounds as a Judge of the High Court. However, the study reveals that there lies a heap of discrepancies on all fronts of its mandate, which can defeat the very purpose of its establishment. This development not only threatens their institutional autonomy but also can seriously compromise their Constitutional responsibility of holding free, transparent and fair elections without fear or favour and falls foul of the Constitutional provisions. In fact, the situation in West Bengal is grimmer than in any other SECs across the country.

The Study, therefore, suggested several measures that would improve the functioning of the State Election Commissions (SEC) to ensure free and fair elections and to safeguard their independent functioning. In a nutshell, a comparative study on the workings of any SEC is an interesting and challenging area of study and calls for further in-depth and broader studies in the coming days.

## **Appendices**

### *Appendix 1: Interview Schedule*

1. What are the reasons responsible for setting up of the State Election Commission (SEC) in your state?
2. Do you find the SECs in India, particularly your SEC, are occupying their status to play their role as mandated by the Constitution?
3. What are the elections conducted by the SEC in your State? What is the process of preparation of Electoral Rolls and conduct of democratic elections in your State?
4. Of the kinds of election conducted by the SEC in your State, which election is the most challenging one? Give reasons.
5. Has the SEC in your State ever faced any organizational problem? If so, please specify the reasons.
6. Is the SEC staffed with a sufficient number of personnel before and during elections? Do you think a Separate State Election Service should be created for a free and fair conduct of elections in your State?
7. Is there any clash of powers and functions/ conflict of interest between the State Government and the SEC in the past? If so, please specify.
8. Do you think your State Government is willing to strengthen the institution of SEC so far as its Constitutional status, independence and authority are concerned? If not, what could be the apparent reasons?
9. Does your SEC has its own building or rent-free accommodation or accommodated in a rented building?
10. Has the SEC faced issues, problems and challenges while performing its role to conduct free and fair democratic elections? If so, what are the problems faced by it?
11. Has your SEC witnessed Judicial interventions during the poll process? If yes, what was the main reason for such an intervention?
12. Do you find any scope for improvement in electoral administration pertaining to Local Bodies' elections in your State? If so, please specify.



13. While the State Election Commissions had a similar role to play with regard to Elections of urban and rural local bodies with the Election Commission of India, do you think SECs possess either the same degree of authority or the same kind of resources that were available to the Election Commission of India as observed by the Apex Court in *Kishansing Tomar-vrs- the Municipal Corporation of City of Ahmedabad & Ors*, vide Judgment & Order dated 19/10/2006.?
14. Should the State Election Commission be made a Multi-Member Commission like the Election Commission of India?
15. Do you think it would be fair/better that the State Election Commissioner be appointed by the Governor on the recommendation of a Collegium and Oath should be administered by the Governor?
16. Is the present status of the State Election Commissioner as mandated by the 73<sup>rd</sup> & 74<sup>th</sup> Constitutional Amendment Acts not adequate?
17. Is the present status of the State Election Commissioner of your State as bestowed by the State Government not in sync with the provisions under the Constitution?
18. Have you come across instances of non-availability of election funds from the Government in time?
19. Do you think deployment of Central Paramilitary Forces in the local bodies' elections as in the case of Assembly and Parliamentary elections is necessary?
20. Do you think an institutional mechanism should be created to bring the Election Commission of India and the State Election Commissions on a common platform for coordination by learning from each other's experiences and sharing resources?
21. Do you think the State Election Commission should be the final authority on phasing and fixing the date or dates of elections?
22. What are the areas of concern for Electoral Reforms in Local Bodies' Elections in your State so far as Local Bodies' elections are concerned to address Money Power, Muscle Power, etc.?
23. Do you think voting should be made mandatory/compulsory in the local bodies' elections under the laws?

24. Do you think E-Voting should be made applicable in the local bodies' elections under the laws?
25. Do you think EVM is better than Balloting system for voting in the local bodies' election?
26. Who is the authority for Registration/De-registration of political parties in connection with Elections to Local bodies in your State?
27. Do you think NOTA /Negative or Neutral voting should be introduced in Local Bodies elections?
28. Do you have any provisions for the application of Anti-Defection Law in Local bodies in your State?
29. Do you think there should a Common Electoral Rolls for Local bodies and Assembly/Parliamentary Elections in your State?
30. Do you think the Model Code of Conduct is really effective to ensure free and fair elections? If not, your suggestions for its improvement or otherwise?
31. Do you think SECs should have Rule making authority under the Acts enacted by the State Government?
32. Do you think SECs should have powers for the Delimitation of constituencies and Civil Court Power?
33. What, according to you, are the policy measures/initiatives, that would improve the functioning of SEC?

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TUESDAY, MARCH 22, 1994

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PART III—Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 465-L.—22nd March, 1994.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

### West Bengal Act VIII of 1994

#### THE WEST BENGAL STATE ELECTION COMMISSION ACT, 1994.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 22nd March, 1994.]

*An Act to provide for matters relating to the constitution of a State Election Commission for the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats and the Municipalities.*

WHEREAS it is expedient to provide for matters relating to the constitution of a State Election Commission for the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the *Panchayats* and the *Municipalities*;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the West Bengal State Election Commission Act, 1994.

*The West Bengal State Election Commission Act, 1994.*

(Sections 2, 3.)

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—
- (a) "Commission" means the West Bengal State Election Commission referred to in sub-section (1) of section 3;
  - (b) "constituency" means an area declared as such under any law for the time being in force for the purpose of election of a member from that area to a *Panchayat* or Municipality;
  - (c) "constitution" means the Constitution of India;
  - (d) "District Municipal Election Officer" means the officer appointed as such under sub-section (1) of section 6;
  - (e) "District Panchayat Election Officer" means the officer appointed as such under sub-section (1) of section 6;
  - (f) "Governor" means the Governor, appointed as such under article 155, read with article 153, of the constitution, for the State of West Bengal;
  - (g) "Municipality" has the same meaning as in clause (c) of article 243P of the constitution;
  - (h) "Municipal Electoral Registration Officer" means the officer appointed as such under sub-section (1) of section 6;
  - (i) "Municipal Returning Officer" means the officer appointed as such under sub-section (1) of section 6;
  - (j) "notification" means a notification published in the *Official Gazette*;
  - (k) "*Panchayat*" has the same meaning as in clause (c) of article 243 of the constitution;
  - (l) "Panchayat Electoral Registration Officer" means the officer appointed as such under sub-section (1) of section 6;
  - (m) "Panchayat Returning Officer" means the officer appointed as such under sub-section (1) of section 6;
  - (n) "prescribed" means prescribed by rules made under this Act;
  - (o) "State Election Commissioner" means the State Election Commissioner referred to in sub-section (1) of section 3;
  - (p) words and expressions used in this Act and not otherwise defined shall have the meanings respectively assigned to them in—
    - (i) the Bengal Municipal Act, 1932,
    - (ii) the Chandernagore Municipal Act, 1955,
    - (iii) the West Bengal *Panchayat* Act, 1973,
    - (iv) the Howrah Municipal Corporation Act, 1980,
    - (v) the Calcutta Municipal Corporation Act, 1980,
    - (vi) the Siliguri Municipal Corporation Act, 1990,
    - (vii) the Asansol Municipal Corporation Act, 1990, or
    - (viii) the Chandernagore Municipal Corporation Act, 1990.

Ben. Act XV of 1932.  
West Ben. Act XVIII of 1955.  
West Ben. Act XLI of 1973.  
West Ben. Act LVIII of 1980.  
West Ben. Act LX of 1980.  
West Ben. Act XXX of 1990.  
West Ben. Act XXXI of 1990.  
West Ben. Act XXXII of 1990.

State Election Commission.

3. (1) With effect from such date as the State Government may by notification, appoint, there shall be a Commission, to be called the West Bengal State Election Commission, consisting of a State Election Commissioner appointed by the Governor under clause (1) of article 243K of the Constitution.

*The West Bengal State Election Commission Act, 1994.*

(Sections 4, 5.)

(2) If—

- (a) the State Election Commissioner is, by reason of leave, illness or other cause, temporarily unable to exercise the powers and perform the duties of his office, or
- (b) a vacancy occurs in the Office of the State Election Commissioner by reason of death, resignation or expiry of the term of his office, removal or otherwise,

then, the Governor shall, by notification, designate an officer of the State Government who shall act as the State Election Commissioner during the period of such temporary inability or pending the appointment of a State Election Commissioner, as the case may be.

(3) The functions of the Commission may, subject to such general or special directions, if any, as may be given by the Commission in this behalf, be performed also by such officers of the Commission as the State Election Commissioner may, by order, specify.

Elections to the Panchayats.

4. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall vest in the Commission:

Provided that the electoral roll for the time being in force for the election of Members to the West Bengal Legislative Assembly may, at the discretion of the State Election Commissioner, be adopted as the electoral roll for election of members, by whatever name called, to a Panchayat to such extent and in such manner as the State Election Commissioner thinks fit.

(2) Subject to the provisions of sub-section (1), all matters relating to, or in connection with, elections to the Panchayats shall be regulated in accordance with the provisions of the West Bengal Panchayat Act, 1973, and the rules made thereunder in so far as they are not in consistent with the provisions of this Act or the rules made thereunder.

West Ben. Act  
XLI of 1973.

Elections to the Municipalities.

5. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall vest in the Commission:

Provided that the electoral roll for the time being in force for the election of Members to the West Bengal Legislative Assembly may, at the discretion of the State Election Commissioner, be adopted as the electoral roll for election of members, by whatever name called, to a Municipality to such extent and in such manner as the State Election Commissioner thinks fit.

(2) Subject to the provisions of sub-section (1), all matters relating to, or in connection with, elections to the Municipalities shall be regulated in accordance with the provisions of—

- (a) the Bengal Municipal Act, 1932,
- (b) the Chandernagore Municipal Act, 1955,
- (c) the Howrah Municipal Corporation Act, 1980,
- (d) the Calcutta Municipal Corporation Act, 1980,
- (e) the Siliguri Municipal Corporation Act, 1990,
- (f) the Asansol Municipal Corporation Act, 1990, or
- (g) the Chandernagore Municipal Corporation Act, 1990,

Ben. Act XV of  
1932.  
West Ben. Act  
XVIII of 1955.  
West Ben. Act  
LVIII of 1980.  
West Ben. Act  
LIX of 1980.  
West Ben. Act  
XXX of 1990.  
West Ben. Act  
XXXI of 1990.  
West Ben. Act  
XXXII of 1990.

as the case may be, and the rules made thereunder in so far as they are not inconsistent with the provisions of this Act or the rules made thereunder.

*The West Bengal State Election Commission Act, 1994.*

(Sections 6, 7.)

Appointment of officers for preparation of electoral rolls for, and conduct of, elections to Panchayats and Municipalities.

6. (1) For the purpose of preparation of electoral rolls for, and conduct of, elections to the Panchayats and the Municipalities, the State Election Commissioner shall, in consultation with the State Government, appoint such officers of the State Government to be the—

- (a) District Municipal Election Officer for every district,
- (b) District Panchayat Election Officer for every district,
- (c) Municipal Electoral Registration Officer for one or more Municipalities,
- (d) Panchayat Electoral Registration Officer for one or more Blocks,
- (e) Municipal Returning Officer for one or more Municipalities, and
- (f) Panchayat Returning Officer for one or more Panchayats,

as he thinks fit, who shall exercise such powers and perform such functions as may be prescribed:

Provided that if the territorial jurisdiction of a Municipality is spread over the administrative jurisdiction of two or more districts, the State Election Commissioner may appoint one District Municipal Election Officer for the purpose of preparation of electoral rolls for, and conduct of, elections to that Municipality.

(2) Subject to the direction and control of the State Election Commissioner, the District Municipal Election Officer shall appoint such number of officers of the State Government to be the—

- (a) Assistant Municipal Electoral Registration Officer, and
- (b) Assistant Municipal Returning Officer,

as may be necessary, and such Assistant Municipal Electoral Registration Officer and Assistant Municipal Returning Officer shall exercise such powers and perform such functions as may be prescribed.

(3) Subject to the direction and control of the State Election Commissioner, the District Panchayat Election Officer shall appoint such number of officers of the State Government to be the—

- (a) Assistant Panchayat Electoral Registration Officer, and
- (b) Assistant Panchayat Returning Officer,

as may be necessary, and such Assistant Panchayat Electoral Registration Officer and Assistant Panchayat Returning Officer shall exercise such powers and perform such functions as may be prescribed.

(4) Subject to such rules as may be made by the State Government in this behalf, the Municipal Returning Officer shall appoint such number of persons to be the—

- (a) Presiding Officer, and
- (b) Polling Officer,

as may be necessary for holding elections or bye-elections to a Municipality:

Provided that no person, who has been employed by or on behalf of, or has otherwise been working for, a candidate in or about the election or bye-election to a Municipality, shall be appointed to be the Presiding Officer or Polling Officer for holding such election or bye-election, as the case may be.

(5) Subject to such rules as may be made by the State Government in this behalf, the Panchayat Returning Officer shall appoint such number of persons to be the—

- (a) Presiding Officer, and
- (b) Polling Officer,

as may be necessary for holding elections or bye-elections to a Panchayat:

Provided that no person, who has been employed by or on behalf of, or has otherwise been working for, a candidate in or about the election or bye-election to a Panchayat, shall be appointed to be the Presiding Officer or Polling Officer for holding such election or bye-election, as the case may be.

Staff of Commission.

7. (1) The Commission shall have such staff, made available to it by the Governor when so requested by it, as may be necessary for the discharge of the functions conferred on it by sub-section (1) of section 4 and sub-section (1) of section 5.

(2) The terms and conditions of service of the members of the staff made available to the Commission by the Governor shall be regulated in accordance with the rules regulating the terms and conditions of service of the employees of the State Government for the time being in force.

*The West Bengal State Election Commission Act, 1994.*

(Sections 8-12.)

Fixing date and  
time for poll.

8. The State Government shall, in consultation with the Commission, by notification, fix the date or dates on which, and the hours during which, the poll will be taken:

Provided that the poll on any day shall continue for a period of not less than eight hours without interruption.

Bar on jurisdiction  
of civil court.

