

**ELECTION COMMISSION OF INDIA:
CHANGING ROLE AND FUNCTIONS**

**Thesis submitted in partial fulfillment for the Degree of
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Submitted by

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CERTIFICATE

This is to certify that the Thesis titled '**Election Commission of India: Changing Role and Functions**' submitted by **Mr. LalsangzualaKhiangte** in partial fulfillment for the award of Degree of Doctor of Philosophy (Ph.D) in the Department of Public Administration, Mizoram University, Aizawl.

This Thesis is an original work of his research which has not been used previously and which has not been submitted to any other university for any purpose. It covers the topic of research adequately.

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DECLARATION

I, **Mr.Lalsangzuala Khiangte**, do hereby declare that the Thesis entitled **Election Commission of India: Changing Role and Functions** is an original work done by me under the supervision and guidance of **Prof. Srinibas Pathi**, Professor, Department of Public Administration, Mizoram University, Aizawl and this Thesis did not form basis of the award of any previous degree to me or to 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 Thesis is being submitted to the Mizoram University for the degree of Doctor of Philosophy in Public Administration.

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Dated Aizawl

(LALSANGZUALA KHIANGTE)

The 14th November 2018

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LIST OF ABBREVIATIONS

ADR	Association for Democratic Reforms
AERO	Assistant Electoral Registration Officer
ARO	Assistant Returning Officer
BDO	Block Development Officer
BLO	Booth Level Officer
BSNL	Bharat Sanchar Nigam Limited
CA	Cambridge Analytica
CAD	Constituent Assembly Debates
CD	Compact Disc
CEC	Chief Election Commissioner
CEC	Central Election Commission
CEO	Chief Electoral Officer
CIC	Central Information Commission
CPA	Coalition Professional Authority
CJI	Chief Justice of India
CSs	Chief Secretaries
CSO	Civil Society Organizations
CYMA	Central Young Mizo Association
DC	District Collector
DEO	District Election Officer
Dy. D	Deputy Director

Dy.CEO	Deputy Chief Electoral Officer
Dy. E C	Deputy Election Commissioner
DRCS	District Red Cross Society
ECI	Election Commission of India
ECs	Election Commissioners
EMBs	Electoral Management Bodies
EPIC	Electors Photo Identity Card
ERO	Electoral Registration Officer
EVMs	Electronic Voting Machines
EU	European Union
FEC	Federal Election Commission
FDI	Foreign Direct Investment
FIR	First Information Report
Four Rs	Representative, Responsible, Responsive and Rights
ICCPR	International Covenant for Civil and Political Rights
ICS	Indian Civil Service
ID	Identity Card
IECI	Independent Electoral Commission of Iraq
IDEA	International Institute for Democracy and Electoral Assistance
IIIDEM	India International Institute of Democracy and Electoral Management
IEMB	Independent Electoral Management Body
IPC	Indian Penal Code

I T	Information Technology
Jt.CEO	Joint Chief Electoral Officer
JEMB	Joint Electoral Management Body
J & K	Jammu and Kashmir
KNA	Kurdistan National Assembly
LDC	Lower Division Clerk
MCC	Model Code of Conduct
MCMC	Media Certification and Monitoring Committee
MIS	Management Information System
MPF	Mizoram People's Forum
MoU	Memorandum of Understanding
MTNL	Mahanagar Telephone Nigam Limited
MMS	Monthly Monitoring System
NBSA	News Broadcasting Standards Authority
NCSA	National Civil Society Award
NCT	National Capital Territory
NERPAP	National Electoral Roll Purification and Authentication Programme
NEW	National Election Watch
NGO	Non-Governmental Organization
NVSP	National Voters' Service Portal
NPP	National People's Party
NRIs	Non-Resident Indians

NOTA	None of the Above
P.C	Percentage
PCI	Press Council of India
PGRMS	Public Grievances Redressal Management System
PO	Polling Officer
PPW	Political Party Watch
PRO	Presiding Officer
PM	Prime Minister
PR	Proportional Representation
PwDs	Persons with Disabilities
REC	Regional Election Commissioner
R.P. Act	Representation of the People Act
RO	Returning Officer
RTI	Right to Information
SC	Scheduled Castes
SDO	Sub-Divisional Officer
SEC	State Election Commission/ State Election Commissioner
SIM	Subscriber Identification Module
SMS	Short Services Messages
SVEEP	Systematic Voters' Education and Electoral Participation
ST	Scheduled Tribes
TNA	Transitional National Assembly
UAE	United Arab Emirates

UDC	Upper Division Clerk
UDHR	Universal Declaration of Human Rights
UIDAI	Unique Identification Authority of India
UN	United Nations
UNAMA	United Nations Assistance Mission in Afghanistan
UP	Uttar Pradesh
UK	United Kingdom
USA	United States of America
UT	Union Territory
VVPAT	Voter Verifiable Paper Audit Trail
YMA	Young Mizo Association

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PREFACE

The thesis is divided into seven chapters. The first Chapter is the Introduction. The second Chapter is titled 'Electoral Administration – A conceptual study'. The third Chapter is Origin and history of Election Commission of India. The fourth Chapter is titled 'Structure, functions and role of Election Commission of India' The fifth Chapter is 'Changing role of Election Commission of India', the sixth Chapter is 'issues, problems and challenges faced by Election Commission of India' and the seventh and final Chapter is the conclusion.

The first Chapter is an introductory part of the whole body of the thesis. It is divided into six sub-headings such as, brief introduction of election and Election Commission of India during the pre and post Independence Period, statement of the problems for which remedial measures are suggested, review of literature pertaining to existing study materials like books, articles, reports, etc., which have direct and indirect link to the topic of the thesis, scope of study giving its area of coverage, research questions containing the objectives of the study, methodology of data collection from the primary and secondary sources.

The second Chapter deals with electoral administration: a conceptual study by explaining about the meaning, definition and nature of election in a democracy. It also covers classifications, significance, function of elections, electoral cycle, three models of elections-independent model, governmental

model and mixed model. This chapter also focuses on the concept and relevance of electoral administration under global, Indian and contemporary scenario on various issues and dimensions of electoral administration like- rights of new voters, Electronic Voting Machines (EVM), Electors Photo Identity Card (EPIC), None of the Above (NOTA), etc., are also discussed in this chapter.

The third Chapter traced with the origin and history of elections from the ancient period to pre- independence period. It also discussed the origin and history of Election Commission of India in the post-independence period by adding Constitutional provisions relating to Election Commission of India. In this chapter, the different laws and statutes regarding elections and People Representation Act of 1950 and 1951 also discussed.

The fourth Chapter contains the structure and organization of Election commission of India. It has been discussed on the original structure, powers and functions of Election Commission of India in a chronological manner. The chapter contains changes in the Commission from time to time from single member to multi-member Commission and the status of Chief Election Commissioner and other Election Commissioners are also discussed in this chapter.

The fifth Chapter deals with the changing role of Election Commission of India starting from the traditional functions to present day functions performed by the Election Commission of India. It has also discussed the model code of conduct and several initiatives and the new steps like VVPAT, NOTA, etc., were

taken by the Commission in recent years to ensure free and fair elections in the country.

The sixth Chapter discusses different issues, problems and challenges being faced and experienced by the Election Commission. Some problems relating to infrastructure, finance, personnel, lack of awareness among the citizens and voters, coordination with the Central government and State governments, political pressure, filing of nominations, misuse of money and muscle power, limits on expenditure, funding patterns in the elections, checking of criminalization of politics, electoral fraud, buying of votes, misinformation, misleading or confusing ballot papers, preparing clean electoral rolls, duplication of electoral rolls are discussed in this Chapter. Some of the challenges like increase in population and increase in number of polling stations, difficulty in maintaining accurate voter list, criminals contesting elections, to carry out peaceful elections in sensitive areas, three types of major challenges such as muscle power, misuse of government resources and black money, malpractices during elections, paid media or misuse of media by political parties during elections, management of electoral rolls will be discussed. Some issues on recognition, suspension, allotment and continuation of registration of political parties, Voter-ID (EPIC), videography and digital cameras during elections, election affidavit, NOTA, expenditures in elections, facebook scandal on Indian election, social media and mass media on voter awareness public perceptions regarding the overall working of the Election Commission of India has also been discussed in this Chapter

The final chapter is divided into two parts: Part – I and Part – II. The first part of the Chapter contains a brief summary of all the previous chapters. It has an in-depth study on the changing role and functions of the Election Commission of India. It also discusses on the various problems and challenges being faced by the Commission.