9. Notwithstanding anything contained in this Act or in any other law for the time being in force,—

(1) no civil court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to have his name entered in the electoral roll for a constituency, or

(b) to question the legality of any action taken by or under the authority of the State Election Commissioner relating to preparation and revision of an electoral roll;

(2) the validity of any law relating to delimitation of constituencies or allotment of seats to such constituencies made or purporting to be made shall not be called in question in any court;

(3) no election to any *Panchayat* or Municipality shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the State Legislature.

Grant by State  
Government.

10. (1) The State Government shall, under appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grant such sums of money and in such manner as the State Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums of money as it thinks fit for performing the functions under this Act, and such sums of money shall be treated as expenditure payable out of the grant referred to in sub-section (1).

Accounts and  
Audit.

11. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Accountant-General, West Bengal.

(2) The annual accounts of the Commission shall be audited by the Accountant-General, West Bengal.

(3) The Accountant-General, West Bengal, shall have the same rights and privileges and the authority in connection with such audit as the Accountant-General, West Bengal, generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Accountant-General, West Bengal, together with the audit report thereon shall be forwarded annually to the State Government by the Commission.

Power to  
make rules.

12. (1) The State Government may, make rules which may provide for all or any of the matters which, under any provision of this Act, are required to be prescribed or to be provided for by rules.

(2) All rules made under this Act shall be published in the *Official Gazette*, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

(3) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the session in which they are so laid.

By order of the Governor,

S. K. PHAUJDAR

Secy. to the Govt. of West Bengal.

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# The Mizoram Gazette

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GOVERNMENT OF MIZORAM  
URBAN DEVELOPMENT & POVERTY ALLEVIATION DEPARTMENT

#### NOTIFICATION

No. B. 13018/2/2008-UD&PA(SEC), the 13<sup>th</sup> September, 2011. In exercise of the powers conferred by Clause (2) of Article 243 K and Article 243 ZA of the Constitution of India read with Sub-Section (1) of Section 345 of the Mizoram Municipalities Act, 2007 and the Rules made thereunder, the Governor of Mizoram is pleased to make the following Rules relating to the composition, appointment of the Election Commissioner and staff of the Commission, their tenure of office and conditions of service as follows, namely:

The Mizoram State Election Commission (Conditions of Service) Rules, 2011

#### PART - I INTRODUCTION

Short title and  
Commencement-

1. (1) These rules may be called the Mizoram State Election Commission (Conditions of Service) Rules, 2011.
- (2) They shall come into force from the date of their publication in the Official Gazette.

Definitions-

2. In these rules, unless the context otherwise requires,
  - (i) 'Commission' means the Mizoram State Election Commission;
  - (ii) 'Constitution' means the Constitution of India;(iii) 'Election Commissioner' means the State Election Commissioner of Mizoram;
  - (iv) 'Governor' means the Governor of Mizoram; and



*Constitution of State  
Election Commission*

9) 'Secretary' means Secretary, State Election Commission in the State Mizoram.

3. (1) The Governor shall constitute a State Election Commission for superintendence, direction and control of the preparation, revision and correction of electoral rolls and for conduct of all elections to the various local bodies in the State.

(2) The Governor shall, on the recommendation of the State Government, appoint a State Election Commissioner by publication in the Official Gazette;

Provided that a person shall not be qualified for appointment as a State Election Commissioner, unless he holds or has held office in the rank of Secretary to the Government of Mizoram having knowledge and experience in conducting elections.

(3) The State Election Commissioner may, by writing under his signature addressed to the Governor, resign his office.

(4) Prohibition as to future employment – On ceasing to hold office, the State Election Commissioner shall be eligible for appointment as Chief Election Commissioner or Election Commissioner under Article 324 of the Constitution of India or as State Election Commissioner in any other State under Article 243K of the Constitution of India, but not for any other employment either under the Government of India or under the State Government.

(5) A person who has held office of the State Election Commissioner shall be ineligible for reappointment to that office if he has been removed from that office before the expiry of tenure.

PART – II

COMPOSITION, PAY AND TENURE

**Composition-**

4. The Commission shall consist of a State Election Commissioner to be appointed by the Governor under Article 243K and Article 243 ZA of the Constitution of India, read with section 345 of the Mizoram Municipalities Act, 2007

Terms.

5. The State Election Commissioner shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of 65 years, whichever is earlier;

Provided that the State Election Commissioner shall not be removed from his office except in the manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

Provided further that where no appointment is made on the expiry of the State Election Commissioner, the incumbent would continue in office for a period of upto six months thereafter or till the new incumbent is appointed whichever is earlier.

Salaries and allowances -

6. (1) There shall be paid to the State Election Commissioner a fixed salary of Rs. 80,000 (pre-revised Rs.26,000/-) (Rupees Eighty thousand) per month and such other allowances, at such rates as admissible to Chairman Mizoram Public Service Commission from time to time.

Provided that the State Election Commissioner who, on the date of his appointment as such, was in the service of the Government of India or of any State, a local body, or any other body wholly or substantially owned or controlled by the Government shall be deemed to have retired from such service from the date of appointment as State Election Commissioner.

(2) If the State Election Commissioner at the time of his appointment is in receipt of a pension, has received or has become entitled to receive any pension and other retirement benefits in respect of any previous service under the Government of India or a State Government, a local body, or any other body wholly or substantially owned or controlled by the Government, his pay in respect of the service in the Commission shall be reduced by the amount of that pension during the service under the Commission.

Leave admissible-

7. (1) The State Election Commissioner may be granted Earned Leave, Half Pay Leave, Commuted Leave on Medical ground and Extraordinary Leave.

(2) The admissibility of leave as specified in sub-rule (1) above shall be regulated as per the provisions of the Central Civil Service (Leave) Rules, 1972 as applicable to the Government of Mizoram.

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Power of  
Governor to  
grant or refuse  
leave.

Leave credit of  
SEC to lapse.

Pension.

4

8. The power to grant or refuse leave to the State Election Commissioner and revoke or curtail the leave granted to him shall vest in the Governor.
9. Subject to the provisions of rule 7, leave at the credit of the State Election Commissioner shall lapse on the date on which he shall vacate Office under rule 5.

#### PART - III

#### PENSION

10. (1) The State Election Commissioner, who, at the date of his appointment, was in the service of the Government of India or of a State, a local body, or any other body wholly or substantially owned or controlled by the Government his services as State Election Commissioner shall not count as qualifying services for the purpose of re-calculating his pension at the expiry of his office as State Election Commissioner.
- (2) The State Election Commissioner, who at the date of his appointment was in receipt of Pension from the Government of India or a State Government, a local body, or any other body wholly or substantially owned or controlled by the Government shall draw pay prescribed in Part-II of these Rules and on the expiry of his tenure in the Commission, shall be eligible for pension for the service in the Commission in addition to pension received by him in respect of any previous service under the Government of India or a State Government as may be determined by the State Government from time to time.  

Provided that no such pension shall be payable during any period for which such State Election Commissioner may, after his retirement as such, hold public office, save as provided under sub-rule (4) of rule 3 of these Rules.

Provided further that no such pension shall be payable if the State Election Commissioner is removed from his office before completion of his tenure in like manner and on the like grounds as a Judge of the High Court as provided under article 243K of the Constitution of India.
- (3) The pension already drawn by the State Election Commissioner and the Pension under this Rules together shall not exceed the maximum pension fixed by the Govt. of India or the Govt. of Mizoram as the case may be.

- (4) The Chief Controller of Accounts, Accounts and Treasuries, Govt. of Mizoram shall be deemed to have been authorized to settle payment of pensions and other retirement benefits in respect of the State Election Commissioner.

PART - IV

GENERAL PROVIDENT FUND

Provident Fund

11. The State Election Commissioner shall be eligible to contribute to General Provident Fund under normal rules at his request, provided that the State Election Commissioner is expected to serve in the Commission for a period exceeding one year.

PART - V

TRAVELLING ALLOWANCE AND OTHER FACILITIES

Rates of Travelling Allowances-

12. (1) The State Election Commissioner who, at the date of his appointment, was in the service of the Government of India or of a State, a local body, or any other body wholly or substantially owned or controlled by the Government shall for his journey to join his appointment as such, draw travelling allowances as on transfer as per Rules applicable to him in his previous service.
- (2) The State Election Commissioner who, at the date of his first appointment, is not in the service of the Government of India or any State Government, a local body or any other body wholly or substantially owned or controlled by the Government shall be entitled to travelling allowances as on transfer as admissible to officer of the Government of Mizoram drawing the same pay from the station of his normal stay.
- (3) The State Election Commissioner, while travelling on duty or on tour, shall be entitled to travelling and daily allowances at the rate admissible to officer of the Government of Mizoram drawing salary in the same scale of pay.
- (4) The State Election Commissioner on vacating his office, shall be entitled to travelling allowances as on transfer as admissible to officers of the Government of Mizoram drawing salaries in the same scale of pay from the station of his duty to the station of his normal stay/home town.

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Provided that no such travelling allowance shall be admissible to the State Election Commissioner if he has been removed from office.

- (5) The State Election Commissioner who has completed one year of service in the Commission shall be eligible for Leave Travel Concession for himself and his family to home town or anywhere in India as per Leave Travel Concession orders on the subject as applicable to the Chairman, Mizoram Public Service Commission and other officers drawing same pay under the Government of Mizoram.

## EXPLANATION :

The salary of the State Election Commissioner as specified in rule 6 shall be treated as pay for the purpose of entitlement of Travelling Allowance and Daily Allowance of the State Election Commissioner under sub-rule, (2), (3), and (4) of these rules.

13. The State Election Commissioner shall be entitled to a free furnished accommodation of the type commensurate with his pay and status.
14. An advance for the purchase of a Motor Car to a State Election Commissioner will be regulated by the appropriate rules for the time being in force applicable to State Government servants drawing corresponding pay.

## PART - VI

## STAFF OF THE COMMISSION AND THEIR CONDITIONS

15. The Governor shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1) of Articles 243K and 243 ZA of the Constitution of India.
16. (1) The Staff of the Commission shall include a Secretary, Deputy Secretary, Under Secretary, Accounts Officer and such other Gazetted or Non-Gazetted staff as may be necessary.
- (2) The Secretary, Deputy Secretary, Under Secretary, Accounts Officer and other Gazetted staff shall be appointed by the Commissioner in consultation with the State

Requirement of  
officers and staff-

Staff of the  
Commission and  
appointing authority-

Government only. They shall receive such emoluments as admissible to the Government servants of corresponding grade in the Government of Mizoram, or as may be determined by the Commission in consultation with the State Government.

- (3) The Non-Gazetted staff including Group 'D' staff shall be appointed by the Secretary with the approval of the State Election Commissioner and shall receive such emoluments as admissible to the Government servants of corresponding grade in the Government of Mizoram or as may be determined by the Commission in consultation with the State Government.

**Disciplinary and  
appellate authority-**

17. The State Election Commissioner in case of Gazetted staff and the Secretary, in case of the Non-Gazetted staff including Group 'D' employees, shall be the authority who may impose any of the penalties prescribed in the Central Civil Service (Classification, Control and Appeal) Rules, 1965 as adapted by the Government of Mizoram and the Governor, in respect of the Gazetted staff and the State Election Commissioner in respect of the Non-Gazetted staff including the Group 'D' shall be the appellate authority.

**Residuary matters-**

18. In respect of any matter for which provision is not made by these rules, the conditions of service of a person serving as a State Election Commissioner of the Commission or its staff shall be governed by rules and orders for the time being applicable to such classes of Government servants under the Government of Mizoram.

**Authority to settle  
payment of pension-**

19. The Chief Controller of Accounts, Account & Treasuries Department, Government of Mizoram shall be deemed to have been authorized to settle payment of pension and other retirement benefits in respect of officers and staff of the Mizoram State Election Commission with effect from 3<sup>rd</sup> October, 2008 i.e. date of establishment of Mizoram State Election Commission.

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PART - VII  
MISCELLANEOUS

Interpretations-

20. If any doubt arises about the interpretation of any of these rules, the interpretation of the Governor shall be final.

Power to relax-

21. Where the Governor is satisfied that the operation of these Rules causes undue hardship in any particular case, he may by order, for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exceptions and conditions as he may consider necessary for dealing with the case in a just and equitable manner.

By orders, etc.

R.L. Rinawma,  
Commissioner/Secretary to the Govt. of Mizoram,  
Urban Development and Poverty Alleviation Department.

*Appendix 4: Report of the Task Force to Strengthen the Institution of the State Election Commission and related matters, 2011 as accepted by the Ministry of Panchayati Raj*

**Summary of recommendations as accepted by the Ministry of Panchayati Raj**

<b>Sl. No.</b>	<b>Suggestions of the Task Force with comments of the Standing Committee as accepted by the Ministry.</b>
1.	The State Election Commission should be authorized under Law to notify the Dates to conduct elections, enforcement of code of conduct, filing of nomination, withdrawal of nomination, scrutiny, final list of candidates etc. The SEC shall appoint polling personnel either himself or by delegated authorities.
2.	SECs should be given the status of a High Court Judge. They should also have the salary, allowances, perquisites and all serving/retirement benefits of High Court Judge.
3.	The tenure of SEC should be for five / six years or 65 years of age whichever is earlier and without any provision of extension.
4.	The Task Force does not support a three-member Commission.
5.	<p>d) Permanent staff of the SECs should be limited to Class IV. Rest of the staff should be on deputation. In case Class III staff are in position, their career graph should be charted.</p> <p>e) Personnel from Public Sector Undertakings and Central Government offices located in State should be drafted for conducting Panchayat elections. This may require amendment of State Laws / Rules.</p> <p>f) In view of the law and order problems sometimes encountered during the Panchayat elections, there were suggestions for adequate provision of central paramilitary forces as in the case of Assembly and Parliamentary elections. This will be dependent on availability of funds.</p> <p>g) Since conditions vary from state to state, it may not be possible to prescribe a uniform staffing pattern for all the Commissions. It is, therefore, recommended that a basic minimum strength for each Commission should be fixed by each State Government in consultation with the SEC. The staff must include sufficient numbers of permanent employees to ensure greater domain knowledge. Rest of the staff can be on deputation.</p>



	h) There should be enabling provisions for drafting personnel from Public Sector Undertakings and Central Government offices located in the state for conducting elections to Panchayats/Municipalities. This will require specific provisions in state legislations.
6.	Some lower-cost alternatives for free and fair polling are re-polling, voter awareness, prosecution for offences during and/ or related to election process and presence of Observers with clear powers and responsibilities. The SEC can also exercise greater authority if it is vested with powers to try election cases.
7.	Since election petitions have to be filed within one month, the EVM records can be erased and made suitable for reuse one month after the elections except in cases where litigation is pending.
8.	SECs should have the flexibility to utilize funds as per their priorities without having to seek approval of the Finance Department of the State Government in every instance. In case of elections, the freeze on non-plan expenditure enforced in the months of February and March should not be applied to SECs. There should be an enabling provision under which SECs could make emergency withdrawal of funds for conducting elections. Further, funds of SECs should not lapse at the end of the financial year, as in the case of government departments, as this causes serious difficulties for elections organized in April and May.
9.	In 12 <sup>th</sup> Five Year Plan the State Election Commissions should be given a grant from the proposed scheme of Panchayat Shashaktikaran Abhiyan (PSA). For a State to be eligible to receive this grant, among other things, the following conditions must be satisfied at least by the second year of the Plan: <ul style="list-style-type: none"> <li>(a) The State Election Commissioner must be full time;</li> <li>(b) He should have a tenure of five / six years or up to 65 years of age whichever is earlier;</li> <li>(c) There should be no provision for extensions.</li> <li>(d) The protection given to the SEC under Article 243K must be available under the state law or rules governing the State Elections Commissions;</li> <li>(e) The SEC must have the status of a High Court Judge;</li> </ul>

10.	Allocations for SEC including expenditure on conduct of local body elections and on administrative expenses should be clearly provided in the States' main budget, since the period when general election is due is known in advance.
11.	Separate financial powers should be prescribed for the SEC. SECs should have the flexibility to divert funds between different heads of accounts while incurring election-related expenditure. They should have the flexibility for procurement etc. similar to ECI norms.
12.	Release of funds from Central Finance Commission can be recommended subject to the conditions like the structure of SEC recommended at Para 9 above and also the following conditions: (vi) Panchayats and Municipalities should not be superseded en masse; (vii) Grants not to be released during period of en masse supersession or supersession beyond six months ; (viii) There must be at least one third reservation for women: (ix) Constitution of State Finance Commission ; (x) Both direct and indirect elections should be through SECs.
13.	The following judicial powers for disqualification may vest with the SEC:  (a) Defection where election is based on party lines and is a ground for disqualification under the law; (b) Use of office for personal gains during and after election of candidates / elected representatives; (c) Absence from more than three consecutive meetings; (d) Non-submission of election expenditure; (e) False declaration of caste, tribe, education, number of children etc. where applicable. (f) Any other ground for disqualification where prescribed under the law.
14.	Online voting which has been tried out on experimental basis in municipal elections could be a means to:- i) increase voter participation, particularly, in urban areas since it is more convenient; and ii) curb electoral malpractices.

15.	The SECs should call for Observers for elections to Panchayats and Municipalities from the Government of India through Ministries of Panchayati Raj, Urban Development and DoPT. These Observers shall work under the supervision and control of the SECs, as is the case with the Election Commission of India.
16.	Paid news carried by print and electronic media can be curbed by adoption of the procedure contained in the guidelines of the Election Commission of India issued following the Judgment of Hon'ble Supreme Court in SLP (Civil) No.6679 of 2004. Similar measures for enforcement of model Code of Conduct can be followed for election conducted by SEC.
17.	Security deposit may be enhanced to deter non-serious candidates, who often contest only to later bargain with other candidates to withdraw at a price.
18.	Proper identification of voters based on photographic records is necessary to prevent bogus voting.
19.	In order to incentivize the process of democracy, the grant under Panchayat Sashaktikaran Abhiyan during the 12 <sup>th</sup> Plan may also be released to the Village Councils at par with the Panchayats subject to fulfillment of the above conditions. The Ministry of Urban development impose similar conditionalities for release of funds to ULBs in the North East.
20.	The elections to the Gram Panchayats and Block Panchayats in Hill Areas of Darjeeling should be held as per the existing law.
21.	SECs should be vested with powers for delimitation of wards, reservation of seats and rotation. The policy of delimitation should, however, rest with the State Government. SEC should be the authority to conduct both direct <u>and</u> indirect elections in rural <u>and</u> urban areas.
22.	The number of voters in a booth should be limited to about 700.



**No. A – 11013 / 2 / 2008 – UD & PA (SEC)  
GOVERNMENT OF MIZORAM  
URBAN DEVELOPMENT & POVERTY ALLEVIATION DEPARTMENT**

**NOTIFICATION**

Dated Aizawl, the 24<sup>th</sup> October, 2008

In supersession of this Department's Notification issued vide even No. dt. 13.10.2008 and in the interest of public service, the Governor of Mizoram is pleased to order creation and filling up of 24 (twenty four) various categories of posts under the State Election Commission as shown below with immediate effect and until further orders :

Sl. No.	Name of post	Scale of pay	No. of posts	Mode of Filling up
1	Secretary	Rs.16,400-450-20,900/-	1	Deputation/re-employment of retired officer from appropriate service
2	Dy. Secretary	Rs.14,300-400-18,300/-	1	Deputation/re-employment of retired officer from appropriate service
3	Under Secretary	Rs.12,000-375-16,500/-	1	Deputation/re-employment of retired officer from appropriate service
4	Accounts Officer	Rs.10,000-325-15,200/-	1	Deputation from appropriate service
5	Superintendent	Rs.10,000-325-15,200/-	1	Deputation from appropriate service
6	Computer Prog. Asst.	Rs.7450-225-11,500/-	1	On regular basis
7	Assistant	Rs.6500-200-10,500/-	2	Deputation from appropriate service
8	Steno Grade-II	Rs.6500-200-10,500/-	1	Deputation from appropriate service
9	Steno Grade-III	Rs.5500-175-9000/-	1	Deputation from appropriate service
10	UDC	Rs.5500-175-9000/-	3	Contract
11	Data Entry Operator	Rs.5500-175-9000/-	3	MR Sk-II
12	LDC	Rs.4500-125-7000/-	4	MR Sk-II
13	Despatch Rider	Rs.4000-100-6000/-	1	MR Sk-II
14	Driver	Rs.4000-100-6000/-	1	MR Sk-II
15	IV Grade	Rs.3050-75-3950/-	2	MR U/S
	<b>TOTAL</b>		<b>24</b>	<b>Nos.</b>

STATE ELECTION COMMISSION

The expenditure is debitable to the head of Account :-

- 2015 - Election
- 80 - General
- 109 - Charges for conduct of Election to Panchayats/Local bodies
- (01) - State Election Commission
- (00) - State Election Commission (NON-PLAN)
- (01) - Salaries
- (02) - Wages during 2008-2009

This issues with the approval of DP&AR (ARW) vide their I.D. No. ARW/UD&PA/08-09/185 dated 8.10.2008 and concurrence of Finance Department vide their I.D. No. FIN (E) 787/2008 dated 13.10.08.

Sd/- JOHNY T.O.

Secretary to the Government of Mizoram  
Urban Development & Poverty Alleviation Department

Memo No.A-11013/2/2008-UD & PA(SEC) : Dated Aizawl, the 24<sup>th</sup> October, 2008

Copy to :-

1. Secretary to Governor, Mizoram.
2. P.S. to Chief Minister, Mizoram.
3. P.S. to all Ministers/Speaker/Dy. Speaker, Mizoram.
4. P Ps to Chief Secretary.
5. All Commissioners/Secretaries, Government of Mizoram.
6. Secretary, Mizoram Public Service Commission.
7. Accountant-General, Mizoram, Aizawl.
8. All Administrative/Heads of Department, Government of Mizoram.
9. State Election Commissioner, Mizoram, Aizawl.
10. Under Secretary, DP & AR (ARW).
11. Under Secretary, Finance Department (E).
12. Under Secretary, DP & AR (SSW).
13. Director, Accounts & Treasuries.
14. Director, Urban Development & Poverty Alleviation Department.
15. Chief Executive Officer, Aizawl Municipalities Council, Aizawl.
16. Controller, Printing & Stationeries with 6 (Six) spare copies for publication in the Mizoram Gazette.
17. Treasury Officer, Aizawl 'S'.
18. Guard File.



(LALTHUAMLIANA)

Under Secretary to the Government of Mizoram  
Urban Development & Poverty Alleviation Department



# The Mizoram Gazette

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VOL - XXXIX Aizawl, Monday 23.8.2010 Bradra 1, S.E. 1932, Issue No. 308

## NOTIFICATION

No. B. 14015/8/2010-SEC/MC/30, the 23<sup>rd</sup> August, 2010 : In exercise of the powers conferred under clause 3 of Article 243T of the Constitution of India read with section 13(9) of the Mizoram Municipalities Act, 2007 as amended in 2009 and the power delegated to the Mizoram State Election Commission by the Government of Mizoram vide Notification No. B. 13017/38/2010-UD&PA dt. 9<sup>th</sup> August, 2010, the State Election Commissioner hereby declares the following wards by draw of lots, as the Women reserve seats for the General Election to the First Council of Aizawl Municipality :

Sl. No.	Assembly Constituency determined by Draw of Lots	Wards determined by Draw of Lots	Status of the Reserved Seat
1	10-Aizawl North - I (ST)	Ward No. II	Women (ST)
2	11-Aizawl North - II (ST)	Ward No. IV	Women (ST)
3	12-Aizawl North - III (ST)	Ward No. VI	Women (ST)
4	15-Aizawl West - I (ST)	Ward No. XI	Women (ST)
5	16-Aizawl West - II (ST)	Ward No. XII	Women (ST)
6	18-Aizawl South - I (ST)	Ward No. XVII	Women (ST)

C. Ropianga,  
State Election Commissioner,  
Mizoram.

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**NOTIFICATION**

**No. H.11021/2/2009-SEC/100, the 1st September, 2010** : In exercise of the power conferred under section 37(i) of the Mizoram Municipalities Act, 2007 as amended in 2009, the Mizoram State Election Commission, in consultation with the State Government of Mizoram, has decided to use Electronic Voting Machine for the conduct of General Elections to 19 wards in Aizawl Municipal Council during 2010. The Rules – 'Voting by Electronic Voting Machines' framed under Chapter – VIA, from 53A to 53ZD of the Mizoram Municipalities (Election of Councilors) Rules, 2007 as amended in 2010, shall apply for use of Electronic Voting Machine (EVM) in the conduct of election to Aizawl Municipality.

**C. ROPIANGA**  
State Election Commissioner,  
Mizoram.

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Printed at the Mizoram Government Press, Aizawl C-720





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#### NOTIFICATION

No. B. 14015/7/2009-SEC/MC/150, the 4<sup>th</sup> October, 2010. In exercise of the powers conferred under Section 350 of the Mizoram Municipalities Act, 2007 as amended in 2009, read with Rule 31 of the Mizoram Municipalities (Election of Councillors) Rules, 2007 as amended in 2010, the Mizoram State Election Commission in consultation with the State Government of Mizoram, hereby publishes the Schedule for General Election to constitute the First Aizawl Municipal Council as follows:-

1	Last date for filing Nomination Papers	11 <sup>th</sup> October, 2010 (Monday)
2	Scrutiny of Nomination Papers	12 <sup>th</sup> October, 2010 (Tuesday)
3	Last date for withdrawal of Candidature	14 <sup>th</sup> October, 2010 (Thursday)
4	Date on which Poll shall be taken	3 <sup>rd</sup> November, 2010 (Wednesday) 7:30 AM - 4:00 PM
5	Date of Re-poll, if any	4 <sup>th</sup> November, 2010 (Thursday) 7:30 AM - 4:00 PM
6	Date of Counting of Votes (in case re-poll is not necessary)	4 <sup>th</sup> November, 2010 (Thursday) 9:00 AM onwards
7	Date of Counting of Votes (in case re-poll is required on 4 <sup>th</sup> November, 2010)	8 <sup>th</sup> November, 2010 (Monday) 9:00 AM onwards
8	Date before which Election process shall be completed	16 <sup>th</sup> November, 2010 (Tuesday)

C. Ropianga,  
State Election Commissioner,  
Mizoram.

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Printed at the Mizoram Govt. Press, Aizawl. C-700.



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VOL - XXXIX Aizawl, Monday 4.10.2010 Asvina 12, S.E. 1932, Issue No. 372

#### NOTIFICATION

No.B.14015/7/2009-SEC/MC/149, the 4<sup>th</sup> October, 2010. In exercise of the powers conferred under Section 26(2) of the Mizoram Municipalities Act, 2007 as amended in 2009, read with Rule 30 of the Mizoram Municipalities (Election of Councillors) Rules, 2007 as amended in 2010, the State Election Commission, Mizoram calls upon all the wards within Aizawl Municipality to elect Councillors for the purpose of constituting the First Aizawl Municipal Council in accordance with the provisions of the said Act and Rules on 3rd November, 2010 as shown below:-

<u>Sl.No</u>	<u>Ward No.</u>	<u>Status</u>
1.	Ward No. I	ST
2.	Ward No. II	ST (Women)
3.	Ward No. III	ST
4.	Ward No. IV	ST (Women)
5.	Ward No. V	ST
6.	Ward No. VI	ST (Women)
7.	Ward No. VII	ST
8.	Ward No. VIII	ST
9.	Ward No. IX	General
10.	Ward No. X	ST
11.	Ward No. XI	ST (Women)
12.	Ward No. XII	ST (Women)
13.	Ward No. XIII	ST
14.	Ward No. XIV	ST
15.	Ward No. XV	ST
16.	Ward No. XVI	ST
17.	Ward No. XVII	ST (Women)
18.	Ward No. XVIII	ST
19.	Ward No. XIX	ST

C. Ropianga,  
State Election Commissioner,  
Mizoram.

Published and Issued by the Controller, Printing & Stationery, Mizoram  
Printed at the Mizoram Govt. Press, Aizawl. C-700.