The second part of the Chapter contains the major findings and suggestions for the improvement of the Election Commission of India to ensure free and fair elections in the country. Four research questions have been formulated in the study which are attempted and solved with relevant information for the smooth functioning of the Election Commission of India.

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CHAPTER – I

Introduction

Democracy may be studied and analyzed from two different angles. First, it is a way of life in which different types of individuals live together, that is, rich and poor, urban and rural, educated and illiterate, etc. Secondly, it is also a form of government in which the common people participate in the decision making process. In political and administrative discourse, the second aspect of democracy is taken into consideration.

The word democracy is derived from the Greek word ‘Demokratia’ which is a compound of ‘demos’ meaning people and ‘kratos’ meaning power.¹ Thus, Democracy literally means a form of government in which political power originates from the people. There are two types of democracy – direct democracy and indirect or representative democracy. Direct democracy means people can take part directly in the affairs of the State. Indirect democracy or representative democracy means people can participate in the law-making process through their representatives.

According to Learner’s Dictionary, ‘election’ means the act or process of choosing someone for a public office by voting.² The word ‘election’ has been used

¹ <https://en.wikipedia.org/wiki/Demokratia>. Accessed on 20.05.2014. The Greek word ‘Demokratia’ was used in ancient Greece most notably Athens and began its use around 500 BCE. Demokratia excluded women, foreigners, and slaves. It barred between 80 and 90 percent of the population from political rights.

² <http://www.learnersdictionary.com/definition/election>. Accessed on 20.05,2014

in Part XV of the Indian Constitution.³ Under Representation of the People Act, (R.P Act) 1951 election means an election to fill a seat in either House of Parliament or the Legislature of a State.⁴ One of the burning issues in modern democratic India is the concept of free and fair elections under the Constitution of India. So, it is a matter of pleasure for the citizens of India that we have democracy and good electoral process. The modern Indian democracy and electoral process which the founding fathers of the Constitution established is based on the representation of the people, where people exercise their powers through their representatives selected by the process of free and fair elections.⁵

Being the largest democracy in the world, India itself makes a provision for the election machinery to conduct free, fair and peaceful elections at all levels from Central to State levels. The election machinery of India is controlled by the Election Commission which is a centralized body independent of the Executive. The Election Commission heads the vast electoral machinery by appointing various personnel; exercises control over them and organize the election to Parliament, to Legislatures of the States and the offices of the President and Vice-President.⁶ So, the whole

³ <http://constitution.indiags.com/p/elections.html>. Part XV of the Indian Constitution relating Election (Article 324-329) Accessed on 20.05.2014

⁴ *Representation of the People Act, 1951 (part I summary on Interpretation)* Accessed on 20.05.2014

⁵ Raisa Ali (1996). *Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications. p.28

⁶ Shriram Masheshwari (1991). 'The Conscience Keeper of Indian democracy: The Election Commission' in *Quarterly Journal of IIPA July-Sept, Vol-XXXVII No. 3*. New Delhi: p.349

electoral machinery at the Centre as well as the State levels works under the supervision of the Election Commission of India.

1.1 Meaning and Origin of Elections and Election Commission of India:

In every democratic government, elections are important instruments of democracy. Without an election, the will of the people cannot be determined.⁷ Election may be termed as the corner-stone of any democratic system as it provides people with an opportunity to elect their own government which can preserve and protect their rights and liberty and fulfil their aspirations and creates an environment in which they can develop their overall personality. It also serves as a means of communication between the public and the Government.⁸ Free and fair elections are the heart and soul of the representative form of democracy. Without a free and fair election, election loses its meaning and sense.⁹ The success of election in our country greatly depends on effective and purposeful communications and the good coordination of these stakeholders like the electorate, the candidates, the political parties and the electoral machinery.

The British rulers introduced the electoral administration in the country when they set up the preliminary representative institutions. But the right to direct election was not approved by the Indian Councils Act of 1892. On 20th August 1917, the

⁷ Raisa Ali (1996). *Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications. pp.21-22

⁸ Jeevan Nair & U.C.Jain (2000). *Electoral System in India*. Jaipur: Pointer Publishers. p.87

⁹ Shriram Masheshwari .op.cit., p.349

British Government prescribed the steady development of self governing institutions with a view to realizing ongoing responsible government in India.

Under the Government of India Act 1935, there was no provision for the establishment of Election Commission of India to conduct free and fair elections to the Federal Legislatures and the Provincial Assemblies. The Government of India Act of 1935 by its schedule I laid down that it was the function of the Federal Government to conduct elections for composition of Federal Assembly and its paragraph 27 entrusted Governor-General with all rule-making and elections administration powers. Only once the election was held under this system in 1939.¹⁰ The Constituent Assembly in India which functioned between 1946 and 1949 framed our Constitution and set up a sub-committee called the Union Constitution Committee to shape a federal electoral authority at the centre to conduct, direct and control all elections both at the central and state levels. The Constituent Assembly had a good debate and fruitful discussions on July 29th 1947 for the establishment of an Election Commission. The Constituent Assembly decided to establish an independent Election Commission, secure in tenure, to the superintendence, direct, control, preparation and conduct of elections to the Parliament and State legislatures.

Under the provisions of Article 324 of the Constitution of India, the Election Commission of India (ECI) was established on 25th January 1950 for the superintendence, direction, planning, and preparations and conduct of elections to Parliament and State Legislatures. The Election Commission functions as a single member body from its inception and it continued to function till 1988. The President

¹⁰ U.N.Gupta (1986). *Indian Parliamentary Democracy*, New Delhi: Atlantic Publishers and Distributors. pp.326-327

of India by issuing a notification on 7th October 1989 appointed two Election Commissioners (ECs) on October 16, 1989. Thus, the multi-member Election Commission was reverted to a single-member Election Commission on 1st, January 1990. On 1st, October 1993, the President of India passed an Ordinance and converted once again to the Election Commission into a multi-member Election Commission and two Election Commissioners were appointed in addition to the Chief Election Commissioner.¹¹

During the last 68 years, a number of new and the challenging functions have been undertaken by the Election Commission of India which includes issue of Electoral Photo Identity Cards (EPIC) to all the voters; introduction of Electronic Voting Machines (EVMs); computerization of electoral rolls; strict measures to implement the model code of conduct during elections; organization of awareness campaigns for the voters with the help of governmental agencies, non-governmental organizations and mass media etc. Recently, another new step like the inclusion of a new button like none of the above (NOTA) below the names of the candidates in the Electronic Voting Machines (EVMs) has been undertaken by the Election Commission of India.

1.2 Statement of the Problem:

Though many books and articles relating to Election Commission have been written by different authors, but, no comprehensive study has yet been made on the changing role and functions of the Election Commission. Being the largest

¹¹ Raisa Ali (1996). *Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications. P.233

democratic country in the world, conducting general elections to Parliament and State Legislatures is not an easy task for the Election Commission of India. Moreover, the changing role of the Election Commission of India over the years necessitates thorough study and analysis. The Election Commission has taken necessary steps in different ways to check the malpractices in the elections.

The traditional functions of the Election Commission assigned by the Constitution of India under Article 324 needs to modify according to the problems and challenges faced by the Commission. New initiatives have to be taken for the smooth functioning of the Election Commission. The study on the changing role of the ECI has been conducted through Annual Reports of ECI, books, Journals, published and unpublished Articles. The role and functions of the ECI have been changing according to the needs of the hour to ensure free and fair elections. To know the actual conditions and problems of the Commission, it is necessary to have a detailed study of the issues, problems and challenges faced by the Election Commission of India and also to suggest suitable measures to make it more effective and efficient to ensure free, fair and impartial elections in India.

1.3 Review of Literature:

A number of books, journals and articles have been written which contain information pertaining to Election Commission of India. Some of the available books, journals and articles written by different authors related to Election Commission of India and Electoral Reforms are reviewed as under:

Anjana Kaw Bhagat (1996) in *Elections and Electoral Reforms in India* has mentioned that elections are an important instrument for not only reflecting hopes and aspirations of the people but also for bringing about the incredible changes. She has also mentioned the different aspects like administrative, structural, systematic and legal deformation that have materialized in the electoral process. The author has pointed out that India has adopted the first-past-the-post system for elections to the House of the People and State Legislative Assemblies. She lays emphasis on the administrative aspect of the electoral machinery and complete electoral process in India and also discussed the structure and powers of the Election Commission of India. The author tries to investigate the various types of corrupt practices prevalent in the Indian electoral system and she throws light on the recent development made by the Election Commission of India to ensure free and fair elections in India.

A.P.K. Singh (2009) in *Election Politics in Manipur* has mentioned various trends of electoral politics, contesting national and regional political parties, their electoral alliances, comparative analysis of election manifestoes, reasons for the success and set backs of the contesting parties, their performances at the polls and prospects in state politics. He discusses on the socio-economic support base of the parties, political awareness of the voters, voting behavior and role of ethnic and regional forces and money power. He suggests that the Election Commission of India should be given Statutory Power in order to have free and fair elections. Law must empower the Commission to disqualify any candidate or party who violates the election codes, rules, instructions and laws, without enabling the political parties or candidates to appeal to the judicial courts.

A.P.K. Singh (2016) in *Political Scenario of Mizoram Past and Present* has studied in detailed about the entire political process in the State of Mizoram during 1952 – 2013. The author describes Mizoram as a role-model state in the northeast in particular and in the country in general in terms of holding of elections. He has also mentioned that a valuable contributions made by the Non-Governmental Organization during the elections in the state. He throws light on the statements made by the Election Commission of India about the successful working of the NGOs like Mizoram People Forum (MPF) to ensure free and fair elections in Mizoram. The author analyzes the general elections to State Legislative Assembly, Lok Sabha and the Rajya Sabha elections in the State and the successful role played by the Election Commission of India is also highlighted.

C.P. Bhambhri (2014) in *Coalition Government and Politics – UPA-II to 2014 Lok Sabha Elections* focuses on the significant happenings during the United Progressive Alliance (UPA) at the Centre. He has analyzed the political developments from the time of Manmohan Singh to Shri.Narendra Modi. The author has highlighted the reasonable welfare programme of the Food Security Acts and the Indian Foreign Economic Policy making during UPA-II (second phase of power). He has also conducted a detailed study on the politics of Coalition Government led by Manmohan Singh – Sonia Gandhi leadership.

Hans Raj Jhingta (1996) in *Corrupt Practices in Elections : A study under the Representation of the People Act, 1951* attempts to highlight that if and when elections are not held in a free and fair manner, the democratic set up of the government may be threatened. The author has mentioned the corrupt practices like

bribery, undue influence, personating, publication of false statements, illegal expenditure in excess of the prescribed limit and failure to file return or to file false return of election expenses. Some minor corrupt practices such as those which were indulged in without the support of the candidate or his agent, personating, receipt of bribe, payment for conveyance of elector, hiring or use of public conveyance, including expenses without authority, the hiring of liquor shops, and the issue of circulars without printers and publishers name. He also points out that the Representation of the People Act, 1951 is the main statute which makes provisions for controlling such malpractices.

Jeevan Nair and U.C. Jain (2000) in *Electoral System in India* attempts to analyze the constitutional provisions for elections. They also traced the changes and amendments to the election laws. This book covers not only Election Laws but also details of electoral procedures for elections of President, Parliament and State Legislative Assemblies. The authors focus on the powers and functions of the Election Commission of India and a comparative study between State High Courts and the Supreme Court of India in relations to their respective roles in elections and settlement of electoral disputes.

L.P. Singh (1986) in his book *Electoral Reform: Problem and Suggested Solutions* presents a study of the structure and powers of the Election Commission of India. The author has pointed out that the corrupt practices, electoral offences, model code of conduct, preparation of electoral rolls, voting age and role of money to capture power. He further points out that the Election Commission of India has wider jurisdiction and responsibilities than the Election Commissions in any other

democratic country by exercising the powers to conduct elections to a Parliament, President of India and Vice-President of India as well as the State Legislatures. On the basis of the reports given by the Joint Committee on Amendments to Election Laws 1972 regarding a multi-member body, all political leaders and constitutional experts favoured a multi-member Commission to carry out numerous tasks in relation to conduct elections both at the States as well as the Central level. The author has also outlined detailed work- load of the Commission and how it maintains contact with the administrative authorities at Centre and in the States. This book also covers a whole range of basic issues and problems for policy actions.

Meenu Roy (2000) in *Electoral Politics in India: Election Process and Outcomes, Voting Behavior and Current Trends* has studied in detailed the 12th Lok Sabha elections conducted by the Election Commission of India. The author has also given the reasons for the downfall of Vajpayee's government and the promises and achievements made by the Bharatya Janata Party (BJP) led government. The study deals with the working of Congress and its ability to capture power and the election panorama of the North Indian States and electoral politics in the North east India. The author presents the reasons and solutions for unwanted practices in our electoral process. The author attempts to have an in-depth study of all aspects of the elections, electoral behavior, caste politics, regional influences and defections etc.

N.S. Gehlot (1992) in *Elections and Electoral Administration in India* has tried to provide for the establishment of an independent high level Commission for an effective conduct of elections in India in a fair manner. He highlighted the statutory Election commission to be armed with powers of superintendence,

direction and control in conduct of all kinds of elections to the Parliament, State Legislatures and the offices of President and Vice-President of India. The author has mentioned about the appearances of money in all the elections. He has given some suggestions for the reduction of election expenses and curtailing the role of money power.

Norman D. Palmer (1976) in *Elections and Political Development: The South Asian Experience* has conducted a detailed study of elections and political system. He points out that election may be studied from the point of view of both macro and micro- political analysis and of the linkages between these two forms of analysis. He has mentioned the Indian general elections have been generally free and fair in comparison with the electoral experiences in most of the developing countries. He also points out that elections have clearly been central to the Indian political system. The author has briefly analysis on the comparative study of the electoral experiences of Pakistan, Ceylon and Nepal with the Indian experiences. He also highlighted the very powerful voting determinants are corruption, money and liquor.

Parul Chakravarty (1997) in *Democratic Government and Electoral Process* makes a study on the system of Indian Parliamentary democracy by highlighting the various approaches to Electoral Reforms in India. He has mentioned the Election Commission should enjoy fairly wide powers under the Constitution. He has given the importance of the Model Code of Conduct for the Guidance of Political Parties and Candidates. The author felt that the misuse of official machinery during elections should also be treated as corrupt practices attracting the legal provisions. He further points out that the electoral pollution is deeply rooted in India's social,

political, public and business life. He highlighted the importance of Independence of the Election Commission and suggested the necessary concrete steps to curb the role and power of money during elections to reduce the cost of elections and to ensure free and fair elections in India.

P.V Sharada (1998) in *Radio – Television and Elections* attempt to study on the perceptions of political leaders on various subjects during election campaign through Radio and Television. He has mentioned that there should be close relationships between political attitude and media. He tries to develop suitable models for media coverage of elections to ensure free and fair elections in India.

P. Rathanaswamy (2004) in *Electoral Reforms: Law and Institutions of India and World* attempts to identify that every electoral system can be built on the basis of political system, rule of law, system of governments such as Parliamentary or Presidential form of government, the separation of power, Constitutional provisions, democratic values, economic practice, social and cultural values and so on. He also points out that the electoral system depends upon certain elements including historical, cultural and socio-economic factors and every electoral system tries to achieve the highest participation of citizens in the governance. The author has also highlighted the role of Judiciary to strengthen the powers and responsibilities of the Election Commission of India. He further suggests that the need for constitutional amendments and amendments to the respective election laws for reforming electoral system in India.

P.V Krishna Mani (1971) in *Elections, Candidates and Voters* attempts to conduct a detailed study on parliamentary form of government and the electoral laws

under the Indian Constitution. He highlighted the election machinery at the Central as well as the State levels. He has mentioned the roles played by the Election Commission in conducting general elections to Parliament and State legislatures. The author has also discussed the powers and functions of the Election Commission relating to electoral process from the preparation of electoral rolls to the declaration of election results.

Raisa Ali (1996) in *Representative Democracy and Concept of Free and Fair Elections* makes a study of the importance of election for setting up of a better democratic form of government. The first half of the book focuses on democracy and electoral process including the need for a change of government, the stability of government and responsibilities of the government. The book also attempts to highlight the general activities at the time of elections performed by the voters as well as the election officials. The second half of the book gives an account of the role of Election Commission of India in conducting free and fair elections. The author also points out the powers and functions exercised by the Election Commission of India and the way to keep up the Election Commission as an autonomous body. A detailed study of corrupt practices, electoral offenses, and the role of Judiciary in the electoral process has also been conducted by the author.