**NOTIFICATION**

In exercise of the powers conferred by section 369 read with section 8 of the Mizoram Municipalities Act, 2007 the Governor of Mizoram hereby makes the following Rules to regulate the delimitation of wards of Municipalities in Mizoram, viz :-

**THE MIZORAM MUNICIPALITIES (DELIMITATION OF WARDS) RULES, 2008**

**CHAPTER – I  
Preliminary**

- |  |   |
|--|---|
| <b>1. Short title, extent and commencement</b> | (1) These Rules shall be called the Mizoram Municipalities (Delimitation of wards) Rules, 2008.<br>(2) They shall extend to all the Municipal areas in Mizoram.<br>(3) They shall come into force on and from the date of their publication in the official Gazette.  |
| <b>2. Definitions</b>                          | (1) In these Rules, except where the context otherwise requires<br>(a) "Act" means the Mizoram Municipalities Act, 2007.<br>(b) "Section" means a section of the Act.<br>(2) The words and expression used in these Rules which are not defined shall have the same meanings as are respectively assigned to them in the Act. |

**CHAPTER – II  
Delimitation of Municipal wards**

- |                                     |  |
|-------------------------------------|--|
| <b>3. Number of Municipal wards</b> | The number of wards of a Municipality shall be as determined by the State Government under section 8 of the Act.   |
| <b>4. Draft delimitation</b>        | (1) The District Magistrate having jurisdiction in the Municipal area shall make a draft delimitation of the Municipal area into equal number of wards as is determined under Rule 3, and shall assign to each ward a distinctive name with a consecutive serial number.<br>(2) The area to be included in each ward shall be a geographically compact area as far as practicable. The area of one locality under one local committee as provided in sub-section (3) and |

(4) of section 23 of the Act shall not be divided into different wards but shall be put under one and same ward.

Provided that while delimitating the wards, care should be taken to see that an uniformity is maintained in size and population of the wards as far as possible.

(3) The District Magistrate shall submit the draft delimitation of wards to the State Government for approval.

5. **Final delimitation :** The State Government may, for the purpose of satisfying itself as to the appropriateness of the draft delimitation, make and insert such modifications into it as it may consider necessary, and make final delimitation of wards and cause the same to be published in its official Gazette.
6. **Alteration, addition or amendment :** No alteration, addition or amendment in the delimitation of wards shall be made and caused into effect once municipal election has been conducted on the basis of it. However, any such alteration, addition or amendment may be made within a period of four months before the next election.

Sd/-

**R. SANGLIANKHUMA,**

Additional Secretary to the Government of Mizoram,  
Urban Development & Poverty Alleviation Department.



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**NOTIFICATION**

**No.B.14015/14/2010/SEC/MC/77, the 8<sup>th</sup> November, 2010:** Whereas, in pursuance of the Notification No.B.14015/7/2009-SEC/MC/150 issued by the State Election Commission on 4<sup>th</sup> October, 2010 under Section 350 of the Mizoram Municipalities Act, 2007 as amended in 2009 (Act No.6 of 2007), read with Rule 31 of the Mizoram Municipalities (Election of Councillors) Rules, 2007 as amended in 2010, General Election was held for the purpose of constituting the First Aizawl Municipal Council on 3<sup>rd</sup> November, 2010; and

Whereas, the results of the elections to the Aizawl Municipal Council in respect of all Municipal Wards in the said General Election have been declared by the Municipal Returning Officers concerned on 4<sup>th</sup> November, 2010;

Now, therefore, in pursuance of sub-section (3) of section 26 of the Mizoram Municipalities Act, 2007 as amended in 2009, the State Election Commission hereby notifies the names of the members elected in respect of those Wards, along with their party affiliations, in the SCHEDULE enclosed to this Notification.

  
(C.ROPIANGA)  
STATE ELECTION COMMISSIONER,  
MIZORAM


Ex-437/2010

**GENERAL ELECTION TO AIZAWL MUNICIPAL COUNCIL, 2010**

**SCHEDULE**

List of persons elected as Councillors in the General Election to Aizawl Municipal Council, held on 3<sup>rd</sup> November, 2010

Sl. No.	Name of Ward	Name of the Elected Councillor	Party Affiliation	Address (if any)
1	I	Lalrinenga Sailo	MNF	Durtlang North
2	II	Hmingthanzami	ZNP	Challlang Ruam Veng
3	III	Lalthanliana	MPC	Basic Mual, Ramhlun North
4	IV	Lalmalsawmi	MNF	A-39, Zarkawt
5	V	Rosiamngheta	MPC	D-10/3, Chanmari
6	VI	Zamanthangi	MNF	Chanmari West
7	VII	Zarzoliana	ZNP	Zemabawk North
8	VIII	RC. Lalhmingthanga	MNF	Armed Veng South
9	IX	RC. Lalruatsanga	MPC	Chhinga Veng
10	X	Lalzirdiana	INC	Chawnpui
11	XI	Lalchhuanmawii	ZNP	Tanhri Venglai
12	XII	Laldinsangi	INC	Dinthar - I
13	XIII	W. Chhuanawma	ZNP	Vaivakawn
14	XIV	Lal Rimawia	ZNP	Khatla
15	XV	C.T. Zakhuma	INC	Nursery Veng
16	XVI	C. Lalsawivunga	MPC	57/1, Bethlehem Vengthlang
17	XVII	F. Lalhuthangi	INC	Republic Veng
18	XVIII	Biakthansanga	MNF	Venghnuai
19	XIX	Ramhlunsanga	INC	Kulikawn

  
(C.LALCHHUANA)  
Secretary,  
State Election Commission,  
Mizoram

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VOL - XLI Aizawl, Tuesday 24.1.2012 Magha 4, S.E. 1933, Issue No. 26

#### NOTIFICATION

No B 14015/31/2011-SEC/LC, the 24<sup>th</sup> January, 2012. In exercise of the powers conferred under Rule 1 and sub-rule (2) of Rule 34 of the Mizoram Municipalities (Election to Local Councils) Rules, 2011, the State Election Commissioner, Mizoram hereby calls upon all the Local Council Constituencies within Aizawl Municipality to elect members for the Local Councils on 23<sup>rd</sup> February, 2012 (Thursday). Accordingly, the State Election Commission, in consultation with the State Government, hereby publishes the Schedule for General Elections to constitute 82 Local Councils within Aizawl Municipality as follows:-

(1)	Last date for filing nominations	1.2.2012(Wednesday)
(2)	Scrutiny of nominations	2.2.2012 (Thursday)(10:00 AM – 2:00 PM)
(3)	Last date for withdrawal of nominations	3.2.2012 (Friday)(upto 3:00 PM)
(4)	Date and time for allotment of symbols to candidates and display of list of candidates	3.2.2012(Friday)(3:00 PM onwards)
(5)	Date of Poll	23.2.2012(Thursday)(7:00 AM – 4:00 PM)
(6)	Date of Re-poll, if any	24.2.2012(Friday)
(7)	Counting of Votes (Counting of Votes shall commence as soon as poll is over)	23.2.2012(Thursday)
(8)	Date on which election process shall be completed	27.2.2012(Monday)

By order, etc.

P. Lianhrima  
Secretary,  
State Election Commission,  
Mizoram : Aizawl.

Published and Issued by Controller, Printing & Stationery Department, Government of Mizoram  
Printed at the Mizoram Government Press, Aizawl. C/500

Appendix 13: Pay/Salary of various higher officers including State Election Commissioner

No. G. 12019/2/2010 – FIN (PRU)  
GOVERNMENT OF MIZORAM  
FINANCE DEPARTMENT  
\*\*\*\*\*

**NOTIFICATION**

Aizawl, the 2<sup>nd</sup> June, 2011.

In pursuance of the decision at item No. 1 of Minutes of Meeting of the Council of Ministers held on 18<sup>th</sup> & 19<sup>th</sup> May 2011, the Governor of Mizoram, in exercise of the powers contained in the proviso to Article 309 of the Constitution of India, is pleased to order grant of revised pay to the dignitaries of Commission/Board/Authority/Body/Council, etc at fixed rates shown below:

Sl. No	Organisation/ Designation	Approved Revised Salary	Remarks
1	MPSC 1)Chairman 2) Member	Rs.80,000/-p.m(fixed) Rs.75,000/-p.m(fixed)	
2.	State Election Commissioner	Rs.80,000/-p.m(fixed)	
3	ADA 1)Vice Chairman	Rs.80,000/-p.m(fixed)	This is only for the present incumbent viz. Pu Lalfak Zuala and till he vacates the post.
4.	MBSE Chairman	Rs.50,000/-p.m(fixed)	

The revised pay shall be effective from 1.1.2009. Actual monetary benefits shall be admissible w.e.f 1.1.2009. Payment of arrears, if any, shall be made subject to availability of fund provision for the concerned organization.

Allowances wherever applicable shall be paid at the Revised Rates as applicable to the regular employees of the State Government as notified by Finance Department vide No. A. 26019/1/09-FIN(PRU) dated 6.8.2010 w.e.f.1.8.2010.

Deduction on account of pension and other retirement benefits, wherever applicable as per Rules, shall be made from the salary of the incumbent concerned.

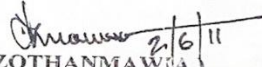
Sd/- LA' MALSAWMA  
Secretary to the Govt. of Mizoram,  
Finance Department  
.....



*Memo No. G. 12019/2/2010 – FIN (PRU): Dated Aizawl, the 2<sup>nd</sup> June, 2011.*

Copy to:

1. Secretary to Governor, Mizoram.
2. P.S. to Chief Minister, Govt. of Mizoram.
3. P.S. to all Ministers/Speaker/Dy. Speaker/MOS/  
Parliamentary Secretaries, Mizoram.
4. P.S. to Vice Chairman, State Planning Board, Mizoram.
5. P.S. to Government Deputy Chief whip, Mizoram.
6. P.P.S. to Chief Secretary, Government of Mizoram.
7. All Administrative Departments, Government of Mizoram.
8. Secretary, Mizoram Legislative Assembly.
9. Secretary, State Information Commission, Mizoram.
10. Secretary, Mizoram Public Service Commission.
11. Member Secretary, State Planning Board, Mizoram.
12. Resident Commissioner, Government of Mizoram, Lt. Ribhu Saxena  
Marg, Vasant Vihar, New Delhi.
13. All Heads of Departments, Govt. of Mizoram.
14. Chief Controller of Accounts, Mizoram.
15. Controller of Printing & Stationeries, Mizoram with 6 (six) spare  
Copies for publication in Mizoram Gazetted Extra Ordinary.
16. All Treasury Officers /Jt. Director of Accounts / Dy. Director of  
Accounts/FAO in Mizoram.
18. Guard File.

  
( ZOTHANMAWIA )

Under Secretary to the Govt. of Mizoram,  
9/02/06 Finance Department (PRU)

No.B.13017/38/2010-UD&PA  
GOVERNMENT OF MIZORAM  
URBAN DEVELOPMENT & POVERTY ALLEVIATION DEPARTMENT  
MIZORAM : AIZAWL.

**NOTIFICATION**

Dated Aizawl, the 19<sup>th</sup> August, 2010

Whereas, the reservation of seats for the Scheduled Castes and the Scheduled Tribes and women is required to be made in every Municipality under Article 243T of the Constitution of India; and

Whereas, the seats to be so reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area, bears to the total population of that area; and

Whereas, the total population as per 2001 Census in respect of Aizawl Municipal area is 2,29,386; and the total population of Scheduled Castes is 138 being 0.06 %; and that of Scheduled Tribes is 2,10,895 being 91.94 % and that of other category is 18,356 being 8.00 %; and

Whereas, not less than one-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women;

Now, therefore, in exercise of the powers conferred under clause (1) and clause (3) of Article 243T of Constitution of India, read with sub-section (7) & (9) of section 13 of the Mizoram Municipalities Act, 2007 as amended in 2009, the Governor of Mizoram is pleased to fix the reservation of seats in respect of the Scheduled Castes, the Scheduled Tribes and Women in Aizawl Municipality as follows:

**I. Reservation of seats for SC and ST :**

**Total Population of Aizawl based on 2001 census**

Sl.no	No. & Name of Ward	<u>SC</u> Percentage	<u>ST</u> Percentage	<u>Others/general</u> Percentage	Reserved for
1	Ward No - I	24 (0.19 %)	11447 (90.20%)	1219 (9.61%)	ST
2	Ward No - II	15 (0.10%)	14547 (93.12%)	1060 (6.78%)	ST
3	Ward No - III	3 (0.03%)	11457 (95.71%)	510 (4.26%)	ST
4	Ward No - IV	0	11414 (96.96%)	358 (3.04%)	ST
5	Ward No - V	0	12559 (90.93%)	1253 (9.07%)	ST
6	Ward No - VI	0	8508 (98.02%)	172 (1.98%)	ST
7	Ward No - VII	10 (0.09%)	9355 (81.60%)	2100 (18.31%)	ST
8	Ward No - VIII	5 (0.06%)	7603 (95.53%)	351 (4.41%)	ST

9	Ward No – IX	12 (0.08%)	12295 (83.21%)	2468 (16.70%)	General
10	Ward No – X	1 (0.01%)	8145 (91.75%)	731 (8.23%)	ST
11	Ward No – XI	10 (0.09%)	9570 (84.88%)	1695 (15.03%)	ST
12	Ward No – XII	4 (0.03%)	13534 (93.40%)	952 (6.57%)	ST
13	Ward No – XIII	5 (0.05%)	8829 (96.11%)	355 (3.86%)	ST
14	Ward No – XIV	21 (0.17%)	10663 (87.70%)	1474 (12.12%)	ST
15	Ward No – XV	0	10760 (91.12%)	1048 (8.88 %)	ST
16	Ward No – XVI	0	11496 (98.41%)	186 (6.61%)	ST
17	Ward No – XVII	8 (0.07%)	11461 (93.32%)	812 (6.61%)	ST
18	Ward No – XVIII	15 (0.08%)	16841 (94.56%)	953 (5.35%)	ST
19	Ward No – XIX	5 (0.05%)	10411 (94.00%)	659 (5.95%)	ST
<b>Total with Percentage</b>		<b>138 (0.06%)</b>	<b>210895 (91.94%)</b>	<b>18356 (8.00%)</b>	

## II. Reservation of seats for Women in Aizawl Municipality:

6 (six) seats being nearest to 1/3<sup>rd</sup> of the total 19 seats in Aizawl Municipality shall be reserved for women by rotation in the manner prescribed by this Department's Notification No. B. 13017/38/2010-UD&PA, dt. 9.8.2010.

### CONDITIONS FOR RESERVATION OF SEATS IN AIZAWL MUNICIPALITY

#### A. Reservation of Seats for SC and ST.

- (i) The Scheduled Castes population in Aizawl Municipality area as per 2001 census is only 0.06 % of the total population in Aizawl Municipality, the reservation of seat for SC population shall be treated as 0 for the time being, subject to review after 2011 Census figure is published.
- (ii) The Scheduled Tribes population in Aizawl Municipality mainly consists of persons permanently residing in various localities/ Streets/Vengs, which is 91.94% of the total population of Aizawl Municipality. Therefore, 18 seats out of the total seats of 19 in Aizawl Municipality shall be reserved for the ST for the time being, subject to review after 2011 Census figure is published.
- (iii) The remaining population of 18356 which is 8.00% of the total population in Aizawl Municipality mainly consists of persons of other category other than ST/SC. 1 (one) seat out of total seats of 19 in Aizawl Municipality shall be placed as General seat which can be contested by any person from SC / ST Category/ General Category. **Ward No. IX** having the highest population of other categories shall be treated as **General seat**.

#### B. Condition for review of the reservation of seats in respect of Aizawl Municipality.

- (i) The reservation of seats in Aizawl Municipality for the Scheduled Castes and the Scheduled Tribes including one seat treated as General shall be reviewed after

every subsequent Census population figure, at least 6 months prior to the due date for the next General Election to Aizawl Municipality.

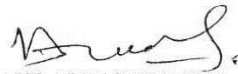
By order, etc.

**Sd/- P. LIANHRIMA**  
Secretary to the Government of Mizoram,  
Urban Development & Poverty Alleviation Deptt.  
Mizoram : Aizawl.

**Memo No. B-13017/38/2010-UD&PA : Dated Aizawl, the 19<sup>th</sup> August, 2010.**

*Copy to :*

1. Secretary to Governor, Mizoram, Aizawl.
2. P.S. to Chief Minister, Mizoram, Aizawl.
3. P.S. to all Ministers, Mizoram, Aizawl.
4. P.S. to Speaker, Mizoram Legislative Assembly, Aizawl.
5. P.P.S. to Chief Secretary, Govt. of Mizoram, Aizawl.
6. P.S. to Deputy Speaker/ Parliamentary Secretaries, Mizoram, Aizawl.
7. Chief Election Commissioner, Mizoram for necessary action.
8. Secretary, State Election Commission, Mizoram for necessary action.
9. Deputy Commissioner & District Municipal Election Officer, Aizawl for necessary action.
10. All Administrative Departments, Govt. of Mizoram, Aizawl.
11. All Heads of Departments, Mizoram, Aizawl.
12. Controller of Printing & Stationery, Mizoram, Aizawl for publication in the Mizoram Gazette.
13. Chief Executive Officer, Aizawl Municipal Council, Aizawl.
14. Director, UD & PA Department, Mizoram, Aizawl.
15. Guard File.



(VANLALFAKZUALA)

Under Secretary to the Govt. of Mizoram  
Urban Development & Poverty Alleviation Deptt.  
Mizoram : Aizawl

Appendix 15: Delimitation of Wards for Aizawl Municipal Council

GOVERNMENT OF MIZORAM  
URBAN DEVELOPMENT & POVERTY ALLEVIATION DEPARTMENT

NOTIFICATION

Dated Aizawl, the 15<sup>th</sup> March, 2010

No. B – 13037 / 7 / 2007 - UD & PA : In exercise of the powers conferred by section 8 of the Mizoram Municipalities Act, 2007(as amended in 2009) and as required under Section 4 of the Mizoram Municipalities(Delimitation of wards), Rules, 2008, the Governor of Mizoram is pleased to determine number of wards for Aizawl Municipal Council into 19 (Nineteen) wards as per details enclosed in the Annexure.

Sd/-P. LIANHRIMA

Secretary to the Govt. of Mizoram  
Urban Development & Poverty Alleviation Deptt.

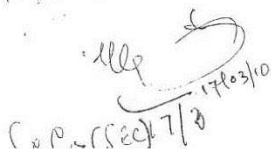
Memo No. B.13037/7/2007-UD & PA : Dated Aizawl, the 15<sup>th</sup> March, 2010

Copy to :

1. Secretary to Governor, Mizoram
2. Secretary to Chief Minister
3. Speaker, Mizoram Legislative Assembly
4. All Ministers/ Deputy Speaker/ Parliamentary Secretary
5. All Administrative Department
6. State Election Commissioner, Mizoram
7. Controller of Printing & Stationery for Publication in Mizoram Gazette
8. Chief Executive Officer, Aizawl Municipal Council
9. Director, Urban Dev. & Poverty Alleviation
10. Guard File

  
(LALTHUAMLIANA)

Deputy Secretary to the Govt of Mizoram  
Urban Development & Poverty Alleviation Deptt.

  
C. P. R. Secy 7/8  
17/03/10

Annexure

**DELIMITATION OF WARDS FOR AIZAWL MUNICIPAL COUNCIL**

Ward No.	Name of Locality Comprised within the Ward
I	1. Selesih 2. Durtlang North 3. Durtlang 4. Durtlang Leitan 5. Zuangtui 6. Muanna Veng
II	1. Chaltlang 2. Bawngkawn 3. Bawngkawn South
III	1. Ramhluna North 2. Ramhlun Venglai 3. Ramhlun Vengthar 4. Ramhlun Sports Complex 5. Laipuitlang
IV	1. Ramhluna South 2. Ramthar North 3. Ramthar 4. Aizawl Venglai
V	1. Electric 2. Chanmari 3. Zarkawt
VI	1. Chanmari West 2. Edenthar 3. Hunthar
VII	1. Zemabawk 2. Zemabawk North 3. Falkland 4. Thuampui
VIII	1. Armed Veng 2. Armed Veng South 3. Chite
IX	1. Dawrpui 2. Saron 3. Chhinga Veng 4. Tuithiang
X	1. Chawnpui 2. Zotlang 3. Zonuam 4. Government Complex

Ward No.	Name of locality Comprised within the Ward
XI	1. Luangmual 2. Chawhhmun 3. Tanhri 4. Sakawrtuichhun 5. Rangvamual 6. Phunchawng (As part of Chaltlang) 7. PTC Lungverh (As part of Sakawrtuichhun) 8. Tuivamit
XII	1. Tuikual North 2. Tuikual South 3. Dinthar
XIII	1. Dawrpui Vengthar 2. Vaivakawn 3. Kanan
XIV	1. Khatla 2. Khatla South 3. Mission Vengthlang
XV	1. Bungkawn 2. Bungkawn Vengthar 3. Maubawk 4. Lawipu 5. Nursery
XVI	1. Bethlehem 2. Bethlehem Vengthlang 3. College Veng
XVII	1. Venghlui 2. Republic 3. Upper Republic 4. Republic Vengthlang
XVIII	1. Mission Veng 2. Salem Veng 3. Dam Veng 4. Venghnuai 5. Thakthing 6. I.T.I
XIX	1. Kulikawn 2. Tlangnuam 3. Saikhamakawn 4. Melthum 5. South Hlimer

LECTION DEPARTMENT

WEST BENGAL STATE ELECTION COMMISSION  
18, SAROJINI NAIDU SARANI  
KOLKATA - 700 017

No. SEC/3P-5/2007

Dated, the 29<sup>th</sup> July, 2009

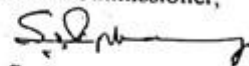
DIRECTION

Under the provision of sub-section (4) of Section 6 of the West Bengal State Election Commission Act, 1994, the Municipal Returning Officer shall appoint such number of persons to be the a) Presiding Officer and b) Polling Officer as may be necessary for holding elections to a Municipality and Municipal Constituency.

Now, in exercise of the power conferred by sub-section (1) of Section 5 of the West Bengal State Election Commission Act, 1994 the Commission hereby directs that :

- a) The Municipal Returning Officer, will form polling parties with the officers and employees drafted from different offices of the State and Central Government located in the district and also in neighboring district.
- b) In some cases it is not unlikely that the required number of polling personnel can not be formed only with the available Government Employees. In that case, the polling personnel may be formed with the employees of the State Govt. Undertakings within the district as well.
- c) Appointment as Presiding Officer or as Polling Officer shall not be given to any one who has been employed by or on behalf of, or has otherwise been working for, a candidate in or about an election.
- d) In order to exclude any apprehension of collusion among the polling personnel in favour of any candidate or political party and to instill confidence in the perception of the political parties and the candidates about free and fair poll, the Municipal Returning Officer should ensure proper mix of polling personnel drawn from different offices and departments at the time of formation of polling party.
- e) Appointment letters of Presiding Officers and Polling Officers should be issued as soon as polling parties are formed; but in their appointment letters number and name of polling station at which they will be on duty should not be indicated. Such information regarding place of duty should normally be intimated to them on the day on which they will report for collecting Polling materials at the Distribution Centre.
- f) Arrangement should be made for holding training programme for at least two days conveniently fixed well before the date of poll. On 1<sup>st</sup> day, training will be held with the Presiding Officer and 1<sup>st</sup> Polling Officer and on 2<sup>nd</sup> day, such training will be held with the entire polling party including the Presiding Officer and the 1<sup>st</sup> Polling Officer.

By order of the  
State Election Commissioner,



Secretary,

West Bengal State Election Commission





Registered No.WB/SC-247

No.WB/CPS/Raj 5 (Part-III)/2004

**THE**



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**KOLKATA GAZETTE**

Extraordinary  
Published by Authority

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FRIDAY, AUGUST 20, 2004

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**PART III - Acts of the West Bengal Legislature  
GOVERNMENT OF WEST BENGAL  
LAW DEPARTMENT  
Legislative  
NOTIFICATION**

No. 1309-L - 20<sup>th</sup> August, 2004. - The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:-

**West Bengal Act VII of 2004  
THE WEST BENGAL STATE ELECTION COMMISSION  
(AMENDMENT) ACT, 2004.**

*[Passed by the West Bengal Legislature]*

[Assent of the Governor was first published in the Kolkata Gazette, Extraordinary, of the 20<sup>th</sup> August, 2004]

An Act to amend the West Bengal State Election Commission Act, 1994.

WHEREAS it is expedient to amend the West Bengal State Election Commission Act, 1994, for the purpose and in the manner hereinafter appearing; West Ben. Act VIII of 1994

It is hereby enacted in the Fifty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:-

Short title and Commencement 1. (1) This Act may be called the West Bengal State Election Commission (Amendment) Act, 2004

(2) It shall come into force at once.

Amendment of Section 2 of west Ben. Act VIII of 1994 2. In section 2 of the West Bengal State Election Commission Act, 1994, (hereinafter referred to as the Principal Act) for clause (p) the following clause shall be substituted:-

(p) words and expressions used in this Act and not otherwise defined shall have the meanings respectively assigned to them in :-

- |       |  |                             |
|-------|--|-----------------------------|
| (i)   | The west Bengal Panchayat Act, 1973            | West Ben. Act XLI of 1973   |
| (ii)  | The wet Bengal Municipal Elections act, 1994   | West Ben. Act XXXIV of 1994 |
| (iii) | The West Bengal Panchayat Elections Act, 2003. | West Ben. Act XXI of 2003   |

Amendment of section 4 3. In sub-section (2) of section 4 of the principal Act, after the words and figures " in accordance with the provisions of the West Bengal Panchayat Act 1973, the words and figures and the West Benal panchayat Elections Act. 2003" shall be inserted.

4. In section 6 of the principal Act:-

(a) in sub-section (1), for the words and figures "as provided in the West Bengal panchayat Act, 1973, the words and figures "as provided in the west Bengal Panchayat Elections Act, 2003," shall be substituted.

(b) in sub-section (3), for the words and figures "or the West Bengal panchayat Act, 1973, the words and figures "or the west Bengal Panchayat Elections Act, 2003," shall be substituted.

(c) in sub-section (5), for the words and figures "subject to the provisions of the West Bengal panchayat Act, 1973, the words and figures "subject to the provisions of the west Bengal Panchayat Elections Act, 2003," shall be substituted.

- |                   |  |                         |
|-------------------|--|-------------------------|
| Repeal and saving | 5. (1) The west Bengal State Election Commission (Amendment) Ordinance, 2004, is hereby repealed.  | West Ben. Ord 1 of 2004 |
|                   | (2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been validly done or taken under the principal Act. |                         |

By order of the Governor,

**S.K. NANDY**  
Secy. To the Govt of West Bengal  
Law Department


Registered No. WB/SC-247

No. WB(Part-III)/2010/SAR-30

*AS*

**The**

**Kolkata**



**Gazette**

सत्यमेव जयते

Extraordinary  
Published by Authority

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ASVINA. 13] TUESDAY, OCTOBER 5, 2010 [SAKA 1932

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PART III—Acts of the West Bengal Legislature.

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GOVERNMENT OF WEST BENGAL  
LAW DEPARTMENT  
Legislative  
NOTIFICATION

No. 1417-L.—5th October, 2010.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

**West Bengal Act XXXI of 2010**

THE WEST BENGAL STATE ELECTION COMMISSION  
(AMENDMENT) ACT, 2010.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Kolkata Gazette, Extraordinary*, of the 5th October, 2010.]

*An Act to amend the West Bengal State Election Commission Act, 1994.*

WHEREAS it is expedient to amend the West Bengal State Election Commission Act, 1994, for the purpose and in the manner hereinafter appearing; West Ben. Act VIII of 1994.

It is hereby enacted in the Sixty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the West Bengal State Election Commission (Amendment) Act, 2010.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

*The West Bengal State Election Commission (Amendment) Act, 2010.**(Section 2.)*

Insertion of new section 3A after section 3 of West Ben. Act VIII of 1994.