R.N Prasad and A.K. Aggarwal (1991) in *Political and Economic Development of Mizoram* pointed out the electoral politics in Mizoram and analyzing the elections of Mizoram State Legislative Assembly and Lok Sabha from 1972 to Sixth General Election to Mizoram Legislative Assembly, 1989. The study throws light on the social base of the constituency, political mobilization, apathy and

political awareness of the voters, voting turn out and role of ethnic forces. They also discussed the system of village administration, constitutional structure, executive, functions and evaluation of its working in the changing socio-economic context.

Subhash C Kashyap (1994) in *History of the Parliament of India* has traced the Democratic Institution and Representative Institutions in Ancient India to study the History of the Parliament of India. He also conducted a detailed study on the Origin and Growth of Modern Parliamentary Institutions by reflecting the electoral systems and structures of the Central Legislature during the pre-Independence period. The author has pointed out that the modern institutional framework has started for the first time on 26th January 1950 with full-fledged parliamentary democracy.

O.P Jindal Global University and Jindal Global Law School (2014) in *Making The Indian Electoral Process Inclusive: Challenges and Opportunities* under their Centre for Human Rights Studies have analyzed the inclusiveness of the electoral system with a particular focus on the ground of residence which has distinctively Indian implications. They strongly supports the Representation of People (Amendment) Bill 2006, which advocates for the voting rights of people those who lose out voting right due to absence from their constituency. But, on the other hand, the study criticizes certain conflicts and outdated legislative provisions which restrict Indian citizens from exercising their voting right to a limited interpretation of the term ordinary residence. They try to promote voting beyond boundaries by proposing alternative voting methods like postal voting, proxy voting, internet voting and phone voting.

C.P.Bhambhri (1991) in his article titled on 'Election and political change' in *Indian Journal of Public Administration* points out that political changes have been brought by the electoral process. The politics of elections is always linked with the nature of emerging political culture in a country. He has also highlighted that political change in India is needed to evolve a multi-party consensus for governance. He has mentioned that all the major political parties have competed against one another by winning and breaking the caste alliances of opposition parties. He concludes that caste politics is going together with the communalization of politics.

Jaytilak Guha Roy (1991) in his article 'Electoral violence and the role of law and order administration' in *Indian Journal of Public Administration* has mentioned that the electoral violence is an integral part of the general level of violence in the society. The problems of electoral violence and the role of law enforcement have to be considered in the broader context of our socio-political environment. He has also pointed out that the police and other officials concerned with law and order have to be made accountable for their failure to apprehend the booth-capturers and other election offenders.

J.Prabhash (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 role of money power in Indian politics. The author highlights the impact of money on the people for entering into politics. He concludes that the Indian electoral system has been deeply influenced by the misuse of money to capture the power.

Manjari Katju (2009) in the article 'Election Commission and changing contours of politics' in *Economic and Political Weekly* has discussed the growth of the Election Commission of India since its inception. The article also points out some changes that have occurred in the right way with the introduction of multi-party system in India. The Election Commission of India has to deal with the way of changing of politics. These transformations in politics lead to different approaches for the smooth functioning of electoral administration and reforms.

M.Subramanian (1991) in his article 'Electoral reform and the voter' in *Indian Journal of Public Administration* has mentioned that one of the objectives of the electoral reform is to protect the voter from the penalty of showing his preferences. The author has pointed out that the present simple majority system needs to be replaced to avoid the deficiencies of the electoral system in India and the combination system with list system or the proportional representation system with the direct election process is also not suitable for condition prevailing in India. The author concludes that any electoral system that does not guarantee the inclusion of the names of the eligible voters in the rolls cannot be said to respect the voter's constitutional rights.

N.R Inamdar (1991) in the article titled 'Theoretical Approached to Elections: Implications for Outcomes of Election Administration in India' in *Indian Journal of Public Administration* focuses on the historical analyses and the evolution of parliamentary democratic process relating to constitutional provisions. The author has conducted a detailed study of the role of the Election Commission of India as a staffing agency. He points out that loopholes have been found in the

provisions of law and defection takes place in spite of the efforts made by the Election Commission of India. Various factors like poverty, illiteracy of a majority of voters, dominated by some castes in the villages and importance attached to ethnic, religious, linguistic and regional issues and money power etc, badly affects the voting-behavior in our country.

Ravishankar Nirmala (2009) in the article titled 'The Cost of Ruling : Anti-Incumbency in Elections' in *Economic and Political Weekly* has mentioned that Anti-Incumbency is the most common instrument tools used by the ruling parties on facing less chances of getting re-elected in India. The author has also pointed out that the performance of ruling parties in national and state elections in India and finds that the incumbent Members of Parliament and Legislative Assembly are getting less chances to win the elections than the opposition parties.

S.K. Pachauri, (1999) in the article titled on 'Election Administration in India- Reflections on Aspects of 1998 Elections' in *Indian Journal of Public Administration* tries to point out the election system and its problems by highlighting the various processes to ensure free and fair elections in the country. The author has mentioned four distinct phases like updating the electoral rolls by doing additions and deletions of all eligible voters in their respective areas. The second phase is filling nominations and their acceptances by the election authority. The third stage is preparations and setting up of polling stations. The final stage is the counting of votes and declaration of results. The author also points out the role of the Observers in the conduct of free and fair elections. He believes that the need for the special arrangement for ladies and minorities for the smooth conducting of elections. He

also points out the following outstanding features of the recent elections in India. Polls were conducted with less than three months notice unlike the customary six months notice that the Commission is allowed the Constitution. Another feature is that voter turnout is very low in mid-term elections. The electoral expenses spent by the parties or relatives and friends of the candidates are not accounted for. This is a serious loophole which renders the expenditure limit futile. Right now only those who have been convicted are debarred whereas those with grave charges against them can still contest elections. He concludes that by proposing direct involvement of the election Observers in the election administration at all levels, right down from the centre to district level.

S.S Singh and Suresh Mishra (1991) in the article on 'Powers of Election Commission: A legal perspective' in *Indian Journal of Public Administration* attempts to highlight the weakness of our electoral machinery that we experience in the recent elections. They also focus on the principle of one man one vote and the method of direct elections to Lok Sabha and State Legislative Assemblies of the states. The authors have again highlighted the powers and functions of the Election Commission of India like preparations of electoral rolls, allotting symbols to political parties, powers to disqualify the candidates, conduct of elections, issue of notifications, declaring polling date, withdrawal, re-poll, declaration of results and countermanding. In this article, the authors have suggested that for the survival of our democratic country, we need to take care of the appointment of the Chief Election Commissioner as well as other members of Election commission. This

article reveals that the Election Commission alone ensures free and fair elections in our country.

After going through the above mentioned books and articles on elections, electoral administration and the working of the Election Commission in India, we find out that the working and roles of Election Commission of India always keep changing by introducing new rules, regulations, acts and various methods to ensure free and fair elections in India. The above reviewed books, journals and articles also provide necessary information on the origin of the Election Commission of India in the post- Independence period. We have not come across any systematic study on the changing role of Election Commission of India. So, the present study has been undertaken to probe this vital issue.

1.4 Objectives of the Study:

The main objectives of the study are:

- (1) to study the origin and history of Election Commission of India
- (2) to study the structure, functions and traditional role of Election Commission of India
- (3) to study the role of the Chief Election Commissioner of India
- (4) to examine the changing role of Election Commission of India and
- (5) to find out the issues, problems and challenges faced by the Election Commission of India and to suggest remedial measures.

1.5 Research Questions:

The present research has attempted to study the following research questions:

- (1) Is the Election Commission of India well equipped to conduct free and fair elections in India?
- (2) What are the traditional functions and the role of the Election Commission of India?
- (3) What are the issues related to the changing role of the Election Commission of India?
- (4) What are the issues, problems and challenges faced by the Election Commission of India and what could be the possible solutions?