2. In the West Bengal State Election Commission Act, 1994, after section 3, the following section shall be inserted:—

*Appointment and other conditions of service etc. of State Election Commissioner.*

3A. (1) The State Election Commissioner shall be appointed from amongst, the persons, who had been or are in an All India Service or in any Civil Service of the State or in a civil post under the State Government for not less than twenty-five years, having knowledge and experience in conducting elections.

(2) There shall be paid to the State Election Commissioner such salary which is equal to the salary of a Judge of the High Court:

Provided that if a person who, immediately before the date of assuming office as the State Election Commissioner was in receipt of, or, being eligible so to do, had elected to draw, a pension (other than a disability or wound pension) in respect of any previous service under the Government of the Union or under the Government of a State, his salary in respect of service as the State Election Commissioner shall be reduced—

(a) by the amount of that pension, and

(b) if he had, before assuming of office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

(3) The State Election Commissioner shall hold office for a term of six years from the date on which he assumes his office:

Provided that where the State Election Commissioner attains the age of sixty-five years before the expiry of the term of six years, he shall vacate his office on the date on which he attains the said age:

*Explanation.*—For the purpose of this section, the term of six years in respect of State Election Commissioner holding office immediately before the commencement of this Act, shall be computed from the date on which he had assumed office:

Provided further that where no appointment is made on the expiry of term of the State Election Commissioner in position, the incumbent would continue in office for a period of not more than two months thereafter or till the new incumbent is appointed, whichever is earlier.

(4) (a) A person who, immediately before the date of assuming office as the State Election Commissioner, was in service of Government may be granted during his tenure of office but not thereafter leave in accordance with the rules for the time being applicable to the Service to which he belonged before such date and he shall be entitled to carry forward the account of leave standing at this credit on such date, notwithstanding anything contained in sub-section (5).

(b) The power to grant or refuse leave to the State Election Commissioner and to revoke or curtail leave granted to him, shall vest in the Governor.

(5) (a) A person, who immediately before the date of assuming office as the State Election Commissioner was in service of Government, shall be deemed to have retired from service on the date on which he enters upon office as the State Election Commissioner but his subsequent service as the State Election Commissioner shall be reckoned as continuing approved service counting for pension in service to which he belonged.

*The West Bengal State Election Commission (Amendment) Act, 2010*  
(Section 2.)

(b) Where the State Election Commissioner demits office (whether in any manner specified in clause (c) or by resignation), he shall, on such demission be entitled to—

- (i) a pension which is equal to the pension payable to a Judge of the High Court in accordance with the provisions of part III of the First Schedule to the High Court Judges (Salaries and Conditions of Service) Act, 1954, for the period of his service rendered as the said Election Commissioner after deduction of such period, if any, reckoned in terms of clause (a), as continuing approved service counting for pension in service to which he earlier belonged; and
- (ii) such pension (including commutation of pension) as referred to in sub-clause (i), family pension and gratuity as are admissible to a Judge of the High Court under the said Act and the rules made thereunder.

(c) Except where the State Election Commissioner demits office by resignation, he shall be deemed, for the purposes of this Act, to have demitted his office if, and only if,—

- (i) he has completed the term of office specified in sub-section (3), or
- (ii) he has attained the age of sixty-five years, or
- (iii) his demission of office is medically certified to be necessitated by ill health.

(6) Every person holding office as the State Election Commissioner shall be entitled to subscribe to the General Provident Fund.

(7) Save as otherwise provided in this Act, the conditions of service relating to travelling allowance, provision of rent-free residence and conveyance facilities, sumptuary allowance, medical facilities and such other conditions of service as are for the time being applicable to a Judge of High Court under Chapter IV of the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the rules made thereunder, shall, as far as may be deemed appropriate, apply to the State Election Commissioner."

By order of the Governor,

K. Y. S. MANHAS,  
Pr. Secy.-in-charge to the Govt. of West Bengal,  
Law Department.

Chart 23: List of Elections Conducted by State Election Commission, Mizoram

S/N	Name of Election	Date of Poll
1	17 <sup>th</sup> General Election to Village Councils - Aizawl, Lunglei, Serchhip, Champhai, Mamit & Kolasib Districts	24-Feb-09
2	1 <sup>st</sup> General Election to Aizawl Municipal Council (AMC)	03-Nov-10
3	18 <sup>th</sup> General Election to Village Councils (Non-Sixth Schedule Areas)	23-Feb-12
4	1 <sup>st</sup> General Election to Local Councils	23-Feb-12
5	10 <sup>th</sup> General Election to Mara Autonomous District Council	03-May-12
6	9 <sup>th</sup> General Election to Chakma Autonomous District Council	17-Apr-13
7	General Election to Village Councils under Lai Autonomous District Council	25-Mar-14
8	General Election to Village Councils under Chakma Autonomous District Council	25-Feb-15
9	19 <sup>th</sup> General Election to Village Councils (Non-Sixth Schedule Areas)	30-Apr-15
10	2 <sup>nd</sup> General Election to Local Councils	30-Apr-15
11	10 <sup>th</sup> General Election to Lai Autonomous District Council	26-Nov-15
12	2 <sup>nd</sup> General Election to Aizawl Municipal Councils	26-Nov-15
13	11 <sup>th</sup> General Election to Mara Autonomous District Council, 2017	04-May-17
14	14 <sup>th</sup> General Election to Village Councils under Mara Autonomous District Council, 2018	17-Apr-18
15	10 <sup>th</sup> General Election to Chakma Autonomous District Council, 2018	20-Apr-18
16	General Election to Village Councils under Lai Autonomous District Council, 2019	08-May-19
17	1 <sup>st</sup> General Election to Sinlung Hills Councils, 2019	05-Nov-19
18	General Election to Village Councils under CADC, 2020	13-Mar-20
19	General Election to Village Councils, 2020	27-Aug-20
		04-Sep-20
20	General Election to Local Councils, 2020	27-Aug-20
		04-Sep-20
		10-Sep-20
21	General Election to MDC under Lai Autonomous District Council, 2020	04-Dec-20
22	Re-Poll to N. Vanlaiphai Village Council under Serchhip District	10-Dec-20

23	Re-Poll to Darlawn Venghlun Village Council under Aizawl District	05-Feb-21
24	General Election to Aizawl Municipal Corporation, 2021	16-Feb-21
25	12 <sup>th</sup> General Election to Mara Autonomous District Council, 2022	05-May-22

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**Name of Interviewee with dates**

Sl. No	Name of interviewee	Designation	Date of interview
1	C. Ropianga, IAS (Retd.)	Former State Election Commissioner, Mizoram	17 <sup>th</sup> January, 2022
2	Mira Pande, IAS (Retd.)	Former State Election Commissioner, West Bengal	11 <sup>th</sup> December, 2022
3	Laima Chozah, IAS (Retd.)	State Election Commissioner, Mizoram	9 <sup>th</sup> February, 2022
4	S.K. Das, IAS (Retd.)	State Election Commissioner, West Bengal	6 <sup>th</sup> June, 2022
5	P. Lianhrima, MCS (Retd.)	Former Secretary, State Election Commission, Mizoram	19 <sup>th</sup> January, 2022
6	Teresy Vanlalhruaii, MCS	Former Secretary, State Election Commission, Mizoram	5 <sup>th</sup> February, 2022
7	Lawmkima, MCS (Retd.)	Former Deputy Secretary, State Election Commission, Mizoram	5 <sup>th</sup> January, 2022
8	Nilanjan Sandilya IAS	Secretary, State Election Commission, West Bengal	6 <sup>th</sup> June, 2022

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### **Publications**

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1. DRC : 27<sup>th</sup> November, 2015
2. BOS : 18<sup>th</sup> April, 2016
3. SCHOOL BOARD : 22<sup>nd</sup> April, 2016

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EXTENSION : 21.04.2023

**(PROF. LALRINTLUANGA)**

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DEPARTMENT OF PUBLIC ADMINISTRATION

**ABSTRACT**

**WORKING OF STATE ELECTION COMMISSIONS IN INDIA: A  
COMPARATIVE STUDY OF MIZORAM AND WEST BENGAL**

**AN ABSTRACT SUBMITTED IN PARTIAL FULFILLMENT OF THE  
REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY**

**H. LIANZELA**

**MZU REGISTRATION NO: 5578 of 2013**

**Ph.D. REGISTRATION NO: MZU/PH.D./874 OF 22.04.2016**



**DEPARTMENT OF PUBLIC ADMINISTRATION**

**SCHOOL OF SOCIAL SCIENCES**

**NOVEMBER, 2023**

**ABSTRACT**

**WORKING OF STATE ELECTION COMMISSIONS IN INDIA: A  
COMPARATIVE STUDY OF MIZORAM AND WEST BENGAL**

**BY**

**H. LIANZELA**

**Department of Public Administration**

**Name of Supervisor: Prof. Lalrintluanga**

**Submitted**

**In partial fulfillment of the requirement of the degree of Doctor of Philosophy in  
Public Administration of Mizoram University, Aizawl.**

## **1. Introduction**

Election is the process of voting by the electorates to choose candidates from amongst the competing political parties to occupy public offices as representatives of the people in the governance of a country. Elections determine the democratic legitimization of the exercise of public authority and provide an arena for the candidates and political parties to communicate with the public on wide political programmes as well as recreating an image of public opinion. It empowers the citizens to participate in choosing their representatives, makes preferential treatment for policies and forms opinions. It is a mechanism through which the citizens can express themselves without any external coercion but with free will. In a true democratic form of government, the people have the final say. The citizens have the freedom to express their preferences and intervene directly in matters that concern them through the process of elections. Elections not only sustain democracy but also enliven it as well. The credibility of the electoral process has an important bearing on the healthy functioning of a political system. Thus, elections form an integral part of a democratic process and are the cornerstone of democracy.

The dawn of independence in 1947 brought numerous changes and continuity in the polity of India. Elections in free India based on universal adult suffrage, where all citizens above the age of twenty-one voted, were held for the first time in 1921-52. Elections are conducted at three levels within the federal structure of India wherein the citizens directly elect their representatives. The citizens directly elect their representatives to the Lok Sabha (House of the People). This is known as the general election and is held nationwide. At the state level, citizens elect their representatives to the State Legislative Assemblies and at the grass-root levels, citizens elect their representatives to the local bodies. These local bodies include in the rural areas Gram Panchayat, Panchayat Samiti and Zilla Parishad; and Municipal Corporation, Municipality and Nagar Panchayat in the urban areas.

The Constitution of India which came into force on 26<sup>th</sup> January, 1950 declares India to be a sovereign, socialist, secular democratic republic while adopting parliamentary democracy from the British. The success of parliamentary democracy in India depends to a great extent on free, fair and impartial elections. Accordingly,

the architects of the Indian Constitution attached great importance to independent electoral machinery to supervise the election process and to ensure that they are conducted in a free, fair and impartial manner along moral, ethical and democratic values. The long-cherished desire of the architects of the Constitution of India was fulfilled with the provision of Article 324 which provides for setting up of an independent Election Commission. The Election Commission was formally constituted on January 25, 1950 to conduct elections of the President and vice President; elections for the Lok Sabha (House of the People) and Rajya Sabha (House of Representatives) at the national level and State Legislative Assemblies and Councils. Since 1952 elections to legislative bodies at the national and state levels have been conducted successfully by the Election Commission of India.

Decentralization of the development process, active participation of the people and devolution of powers at the grassroots democracy is essential for growth and equitable distribution of development benefits. Efforts to decentralize development and harness active people's participation culminated in the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts in 1992 which provided constitutional status to grassroots democracy. The 73<sup>rd</sup> Constitutional Amendment Act, 1992 relates to democratic decentralisation at the rural level while the 74<sup>th</sup> Constitutional Amendment Act, 1992 refers to urban local governance. The same Acts provided for the establishment of a State Election Commission (SEC) in each State, appointed by the Governor to supervise, direct and control elections to the rural (Panchayat) and urban local bodies. Articles 243K and 243ZA provide that the responsibility of superintendence, direction and control over the preparation of electoral rolls and the conduct of elections to Panchayat and Municipalities are vested with the SEC. Subject to the provisions of the Constitution, the legislature of a State may, by law, make provisions with respect to all matters relating to elections to such local bodies. Article 243U highlights the role of the SEC in conducting regular elections after the expiry of every five years and whenever required.

## **2. Statement of the Research Problem**

The powers, functions and responsibilities vested in the State Election Commissions under Articles 243K and 243ZA of the Constitution are identical to those given to the Election Commission of India (ECI) under Article 324(1) for

elections to Parliament and State Legislatures. However, a number of questions have been raised time again as to whether the powers of the State Election Commission (SEC) in respect of the conduct of elections are no less than that of the ECI in their respective domains. At the same time, most of the State Governments have not rendered full assistance and cooperation to their SECs in order to ensure that free and fair elections are conducted.

The Constitution of India envisages an Election Commission of India (ECI) and State Election Commissions (SECs) for every State to safeguard the process of free and fair elections and empowers them with certain similar Constitutional safeguards to secure their independent functioning. However, the ground realities pertaining to the functioning of the SECs, particularly the SECs of Mizoram and West Bengal seem to be very different from those of the ECI. This may be largely attributed to the fact that the SECs, even though created within the framework of the Constitution, are actually within the jurisdiction or mercy of their respective State Governments as laws pertaining to Local Bodies can only be framed by the States and not by the Centre in a federal set-up. These powers are very zealously guarded by each State Government and any attempt to directly intervene even legitimately in the interest of grass-root democracy is frowned upon by the State Governments. In addition, due to inadequate legal, administrative and financial provisions, several SECs used to face enormous constraints in conducting free and fair elections. This gives the impression that most of the State Governments do not give priority of attention to their SECs to ensure a free and equitable pattern of democracy.

One of the most interesting points is that, while the ECI decides the poll dates in consultation with the Centre, in West Bengal the State Government decides the poll dates with the SECs in which the Commission plays only an advisory role as per the provision under Section 42 of the West Bengal Panchayat Elections Act, 2003. Resultantly, there was an unprecedented legal battle between the State Government and the SEC of West Bengal in 2013 and even the Apex Court was compelled to intervene in the poll process relating to the phasing of poll dates, deployment of Central Forces, etc., in the Panchayat elections. However, in the State of Mizoram, the SEC decides the poll dates in consultation with the State Government. But, in reality, the SEC has been dictated in most cases by the State Government.