1.6 Scope of the Study:

The stability and successful working of democratic government depend upon the people who exercise their voting rights at the elections. The Election Commission of India has given the people confidence that electoral process would bring a Government of their choice. So, this Constitutional body becomes one of the pillars of Indian democracy. It is the duty of the Election Commission to organize awareness campaign for voters to exercise their voting rights. So, there is a need to study the structure, powers and functions of the Election Commission to know the actual conditions regarding the changing role and functions. Besides, the people need to know the importance and the role played by the Election Commission in conducting General elections at the Centre as well as in all the States and Union Territories in India.

The study has been conducted to examine the changing role of the Election Commission of India since its inception to till date in conducting the elections and discharging its other duties and responsibilities. Being the largest democracy in the world, India witnessed elections from the pre-Independence period but, many changes were introduced in the machinery for legislation both at the Centre and Provincial levels during the pre-Independence period in India. India developed its electoral system in an undemocratic manner during the British rule. The system of direct elections to Council of State (upper house) and indirect elections to Legislative Assembly (lower house) were introduced in India by amending rules and regulations. Under the Government of India Act of 1935, the Governor still had powers which reduced the powers of the ministry. There were many changes took place in the electoral system of India during the pre and post-Independence period. The Election Commission of India conducted 16 General Elections to Parliament and State Legislatures and also the Individual positions of President and Vice-President of India since Independence. So, the present study has conducted an in-depth study on the overall functions of the Election Commission in conducting general elections across the country.

The present study has also covered on the gradual changes that have taken place in the Election Commission in relations to its origin, structure, responsibilities, role, initiatives as well as the links and expectations of all the stakeholders such as the government, the political parties and the voters in general in the context of electoral administration. The present study traces not only the electoral process but also the election machinery up from the Centre to the State levels. The study also

focuses on the various issues, problems and challenges being faced by the Election Commission while conducting general elections to Parliament and State legislatures.

1.7 Methodology:

The present research work on the changing role and functions of the Election Commission of India has been conducted on the basis of a Content Analysis and descriptive study. Content Analysis has been done on Compendium, Annual Reports of Election Commission of India (ECI) and Official Websites of the ECI and on personal interactions with the officials of the Election Commission. Further, Content Analysis of Documents and Notifications relating to Election Commission of India are also carried out to understand the administrative setup and the changing role of Election Commission of India. The descriptive study has been carried out to study the electoral system during the British rule. A conceptual study has been conducted on the origin and functions of elections from the Pre-Independence period and also the origin, powers and functions of the Election Commission till date.

On the other hand, Empirical study has also been conducted to study and analyze the problems and challenges being faced by the Election Commission and to provide the major findings on the overall working and suggestions have been made for the proper and smooth functioning of the Election Commission in conducting free, fair and impartial elections in India.

The present study has dealt with based on the origin, history, structures, functions, original role, changing role, issues, problems, challenges and possible solutions in relation to the working of the Election Commission of India. To achieve

these objectives, data has been collected both from the primary and secondary sources. Primary Sources were collected an interaction with the functionaries at the Central level and their counterparts such as the Chief Electoral Officer with his or her subordinate Officers at the State level. Secondary Sources have also collected from documents, annual reports and publications of the Election Commission of India, both published and unpublished works apart from books, journals; newspapers (local and national) and other relevant materials were extensively used for the present study. Personal interviews have also been conducted with the official's functionaries at the Central as well as State levels to collect relevant data and information on the changing role and functions of the Election Commission.

1.8 Chapterization:

The present study is organized into Seven Chapters.

The First Chapter is an introductory part of the whole body of the thesis. It starts with the meaning and definitions of elections in the democratic countries in the world. It traces the origin of elections during the British rule in India. The chapter focuses on the formation of Election Commission of India under the provisions of Article 324 of the Constitution of India. It also highlights some changes in the administrative set up of the Election Commission of India. It discusses the statement of the problems for which remedial measures are suggested, review of literature on books, articles, reports, etc., which have direct and indirect link to the topic of the thesis, scope of the study, research questions containing the objectives of the study, methodology of data collection from the primary and secondary sources.

The Second Chapter has dealt with electoral administration - a conceptual study by reflecting the meaning, definition and nature of election in a democracy. It also covers classifications, significance, and function of elections, electoral cycle, three models of the elections - independent model, governmental model and mixed model. This chapter also focuses on the concept and relevance of electoral administration under the Global, Indian and Contemporary scenario on various issues and dimensions of electoral administration like- rights of new voters, use of EVM, EPIC, NOTA, etc., are also discussed in this chapter.

The Third Chapter traces with the origin and history of elections from the ancient period to pre- Independence period. It discusses the origin and history of Election Commission of India in the post-independence period by adding Constitutional provisions relating Elections and Election Commission of India. In this chapter, electoral laws and the Representation of the People Acts, of 1950 and 1951 are also discussed.

The Fourth Chapter discusses the original structure, powers and functions of Election Commission of India in a chronological manner. The chapter contains changes in the Commission from time to time from a single member to multi-member Commission and the status of Chief Election Commissioner and other Election Commissioners are also discussed in this chapter.

The Fifth Chapter has dealt with the changing role of the Election Commission starting from the traditional functions to present day functions performed by the Election Commission of India. It also discusses the model code of conduct and several initiatives and the new steps like Voter Verifiable Paper Audit

Trail (VVPAT), None of the Above (NOTA), etc., were taken by the Commission in recent years to ensure free and fair elections in the country.

The Sixth Chapter discusses different issues, problems and challenges faced by the Election Commission of India. Some problems relating to the existing infrastructure, finance, personnel, lack of awareness among the people or voters, coordination with the Central government and State governments, political pressure, filing of nominations, misuse of money and muscle power, limits on expenditure, funding patterns, checking of criminalization of politics, electoral fraud, buying of votes, misinformation, misleading or confusing ballot papers, preparing clean electoral rolls, duplication of electoral rolls have been discussed in this chapter. Some of the challenges like increase in population and increase in number of polling stations, difficulty in maintaining accurate voter list, criminals contesting elections, to carry out peaceful elections in sensitive areas, three types of major challenges such as muscle power, misuse of government resources and black money, malpractices during elections, paid media or misuse of media by political parties during elections, management of electoral rolls also discussed.

The Final Chapter is divided into two parts: Part – I and Part – II. The first part of the Chapter contains a brief summary of all the previous chapters. The meaning and definitions of elections in the democratic countries in the world have been discussed. The study has also traced the origin of Election Commission of India from the pre-Independence period. It has an in-depth study on the changing role and functions of the Election Commission of India. It also discusses the various problems and challenges being faced by the Commission. The study reveals that the

Election Commission conducted successfully general elections to Parliament and State Legislative Assemblies with facing some problems. The second part of the Chapter contains the major findings and suggestions for the improvement of the Election Commission of India to ensure free and fair elections in the country. Four research questions have been formulated in the study which is attempted and solved with relevant information for the smooth functioning of the Election Commission of India.

To sum up, the present Chapter is the introduction to the study. It discusses the general introduction of the topic, research problems, review of the literature, objectives of the study, research questions, and scope of the study, methodology, chapterization, and a brief discussion on all the chapters.

CHAPTER- II

Electoral Administration: A Conceptual Study

- 2.1 Meaning, Definition and Nature of Election in a Democracy
- 2.2 Classifications, Significance and Functions of Elections
- 2.3 The Electoral Cycle
- 2.4 Three Models of Electoral Administration
 - 2.4.1 The Independent Model of Electoral Administration
 - 2.4.2 The Governmental Model of Electoral Administration
 - 2.4.3 The Mixed Model of Electoral Administration
- 2.5 Concept and Relevance of Electoral Administration
- 2.6 Electoral Administration - The Global Scenario
 - 2.6.1 Electoral system in India
 - 2.6.2 Electoral System in USA
 - 2.6.3 Electoral Systems in the newly democratic countries
 - 2.6.4 Electoral System in South Africa
 - 2.6.5 Electoral System in Latin America
 - 2.6.6 European Countries with Common Parliament
- 2.7 Electoral Administration - The Indian Scenario
 - 2.7.1 Indian Electoral process from the first General elections of 1951 & 1952 to the Last General elections of 2014 under the Constitution of India
 - 2.7.2 Elections to Local Self Government - Rural and Urban

2.7.3 Elections to Individual positions of President and Vice-President of India

2.7.4 Electoral machinery at the State level

2.7.5 Electoral machinery at the District level

2.7.6 Electoral machinery at the Constituency level

2.8 Electoral Administration - The Contemporary Scenario

The previous Chapter has a brief introduction to the present study covering the scope of the research, review of existing literature relating to the thesis and research problem, the objectives and the methodology and chapterization. It also covers a brief introduction of elections and Election Commission of India during the pre and post - Independence period. In this chapter, we will discuss the electoral administration as a conceptual study by explaining the meaning, definition and nature of election in a democracy. Different classifications, significance, functions of elections, electoral cycle, three models of elections - independent model, governmental model and mixed model will be discussed. It will focus on the concept and relevance of electoral administration under the global, Indian and contemporary scenario on various issues and dimensions of electoral administration like- rights of new voters, use of Electronic Voting Machines (EVM), Electors Photo Identity Card (EPIC), None of the Above (NOTA), etc., are also discussed in this chapter.

2.1 Meaning, Definitions and Nature of Election in a Democracy:

Democracy and elections are the two sides of the same coin. In order to understand the meaning and role of elections in any society, one needs to contextualize the election process. Elections are double-edged weapons in the context of rising of democracy and in the formation, stable and permanent political order.¹ The concept of an election is essentially an individualizing notion. It assumes that various class, status and other social identities and forms of actions are less significant in political life than many people believe. Elections require people to think of themselves as momentarily atomized if only during the time they are in the voting booth.²

According to Webster's Dictionary, election means the act or process of choosing a person for an office, position or membership by voting. According to the Representation of the People Act, (R.P Act) 1951, the word 'election' means an election to fill a seat in either House of Parliament or the Legislature of a State.³

The word 'election' has been used in Article 329(b) of Part XV of the Constitution of India. It is also evident that the word election is used in India in wide sense i.e. the expression 'election' used in the Constitution of India is intended to cover comprehensively all the diverse steps involved in the process of selecting a representative from issuing of a notification calling an election up to the declaration of

¹ R.H Taylor (1996). *The Politics of Elections in South East Asia*, Woodrow Wilson Center Press and Cambridge University Press p.8

² *Ibid.*, p.9

³ *Representation of the People Act, 1951*

the results.⁴ In our Constitution the word 'election' has been used in the wide sense as including the entire process of election commencing with the issue of a notification and with the declaration of election of a candidate.⁵

The term election was interpreted in 1952 during the elections to the First Lok Sabha in a wide sense as well as narrow sense. In a narrow sense, it is used to mean the final selection of a candidate which may embrace the result of the poll when there is polling or a particular candidate is being returned unopposed when there is no poll. In the wide sense, the term is used to connote the entire process culminating in a candidate being declared elected.⁶ In Article 324 of the Constitution of India, the term 'conduct of election' encompasses within it the wide meaning of the term election. The superintendence, direction and control of the conduct of elections referred to in Article 324(1) of the Constitution have been entrusted to the Commission. The words superintendence, direction and control are comprehensive enough to include all powers necessary for the smooth conduct of elections. A direction may mean an order issued to a particular individual or a guideline which many may have to follow. It may be a specific or a general order. One has to remember that the source of power is the Constitution, the highest law of the land, which is the repository and source of all legal powers and any power granted by the Constitution for a specific purpose should be

⁴ *Representation of the People Act, 1951 under sections 14 & 15 and under section 66*

⁵ Raisa Ali (1996). *Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications. p.20

⁶ Susanne Hoeber Rudolph (2002). *New Dimensions in Indian Democracy*. *Journal of Democracy*. p. 52

construed liberally so that the object for which the power is granted is effectively achieved.⁷

Elections in a democracy can be defined as a process *Politischer Willensbildung* i.e as a means through which the political opinion or will of the public is shaped. They help people to crystallize their interests and to give expression to them.⁸ Elections are an important instrument not only reflecting hopes and aspirations of the people but also for bringing about the exquisite changes if these hopes and aspirations are suppressed or bypassed.⁹

On the other hand, the election is the device through which a modern State creates among its citizens a sense of involvement and participation in public affairs. It is through popular elections that the authority of a government receives its legitimacy. It also makes a peaceful and orderly transfer of authority to new leaders possible. In a democratic system, elections are institutionalized procedures for choosing representatives for electoral offices. Elections now days have become very expensive. Elections are like the red blood cells in a democratic body politics.¹⁰

⁷ Atul Kohli (2001). *The Success of India's Democracy*, Cambridge University Press. p.1

⁸ Horst Hartmann (1971). *Political Parties in India*. Meerut: Meenakshi Prakashan. p.148

⁹ Anjana Kaw Bhagat (1996). *Elections and Electoral Reforms in India*. New Delhi: Vikas Publishing House p.7

¹⁰ Prabhat Datta (1997). *India's Democracy: New Challenges*. New Delhi: Kanishka Publishers. p.25

Election is an important part of the parliamentary game and parliamentarianism is the main wheel of the political system.¹¹ Free and fair elections are the foundation of a democratic system. For the success of democracy and electoral process, it is essential that the elections should be free and fair. First, every aspiring candidate should have unfettered freedom to offer himself or herself as a candidate for election and to conduct the election campaign in his or her own way so long as it is within the limits of the law. Second, every voter should be free to vote as he or she likes without any fear of consequences and without being unduly influenced by anyone by improper incentive or pressure of any kind. Third, the secrecy of the voter's preference for any candidate should be maintained. Fourth, the election machinery should function honestly and impartially at every stage.¹² The election provides wider opportunities to represent the choices to the citizens of the country to choose the candidate to manage their affairs. The election is a mechanism, which represents the will of the people.¹³

Election is not the only mode of inducting office-bearers in a government. The legislators are inducted into office through elections. In some democratic countries like United States of America (USA) Judges are elected, but all Judges are not elected. Elections invest representative character in the legislatures and the executive which

¹¹ Sushela Kaushik(1982). *Elections in India Its Social Basis*. New Delhi: Swatantra Bharat Press. p.7

¹² Raisa Ali (1996). *Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications. p.36

¹³ P. Rathnaswamy (2004). *Electoral reforms: Law and Institutions of India and World*. New Delhi: Book Well. p.22

enables them to reflect the popular will.¹⁴ Political parties could be strengthened in the process of elections and a good election system ensures four Rs such as Representative, Responsible and Responsive and Right in the context of democracy.¹⁵ Elections, as they are organized at present, have been evolved mostly in western countries where a culture of adversary relationship prevails.¹⁶ Elections have acted as a catalyst for political and social change in India. Politics of elections is always linked with the nature of emerging political culture in a country.¹⁷

Election may be recognized as a device to determine the authority for governance of the country for a defined period.¹⁸ The process of election becomes a sacred political exercise in a representative democracy. It is, therefore an essential condition for the success of democracy based on rule of law. Free and fair elections are the indicators of democratic culture.¹⁹

¹⁴ N.R.Inamdar (1991). 'Theoretical Approach to Elections, Implication for Outcomes of Elections Administration in India' in *Quarterly Journal of IIPA July-Sept, Vol-XXXVII No. 3*. New Delhi: pp.267-268

¹⁵ RV.Indiresan (1991). 'Electing Representative, Responsible and Responsive Legislators' in *Quarterly Journal of IIPA July-Sept, Vol-XXXVII No. 3*. New Delhi: p.294

¹⁶ *Ibid.*, p.301

¹⁷ C.P.Bhambhri (1991). 'Elections and Political Change' in *Quarterly Journal of IIPA July-Sept, Vol-XXXVII No. 3*. New Delhi: p.304

¹⁸ S.R Maheshwari (1982). *Electoral Politics in the National Metropolis*. Delhi: Ritu Publishers. p.1

¹⁹ *Ibid.*, p.1

Free and fair elections are the heart and soul of the representative form of democracy. Without a free and fair election, election loses its meaning and sense. Thus, we can say that election is the life blood of democracy.²⁰ In democracy, the will of the people is decided through periodical elections. Elections provide a vital link between the people and the government. It satisfies the democratic goals to determine the winners, but the winners are not always friendly with each other. Elections are also important for converting promises into performances.²¹

Elections are central to the functioning of modern democracies and constitute the principal mechanism for exercising the control by the people on their representatives. It gives legitimacy to govern in a democratic system. Elections have occupied a special role in the field of media and politics.²² Election is a method by which a citizen of a country participates in public affairs, clothing the government with legitimacy and thereby helping in the peaceful transfer of power to a new government. This is the bedrock of a representative democracy.²³ Every election is a potential turning point in history and deserves a full study as a contemporary event, an opportunity to observe politician and party organizations at full strength to examine the influence of