The Government of Mizoram is lagging in giving due importance to the role and status of the SEC for some reasons. The Government of West Bengal has accorded the status of a High Court Judge to its State Election Commissioner while the Government of Mizoram has not yet given the status of a High Court Judge to the State Election Commissioner of Mizoram. At the initial stage of the constitution of the SEC, the Government of Mizoram gave full financial power to the State Election Commissioner of Mizoram. Unfortunately, this power has been withdrawn by the State Government due to reasons not known to the Commission. Besides, the SEC Bill formulated by the Commission and submitted to the State Government on 21<sup>st</sup> February 2013 has not yet been tabled before the State Legislative Assembly till today.

In light of the above, it has been felt necessary to undertake an in-depth study on the functioning, status, and role, of the newly established State Election Commission, Mizoram in comparison with the well-established West Bengal State Election Commission.

### **3. Scope of the Study**

The study broadly focuses on the functioning of the State Election Commission, Mizoram and the West Bengal State Election Commission, which are responsible for conducting free and fair elections to various Local Bodies in Mizoram and West Bengal as mandated by the Constitution.

The Study traces the origin/evolution of the institution of the State Election Commission in India particularly its establishment in Mizoram and West Bengal. It also covers an in-depth study of the State Government's relationship with the institution of the State Election Commission in order to find out whether these State Election Commissions have been bestowed with the status they legitimately deserve.

Finally, the Study tries to explore the scope for improvement in the functioning of the State Election Commissions in the two States in terms of their role, independence and authority so as to reflect a semblance of dignity for the institution as mandated by the Constitution of India.

#### **4. Objectives of the Study**

The objectives of the study are:

- 1) to study the background of the formation of the State Election Commissions in India;
- 2) to study and analyse the Organizational Structure of the State Election Commissions of West Bengal and Mizoram and to evaluate the existing personnel administration of the two State Election Commissions;
- 3) to study and compare the Role, Powers & Functions of State Election Commissions of Mizoram and West Bengal;
- 4) to examine the process of Electoral Management/Administration during the preparation of Electoral Rolls and conduct of elections in the State Election Commissions of West Bengal and Mizoram;
- 5) to find out the issues, problems and challenges faced by both the State Election Commissions and to explore the scope for improvement. \

#### **5. Research Questions**

For the purpose of the Study, the following research questions have been formulated:

- 1) What are the role and status of the State Election Commissions in India as mandated by the Constitution?
- 2) What are the Organizational Structure and system of personnel administration in the State Election Commissions, of West Bengal and Mizoram?
- 3) How far are the State Government of Mizoram and West Bengal committed to strengthening the institution of the State Election Commission so far as status, independence and authority are concerned?
- 4) What has been the attitude of the State Governments to State Election Commissions?



- 5) What are the issues, problems and challenges faced by both the State Election Commissions in performing their role to ensure free and fair elections and the policy measures that would improve their functioning?

## 6. Methodology

The Study on *Working of State Election Commissions in India: A Comparative Study of Mizoram and West Bengal* is descriptive. The study has been based on the data collected from Primary and Secondary sources. The Primary data have been collected through open and close-ended questionnaires using Google Forms. The total sample size of the research is 40. Samples were collected from Civil Society, Political parties and prominent citizens using a non-probability purposive sampling technique.

Collection of personal information has also been done through unstructured interviews from serving and retired State Election Commissioners and officers of the two State Election Commissions as well as serving and former bureaucrats in the State Governments having connections with State Election Commissions of the two States. Records and publications of the two State Election Commissions and the two State Governments have also constituted the Primary data.

Primary data were collected during 2022 – 2023. The data collected from Primary sources have been tabulated and analyzed for making a comparative study of the two State Elections under study.

The Secondary data have been extensively collected from relevant books, articles, journals, magazines, and newspaper reports; published and unpublished documents of independent studies, publications of State Election Commissions of several States as well as other relevant information posted on the Websites.

## 7. Chapterisation

The whole thesis has been divided into seven Chapters.

The *first* chapter is an **introductory** chapter which dealt with the meaning of election and the elections conducted in an Indian philosophical way of life in the pre-British rule in India. It has also dealt with the elections conducted under the British

showing unfair treatment meted out to the Indians by means of passing certain Charter and Acts as well as elections conducted in the post-independence period, especially in the post-73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Act, 1992. It has also carried out a literature review, research gaps, and a statement of the research problem, scope, objectives and research questions along with the methodology used for the study.

The *second* chapter on the **Evolution of State Election Commissions in India** has traced the evolution of the State Election Commission in India in the post-73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments, 1992. The historical background of elections of Panchayati Raj Institution and Local bodies by the State Election Commissions of Mizoram and West Bengal are included in this chapter

The *third* chapter on the **Organizational Structure of State Election Commissions of Mizoram and West Bengal** has dealt with the structure of the organization, composition, appointment, tenure and salary of the Commissioner of State Election Commission of Mizoram and West Bengal. It has also made a comparative study of the organizational structures and personnel administration of the State Election Commission in the two States under study. This chapter has also focused on the Recruitment Rules of the State Election Commission in West Bengal and Mizoram.

The *fourth* chapter on **Role, Powers and Functions of State Election Commissions of Mizoram and West Bengal** has discussed the roles, powers and functions of the State Election Commission of Mizoram and West Bengal as mandated by the Constitution of India, the powers and functions practically enjoyed by the two State Election Commissioners as well as the role played by them and the level of commitment of the State Governments for strengthening the institution of State Election Commission.

The *fifth* chapter on **Electoral Management in the State Election Commissions of Mizoram and West Bengal** has introduced the role of State Election Commissions in delimitations of the constituencies in West Bengal and Mizoram. It deals with the electoral management of West Bengal and Mizoram State Election Commission on the preparation and revision of electoral rolls at the Panchayats or local level and Municipality. It also provides detailed information about the conduct

of democratic elections and its associated responsibility carried out by the State Election Commission in West Bengal and Mizoram.

The *sixth* chapter on **Results and Discussion** consists of the analysis and interpretation of the primary data collection based on structured interviews. The data interpretation and tabulations were divided into six major parameters such as data related to the organizational structure and status of State Election Commissions in West Bengal and Mizoram, data related to the administrative setup of both the State Election Commission, data related to the role and functions of State Election Commission in the conduct of elections in their respective State, a data related to the issues, problems and challenges faced by State Election Commission in Mizoram and West Bengal, data relating to the relationship between their respective State Government and State Election Commission and finally, a data related to the opinion about the scope of improvement from the key functionaries from both the State Election Commission.

The Seventh Chapter on **Conclusion** has summarized the whole study and brought out major findings of the study and the observations made during the course of the research. It has also made some suggestions for the improvement and elimination of barriers in electoral management.

### **Major Findings**

The entire course of study is guided by Research Questions which have been framed and incorporated in the research proposal. Originally, *four* research questions have been raised to be answered in the present study. However, in the course of study, the original research questions have produced one more research question. So, in this portion of the last Chapter, an attempt has been made to answer all those research questions, one after another, with the help of the data collected from key functionaries, officials and retired Commissioners of Mizoram SEC and the West Bengal SEC through questionnaire and semi-structured interviews. Thus, based on material collected from different sources, this study has come out with the following major findings:

The *first* research question is “*What are the role and status of the State Election Commissions in India as mandated by the Constitution?*” This research question has been answered with reference to relevant Articles of the Constitution of India. According to the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts, 1992, and Article 243ZA with Article 243K, the role of each SEC is to conduct regular elections of Panchayats and Municipalities after the expiry of every five years, and whenever these are required in between for the residue term only. Though Article 243U of the Indian Constitution provides for fixing the tenure of all local bodies at five years, in case of dissolution before the expiry of five years, the Local Bodies would go for re-election within a period of six months of dissolution.

In the case of Mizoram, the SEC shall, in consultation with the State Government, fix the date or dates and hours of the poll. The Mizoram SEC has the power to appoint administrative officers to conduct elections to Municipalities, Autonomous District Councils and Village Councils. Briefly, the Mizoram (Constitution of State Election Commission) Rules 2008 has provided Mizoram SEC the power to conduct elections to 550 (five hundred fifty-five) Village Councils, 3 (three) Autonomous District Councils, 83 (eighty-three) Local Councils and 1 (one) Municipal Corporation.

According to the West Bengal State Election Commission Act of 1994, West Bengal State Government shall, in consultation with the SEC, by notification, fix the date or dates on which, and the hours during which, the poll will be taken in the Municipalities and Panchayats. In West Bengal, there was once a dispute arising from the question of whether it is the State Government or the West Bengal SEC that has the final authority on fixing the date of poll in the elections to local bodies in the State. For this reason, the West Bengal SEC and the State Government had been at loggerheads for over nine months over the holding of the elections in 2013. The core of the dispute was the question of whether it was the State Government or the SEC that had the final say in the conduct of the elections. Ultimately, the West Bengal SEC had conducted elections in 118 (One hundred eighteen) Municipalities or Notified Areas, 7 (seven) Municipal Corporations, and thousands of Panchayats.

Regarding the conduct of local elections, both the SECs can make direct or indirect appointments of officers to be deployed as District Election Officer, District

Panchayat/Municipal Election Officer, Election Observer, Panchayat or Municipal Returning Officer, Assistant Returning Officer, the appointment of Presiding Officers and Polling Officers. However, they are debarred from the deployment of Central armed forces for election purposes.

Simultaneously, to answer the research question on the status of State Election Commissions in India, reference has been made to the relevant Articles of the Constitution of India based on which SECs have been constituted in Mizoram and West Bengal. Article 243K of the Constitution provides for setting up of SECs in the States of India and this Article is almost identical to Article 324 of the Constitution of India for setting up of Election Commission of India (ECI). The SECs which have been appointed in many States are to supervise Municipal and Panchayat elections.

Although the SECs of Mizoram and West Bengal have a similar mandate, they are independent of each other and draw powers from different laws. The SEC in Bengal draws its powers from the West Bengal State Election Commission Act, 1994. The Mizoram SEC has been constituted under Sub-section (a) of Section 345 of the Mizoram Municipalities Act, 2007 to conduct Election to Local Bodies. Clause (c) of sub-rule (1) of Rule 2 of the Mizoram (Constitution of State Election Commission) Rules, 2008 defines 'Local Bodies' as to mean Municipalities, Autonomous District Councils and Panchayats and Village Councils.

The West Bengal State Election Commissioner was given the status and privileges of High Court judge whereas the State Government of Mizoram is not yet ready to give the State Election Commissioner the status of a Judge of the High Court. Therefore, the State Election Commissioner should be given the status of a High Court Judge. Otherwise, cooperation of the Chief Secretary, Director General of Police, Finance Secretary and other important Officials may not be forthcoming.

The *second* research question is, "*What are the Organizational Structures and System of Personnel Administration in the State Election Commissions of West Bengal and Mizoram?*" In an attempt to answer this research question, the set-ups of the two SECs have been examined. With regard to the formation of the Commissions, SECs of Mizoram and West Bengal are single-member Commissions comprising the State Election Commissioner. The organizational structure and staffing patterns of Mizoram

SEC and West Bengal SEC are slightly different and are yet to be uniformly institutionalized legally and operationally.

Organizationally, the SECs of both Mizoram and West Bengal have three tier administrative structures with a traditional hierarchy and a narrow span of control in their organizational management where communication usually flows from top to bottom with little direct communication between the lower level and upper level. Mizoram SEC has top-middle-lower level employees in the form of 1-1-1-1-3-3 whereas West Bengal SEC has a top-middle-lower level in the form of 1-1-1-5-4-4.

The office of the SEC in both States comprises of Secretary, Addl. Secretary, Joint Secretary, Deputy Secretary, and Under Secretary at the top-level management. The middle level consists of the Account Officer, Special Officer, and P.A to Commissioner & Ex-officio Assistant Secretary, Senior PA, Superintendent and Stenographer Grade I. They assist the top-level management in their day-to-day functions. The third level consists of Junior Accountant, Head Assistant, UDA and Computer Programme Assistant.

There is no uniform pattern of the administrative structure of the SECs in India and each State has created administrative posts to manage the Commission. Comparatively, Mizoram SEC has four top-level administrative posts, such as State Election Commissioner, Secretary, Deputy Secretary, and Under Secretary whereas West Bengal SEC has three top-level administrative posts, such as State Election Commissioner, Secretary, Addl. Secretary and Joint Secretary. The top-level administrative posts of Mizoram and West Bengal SECs are involved in the day-to-day affairs of the organization and are responsible for setting goals, guiding, planning and supervising the entire organization.

In the middle level of administration, West Bengal SEC has five posts: Accounts Officer, Special Officer, Section Officer, P.A to Assistant Secretary and Senior PA. The primary task of mid-level officials is to translate the organizational activities toward achieving the goals set by the top-level administration. As they have direct contact daily with the lower employees, the mid-level officials can exert a powerful influence on the organization with the help of their technical skills and experience in the particular work.

The *third* research question is, “*How far the State Governments of Mizoram and West Bengal are committed to strengthening their respective institutions of the State Election Commission so far as independence and authority are concerned?*” In response to this research question, it has been found that both the SECs function under the control of their respective State Governments, in terms of funds, conduct of elections, appointment of the Commissioner and building for office accommodation. This has created some constraints for SECs in conducting free and fair elections and, sometimes, they need to wait for the directions of the State Governments. Hence, it appears that the SEC cannot maintain its independence of functioning. The major constraints of the SEC especially in Mizoram in performing its role to ensure free and fair elections may be highlighted below:

- 1) No proper accommodation or separate buildings for the Commission.
- 2) Inadequate permanent staff.
- 3) Inadequate infrastructural support from the State Government.
- 4) Lack of co-operation from the higher echelons of the States’ bureaucracy.

At present, there is a great deal of disparity between the funds provided for Parliament and Assembly Elections conducted by ECI and the Local bodies’ elections conducted by the SEC. The SEC requires adequate funding for meeting Office expenses, both on infrastructure and personnel.

With regard to office accommodation, both the SECs of Mizoram and West Bengal do not have any permanent office buildings and are accommodated in rented buildings till date. This clearly indicates a lack of commitment on the part of the Mizoram government and West Bengal Government to strengthen the Institution of SEC as far as status, independence and authority are concerned.