²⁰ Shriram Masheshwari (1991). 'The Conscience Keeper of Indian democracy: The Election Commission' in *Quarterly Journal of IIPA July-Sept, Vol-XXXVII No. 3*. New Delhi: p.349

²¹ J. Stephen Wayne (2013). *Is this any way to run a Democratic Elections*. Washington DC: Fourth Edition, CQ Press A Division of SAGE. pp.252-253

²² P.V Sharada (1998). *Radio -Television and Elections*. New Delhi: Concept publishing company. p.1

²³ Mamta Gupta (1992). *The Battle of the Ballot Election 1991 with By-Election update*. Jaipur: India Bhalotia Printers.p.178

press and broadcasting, to assess the involvement of ordinary citizens. So, elections are exciting and important events.²⁴ Elections shape the destiny of nations.²⁵

In Book II chapter 2 of his book-*The spirit of Laws*, Montesquieu states that in the case of elections in either republic or democracy, voters alternate between being the rulers of the country and being the subjects of the government. An election is a formal decision-making process by which a population chooses an individual to hold public office. Elections have been the usual mechanism by which modern representative democracy operates since the 17th century. Elections may fill offices in the legislature, sometimes in the executive and judiciary, and for the regional and local government. Elections were seen as in domestic theory, as a way of allowing the expression of diverse but not ultimately destructive or challenging, interests and cultures in pluralistic societies, preserving the rights of minorities while championing the power of the majority. Elections are essential legitimizing acts in the eyes of the capitalist democracies with aid to dispense, which for reasons of their own domestic politics and personal ideals which to be seen assisting fellow or at least struggling democracies.²⁶

Elections are the central mechanism of representative democracy and operate in two interlinked ways. On the one hand, elections allow voters to choose between rival

²⁴ David Butler and Ashok Lahiri and Prannoy (1984). *A compendium of Indian Elections*. New Delhi: Arnold- Heiemann Publishers. p.14

²⁵ *Ibid.*, p.16

²⁶ Feith Herbert (1962). *The Decline of Constitutional Democracy in Indonesia*. Ithaca: Cornell University Press. pp.38-45

agendas for public policy. These are presented by political parties or leaders and the winning 'team'. On the other hand, elections allow voters to choose between rival office-holders: voters choose between rival candidates for public office, as much on their personality as on their policy platform or party affiliation and the winning candidate becomes the head of the executive branch of government.²⁷ The elections help in perpetuating the myth of the sovereignty of the people thereby lending credibility to parliamentary democracy and effectiveness to the electoral mechanism.²⁸

2.2. Classifications, Significance and Functions of Elections:

Elections can be classified into three types such as Competitive Elections as Democratic Systems, Semi-Competitive Elections as Authoritarian Systems and Non-Competitive Elections as Totalitarian Systems. Under competitive elections, people have the right to choose their representative by casting votes. Under semi-competitive elections, elections are held but only to confirm the power of the established political forces but the opposition parties are allowed to express their views to some extent. Under non-competitive elections, elections serve as important tools for strengthening power structure without questioning to it. The elections play a vital role to control the Communist Party and the State. The opposition parties are not permitted to articulate their views. This classification systematically reflects something which is understood by those subject to the authoritarian or totalitarian rule in its various historical contexts;

²⁷Simon Hix (1999). *The Political System of the European Union*. New York: PALGRAVE Houndmills, Basingstoke, Hampshire RG21 6XS and 175 Fifth Avenue. p.166

²⁸ Sushela Kaushik (1982). *Elections in India: Its Social Basis*. New Delhi: Swatantra Bharat Press. p.15

the fundamental change in political conditions begins with the holding of competitive elections. Therefore, it is not simply 'elections' which are demanded but rather free elections which guarantee citizens' freedom to choose among the political alternatives that are presented without restrictions.²⁹

In the democratic political systems, there are different types of elections such as Presidential election, General elections, Primary election and Bye-election. In a parliamentary system, a general election is an election in which all or most members of a given political body are chosen. Primary elections are means by which a political party nominates candidates for the next general election, here no candidate is elected. Bye-election is an election held to fill a political office that has become vacant between general elections to replace someone who has resigned or died.³⁰ In a Parliamentary form of Government in India, there are generally three types of elections through which the members of the legislature are elected such as General Elections, Mid-Term Election and Bye-Election.

The major function of elections is to provide opportunities and channels for political participation.³¹ The functions of elections will be different in a parliamentary system or presidential system of government. In a parliamentary system of government,

29 Dieter Nohlen (1984). *Elections and Electoral Systems*. New Delhi: India Macmillan India Limited. pp.2-6

30 J.P. Garg & Viplav (2010). 'Encyclopedia of electoral reforms and political development' in *1st Edited volume-I "Reforms in Electoral system*. New Delhi: Vista International Publishing House. pp.1-2

31 Norman D. Palmer (1976). *Elections and Political Development-The South Asian Experience*. New Delhi: Vikas Publishing House. p.57

the real power belongs to the Prime Minister, President, cabinet or the Chancellor etc., and the law making powers are exercised by the Legislators.

Table No. II – 1

Determinations of the behavior of the individual voter:

Structure of Political System	Competitive elections	Semi- competitive elections	Non- competitive elections
Significance of elections in the political process	high	low	minimal
Freedom of candidacy	high	limited	none
Freedom of elections	assured	limited	abolished
Transition of power possible ?	yes	no	no
Legitimation of the political system	yes	hardly ever attempted	hardly ever or never
Type of political system	democratic	authoritarian	totalitarian

Source: Dieter Nohlen (1984) *Elections and Electoral Systems*, Macmillan Limited, First Edition.p.6

The above table shows that the functions of elections and the behavior of the individual voter are determined by the structure of the political system. The electorate expresses its confidence in the person elected and a representative parliament is chosen. Government can be controlled, re-elected or defeated by the people through elections in a democratic countries.

Elections are institutions that can encourage change in social attitudes by destroying patterns of high esteem and forcing elects to recognize the legitimacy of a

loyal opposition. In the same way, elections cause affirmation of an identity people may not feel.³² Every election is a potential turning point in history and deserves a full study as a contemporary event, an opportunity to observe politicians and party organizations at full stretch, to examine the influence of press and broadcasting, to assess the involvement of ordinary citizens. Elections are exciting and important contemporary events.³³

Election has by long usage in connection with the process of selection of proper representatives in democratic institutions, acquired both a wide and a narrow meaning. In the narrow sense, it is used to mean the final selection of a candidate which may embrace the result of the poll when there is polling or a particular candidate being returned unopposed when there is no poll. In the wide sense, the word is used to connote the entire process culminating in a candidate being declared elected.³⁴

Elections serve as a means of communication between the public and the government.³⁵ Election involves people into politics or public affairs through participation and mobilization, provides political linkages, resolves conflicts and also brings about peaceful and orderly change of authority to the new leaders through the

³² J.P. Garg & Viplav, *op. cit.*, p.10

³³ David Butter, Ashok Lahire & Prannoy Roy.*op.cit.*, p.14

³⁴ Raisa Ali (1996). *Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications. p.20

³⁵ Jeevan Nair & U.C.Jain (2000). *Electoral System in India*. Jaipur: Pointer Publishers. p.87

elections.³⁶ Election becomes a sacred political exercise in a representative's democracy. Elections bring masses of citizens into active participant and even decision making roles in the political system, or they may serve system maintenance or linkage functions without much active participation or decision-making influence.³⁷ So, the election is an essential condition for the success of democracy participated by the people to maintain their obligation for the successful of democratic institutions.