The Constitution mandates that the State Election Commissioner cannot be removed except in a like manner and on like ground as in the case of a Judge of a High Court. In sync with the Constitutional mandate, the West Bengal State Election Commissioner has been provided with the status of a Judge of the High Court. But, the present status of State Election Commissioner in Mizoram is that of Chief Secretary to the State Government which is lower than the status mandated in the

Indian Constitution Article 243K (2). It is to be noted that, after the conclusion of every election, the State Election Commissioners become parties to litigation on the election results and are occasionally summoned by the High Courts to be personally present during the proceedings. This creates an anomalous situation where the Constitutional authority is summoned by the Court.

The *fourth* research question that needs to be answered is, “*What are the issues, problems and challenges faced by both the State Election Commissions in performing their role to ensure free and fair elections and the policy measures that would improve their functioning?*” During the course of the study, the SECs of Mizoram and West Bengal were found facing various issues, problems and challenges while performing their role to ensure free and fair elections. Some of those are:

(a) Lack of Manpower

It has been found that there is a huge discrepancy regarding the posts sanctioned by the State Government and the actual deployment of personnel in the offices of SECs. Strangely enough, some key posts of officers have also been lying vacant for a considerable period of time. The staff and officers working in the office of the SEC are not properly manned. A large number of SECs are suffering from technical personnel especially computer experts. It directly affects the functioning of the Commission, especially in the field of documentation of election work, computation and analysis, communicative function, making liaisons, accounts, etc.

(b) Deployment of Security Forces

During the Panchayat elections in West Bengal in 2013, the West Bengal SEC requested the State Government to arrange for 800 Companies of Central Paramilitary Force (CPMF) to enforce law and order for ensuring free and fair Panchayat elections. It may be mentioned that West Bengal ranks high on political rivalry among the political parties and political violence in India. Keeping in view the past experiences on security matters, West Bengal SEC made a proposal for deployment of the Central Police Force which was rejected by the West Bengal Government. This led the West Bengal SEC to file a writ petition in the Calcutta High Court which gave a clear instruction to the State Government that the shortfall of security personnel must be fully compensated for by the State Government by bringing in Central Armed Police



Forces (CAPFs) as well as security personnel from other States to the satisfaction of the West Bengal SEC. Subsequently, the Division Bench of Calcutta High Court and the Supreme Court of India reaffirmed the order passed by the Single Bench of Calcutta High Court. The Judgment of the Calcutta High Court is a landmark Judgment on many counts particularly with regard to deployment of Central Forces during Panchayat and Municipality elections. After this judgment, other SECs may also urge their respective State Governments for the deployment of Central Police Forces as may be required during local elections.

(c) Information Technology Experts

Application of Information Technology (IT) Experts and computerization which are facilitating work in other areas of governance and the electoral processes of the ECI are not being used by both the SECs due to lack of IT-related capacity in terms of hardware, software and personnel.

(d) Allowances and Remuneration

The allowances and remuneration permitted for staff deployed for the preparation, revision of electoral rolls and for the conduct of elections are often inferior to what is available for similar jobs done by the ECI. As a result, the personnel deployed have an impression that the work of the SEC is inferior to that of elections conducted by the ECI.

(e) Fund

Due to a lack of awareness of the functioning of the State Election Commission during the preceding decades, adequate resources were not made available to the SECs by the State Governments. The process of obtaining funds from the State Government was often quite protracted which put the SECs under pressure to make several proposals to the State Government. This has led to operational difficulties at the time of conducting elections.

(f) Retention and Delimitation

In many States of India, the power of delimitation of Local Government Constituencies has been retained by the State Government. As a result, in many cases particularly in urban areas, the SECs have to wait until a Delimitation exercise is

completed by the State Governments for conducting elections. This has become a big problem for the SECs in conducting democratic elections for the Local-Self Governments.

The *fifth* research question is, “*How do the State Election Commissions of Mizoram and West Bengal perform Electoral Management in their respective States?*” This research question has been answered with the help of Municipalities Acts passed by the Legislatures of Mizoram and West Bengal respectively. According to Sub-section (1) of section 345 of the Mizoram Municipalities Act, 2007 and other relevant Acts and Rules of the State Government, Mizoram SEC is vested with the power to supervise, direct and control the preparation, intensive and summary revision, of the electoral rolls for local bodies, such as Municipal Wards and Local Councils including the Autonomous District Councils in Mizoram and conduct all elections to Municipal Wards, Local Councils, Autonomous District Councils and Village Councils. In order to prepare electoral rolls, the SEC may appoint officers such as Roll Observers, District Election Officers, Electoral Registration Officers, and Assistant Electoral Registration Officers.

West Bengal SEC is vested with the power of superintendence, direction and control of the preparation of the electoral rolls for the Local Bodies in West Bengal. Section 4 of the West Bengal State Election Commission Act, 1994, read with Articles 243K and 243ZA of the Constitution of India provides that the Panchayat Electoral Registration Officer shall prepare and revise electoral rolls for each Block within his jurisdiction. The same Act provides that the electoral roll for each Municipality shall be prepared and revised by a Municipal Electoral Registration Officer appointed by the State Election Commissioner in consultation with the State Government under sub-section (1) of section 6, of the West Bengal State Election Commission Act, 1994. Briefly, the responsibility of preparation of electoral rolls for rural and urban local bodies in West Bengal rests with West Bengal SEC which can make direct or indirect appointment of officers as Electoral Registration Officers and Assistant Electoral Registration Officers for Panchayat and Municipalities.

## **Suggestion for Improvement in the functions of State Election Commissions in West Bengal and Mizoram**

With the consideration of the above major findings of the study, the following policy measures are suggested for improving the working of the State Election Commissions (SECs) in Mizoram and West Bengal:

- 1) The State Election Commissioner must be a full-time post with a tenure of five years or up to 65 years of age, whichever is earlier. Like other State Election Commissioners, the State Election Commissioner of Mizoram should be accorded the status of a High Court Judge regardless of the size and population of the State. Towards this end, a comprehensive law and broad conditions of service of the State Election Commissioner need to be put in place and his stature and autonomy of functioning should be of no lesser degree than the Election Commissioners of ECI.
- 2) The SECs may be made a multi-member body like the ECI as a single State Election Commissioner could be more vulnerable to pressure from the State Government and other groups from time to time.
- 3) As the current system of appointment of State Election Commissioners is totally political, there is no possibility of ensuring complete neutrality on the part of the State Election Commissioners. For ensuring smooth and fair conduct of elections to local bodies, the State Election Commissioners should be appointed by the Governor on the Recommendation of a Collegium consisting of the Chief Minister, Leader of Opposition and Speaker of the Legislative Assembly, etc. It may also be made mandatory for the appointed State Election Commissioners to take oath before assumption of office.
- 4) The State Election Commissioners may be empowered with the powers of a Civil Court to deal with election-related cases under the appropriate laws.
- 5) In order to ensure its independence, dignity and sanctity, every SEC should have its own buildings.
- 6) There should be an institutional mechanism to bring the ECI and the SECs on a common platform for learning from each other's experiences and sharing resources.

- 7) A separate and exclusive Article/Part under which matters concerning State Election Commissioners Viz. Constitution of the Commissions, the appointment of State Election Commissioners, and their conditions of service as in the case of the Public Service Commission under Chapter II of Part XIV of the Constitution be assigned to make it more powerful and effective.
- 8) In view of the recurrence of law-and-order problems during elections to Local Bodies, especially in West Bengal, adequate provision for deployment of Central Paramilitary Forces in the local elections as in the case of Assembly and Parliamentary elections should be made in the appropriate Laws.
- 9) There should be a proper manpower assessment, training and planning in the context of the emerging role of the SECs.
- 10) Under Art 324 (6), the ECI can requisition both the Central Government and the State personnel for election duty. However, under Art 243 K (3), the SECs can requisition only State Government employees. In a State like West Bengal where more than 5 lakh civil personnel are required to conduct the Panchayat Elections, it becomes difficult for the SEC to conduct the elections in a free and fair manner without the help of Central Government employees. In view of this, there should be an Amendment to the Constitution relating to the provision under Art 243K (iii) to the effect that the Central Government's employees can be requisitioned for conducting elections to the Local Bodies.
- 12) There should not be any instances of disparity in the allocation of funds for Parliament and Assembly elections conducted by the ECI and elections to the Local bodies conducted by the SEC. The norms set by the ECI may be followed so far as fund allocation is concerned. Allocations for SEC including expenditure for conducting elections to Local Bodies should be clearly provided in the State's main budget.
- 13) The SECs should be provided with adequate funding for meeting office expenses, both on infrastructure and personnel, use of ICT to facilitate their functioning and building of database on various aspects of the elections. Separate financial powers should be prescribed for the SECs. The SECs should have the

discretion to divert funds to different heads of accounts while incurring election-related expenditure. They should have the flexibility for procurement and expenditure.

14) In the case between West Bengal SEC-*vrs*-Government of West Bengal, the Hon'ble High Court has, during the trial, questioned that, although the State Government imposes taxes and levies on various counts, why does it refrain from collecting taxes for conducting free and fair elections for the sake of democracy? Keeping in view of the remarks of the Hon'ble High Court at Calcutta vis-a-vis Pan-India experiences, the election funds can be mobilized by imposing a levy on voters as is being practised by the Government of Maharashtra in the Municipal Elections.

15) The State Governments should make infrastructure available for the SEC specifically on four aspects: (a) Office building of the SEC, (b) Office equipment including EVMs (c) Separate IT & Research Cell including personnel and (d) Adequate Officers & Staff including Legal Experts.

16) It is observed that the SEC Bill was formulated by the SEC of Mizoram and the same was submitted to the State Government on 21<sup>st</sup> February 2013, but the Bill has not been tabled before the State Legislative Assembly till 2022. This is highly required to streamline the fractured mandate given by various laws of Local Bodies in line with the Constitutional provisions as mandated under the 73<sup>rd</sup> & 74<sup>th</sup> Constitutional Amendments.

17) Under the existing Acts, the SEC has no powers to recognise political parties. Currently, the National parties and the State parties are recognized by the ECI and the same is being adopted by the SECs. Regarding unrecognized registered political parties, the ECI registers the parties which are having their offices throughout the country, which may run in the several hundred. Likewise, suitable rules need to be enacted to empower the SECs to register political parties for the States separately.

### **Limitations of the Study**

In spite of an attempt to minimize the range of limitations throughout the study, the study is not free from limitations.

The study was carried out in two different States having different environments and administrative set-ups as well as administrative culture. The aims and objectives of the study were also found to be too broad and a comparative study should be carried out with reference to institutions or agencies which have similar nature of duty, role and organizational setup. Since the number of Officers and staff in the two SECs is very small, the sample size also becomes too small affecting the units of analysis used in the present study.

The study has encountered the issue of limited access to interviewees especially in West Bengal due to travel restrictions and lockdown during COVID-19 pandemic and the non-cooperative attitude of some Staff of the SECs. Moreover, the West Bengal SEC is one of the most controversial SECs in the country so far as judicial interventions and poll-related violence is concerned. The collection of data from the staff of West Bengal SEC was challenging due to their reluctance to be interviewed, on several occasions, by the researcher.

### **Scope for further Study**

The Constitution envisages State Election Commissions (SEC) for every state to ensure the free and fair election and empower them with certain Constitutional safeguards to secure their independent functioning. In view of their status and role, an in-depth and broader study may further be made in the following areas:

- 1) Autonomy of the State Election Commission in various States;
- 2) Appointment, Role and Status of State Election Commissioners in various States;
- 3) Introduction of Electoral Reforms by various State Election Commissions;
- 4) A Comparative Study of the Election Commission of India and State Election Commissions;
- 5) A critical study on Constitutional Provisions relating to State Election Commission and State Laws on Elections;

6) Judicial Interventions on the functioning of the State Election Commissions since 1993.

## **Conclusion**

In conclusion, it may be reiterated that the Constitution of India was amended in 1992 through the 73rd and 74th Amendments in order to provide legal sanctity to the Local Self-Governments (LSGs), giving LSGs their rightful place in the process of nation-building. Towards this end, Article 243K & Article 243ZA were incorporated to establish a SEC in every State as a Constitutional body with powers of superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats and Municipalities in the State.’

The SEC consists of a State Election Commissioner who is appointed by the Governor for a fixed tenure and cannot be removed from his office except in like manner and on the like grounds as a Judge of a High Court. However, the study reveals that there lies a heap of discrepancies at all fronts of its mandate, which can defeat the very purpose of its establishment. This development not only threatens their institutional autonomy but also can seriously compromise with their Constitutional responsibility of holding free, transparent and fair elections without fear or favour and falls foul of the Constitutional provisions. In fact, the situation in West Bengal is grimmer than in any other SECs across the country. The Study, therefore, suggested several measures that would improve the functioning of the State Election Commissions (SEC) to ensure free and fair elections and to safeguard their independent functioning. In a nutshell, a comparative study on the workings of any SEC is an interesting and challenging area of study and calls for further in-depth and broader studies in the coming days.

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#### **Name of Interviewee with dates**

<b>Sl. No</b>	<b>Name of interviewee</b>	<b>Designation</b>	<b>Date of interview</b>
1	C. Ropiang, IAS (Retd.)	Former State Election Commissioner, Mizoram	17 <sup>th</sup> January, 2022
2	Mira Pande, IAS (Retd.)	Former State Election Commissioner, West Bengal	11 <sup>th</sup> December, 2022
3	Laima Chozah, IAS (Retd.)	State Election Commissioner, Mizoram	9 <sup>th</sup> February, 2022
4	S.K. Das, IAS (Retd.)	State Election Commissioner, West Bengal	6 <sup>th</sup> June, 2022
5	P. Lianhrima, MCS (Retd.)	Former Secretary, State Election Commission, Mizoram	19 <sup>th</sup> January, 2022
6	Teresy Vanlalhruii, MCS	Former Secretary, State Election Commission, Mizoram	5 <sup>th</sup> February, 2022
7	Lawmkima, MCS (Retd.)	Former Deputy Secretary, State Election Commission, Mizoram	5 <sup>th</sup> January, 2022

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