2.3 The Electoral Cycle:

The Electoral Cycle is a visual planning and training tool designed to assist development agencies, electoral assistance providers and electoral officials in partner countries to understand the cyclical nature of the various challenges faced in electoral processes.³⁸ In every election, there are many electoral processes like the design and drafting of legislation, the recruitment and training of electoral staff, electoral planning, voter registration, the registration of political parties, the nomination of parties and candidates, the electoral campaign, polling, counting, the tabulation of results, the declaration of results, the resolution of electoral disputes, reporting, auditing and archiving. After the end of one electoral process, it is desirable for work on the next to begin the whole process can be described as the electoral cycle.³⁹

³⁶ APK. Singh (2009). *Election Politics in Manipur*. New Delhi: Mittal Publications. p.563

³⁷ Norman D.Palmer (1976).*Elections and Political Development-The South Asian Experience*. New Delhi: Vikas Publishing House. p.104

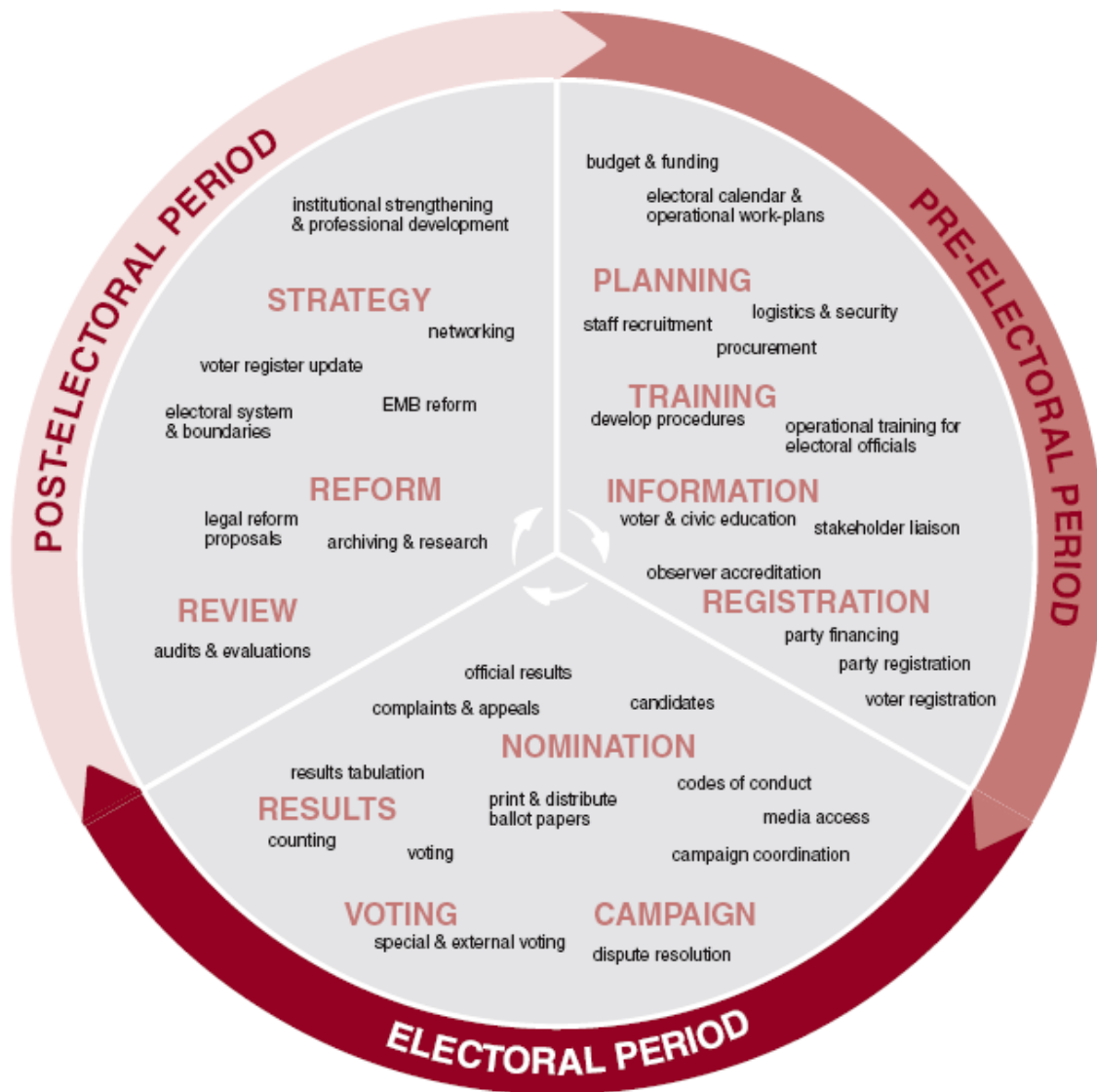
³⁸ <https://www.google.co.in/search?q=Meaning+of+electoral+cycle>. Accessed on 7.8.2016

³⁹ *International IDEA, Electoral Management Design Handbook*. 2006. p.16

The electoral cycle can be illustrated as below:

Figure No. II – 1

The Electoral Cycle



Source: *International IDEA, Electoral Management Design: The International IDEA Handbook .2006.*
p.16

In the Indian context where the parliamentary form of government prevails with bi-cameral legislatures such as Lok Sabha and Rajya Sabha comprising 545 members in Lok Sabha and 250 members in Rajya Sabha. The 543 members of Lok Sabha are directly elected by the people for a term of five years and the remaining two members are nominated by the President of India from Anglo Indian Community. Out of 250 members of Rajya Sabha, 238 members are elected by the members of the Legislative Assemblies of all States and Union Territories (UTs) and the remaining 12 members are nominated by the President of India from eminent artists (including actors), scientists, jurists, sportspersons, businessmen and journalists and common people.

The first general election was conducted by the Election Commission in 1951-1952. For the first time in 1951, the names of 250 persons were called for the members of the Rajya Sabha, they were divided into three groups giving a chit with number 1, 2 and 3. Those who were given chit number 1 served only two years and those who were given chit number 2 served four years and those who were given chit number 3 served the full term of six years and this was the origin of the six years term of Rajya Sabha which 1/3 of the member retires every two years.

2.4 Three models of Electoral Administration:

Some countries have electoral bodies which exist during the electoral period only. Such countries may follow any of the Independent, Governmental or Mixed Models. In some cases, the governmental model of elections has to be temporary because the civil servants who run elections with other full-time duties during electoral

periods only. However, some countries with a governmental model maintain a small skeleton staff to take care of electoral issues between elections, including updating the electoral register.⁴⁰

There are three types or models of elections such as Independent, Governmental and Mixed Models.

2.4.1 The Independent Model of Electoral Administration:

The Independent Model of Electoral Administration exists in those countries where elections are organized and managed by institutions which are independent and autonomous from the executive branch of government and manages its own budget. It may be accountable to the legislature, the judiciary, or the head of State. The newly democratic countries in the world have chosen the Independent Model of electoral management. In some countries, the two bodies are established for the management of elections, one of these bodies is likely to have responsibility for policy decisions relating to the electoral process, and the other to be responsible for conducting and implementing the electoral process.⁴¹

2.4.2 The Governmental Model of Electoral Administration:

The Governmental Model of Electoral Administration exists in those countries where elections are organized and managed by the executive branch through a ministry of the Interior or through local authorities. This model exists at national level led by a

⁴⁰ International IDEA , Handbook.*op.cit.*,p.17

⁴¹ *Ibid.*, p.7

minister or civil servants who are answerable to a cabinet minister. Some countries like Denmark, Singapore, Switzerland, the United Kingdom (UK) and the United States follow this type of model. Elections are implemented by local authorities in Sweden, Switzerland, the UK and the United States.⁴²

2.4.3 The Mixed Model of Electoral Administration:

In the Mixed Model of Electoral Administration, there are two component electoral bodies and dual structures like a policy and monitoring or supervisory. Under the Mixed Model, elections are organized by the component governmental electoral management body with some level of oversight provided by the component Independent Electoral Management Body (IEMB).⁴³

Table No. II – 2

Different types of Electoral Models in the World

Sl.No	Models of Electoral Administration	Total No. of Countries and Territories
1.	Independent Model	120 Countries and Territories
2.	Governmental Model	51 Countries and Territories
3.	Mixed Model	31 Countries and Territories
	Total	202 Countries and Territories

Source: *International IDEA, Electoral Management Design Handbook*. 2006. pp.304-322

⁴²International IDEA , *Handbook.op.cit.*,p.7

⁴³ *Ibid.*, p.8

The above table shows that there are three types of electoral models in the world, out of 202 Countries and Territories in the world, 120 Countries and Territories follows Independent Model, 51 Countries and Territories follows Governmental Model and 31 Countries and Territories follows Mixed Model of elections.

According to International Institute for Democracy Electoral Assistance (IDEA) 2006 survey of electoral management, in 214 countries and territories worldwide showed that 55 per cent followed the Independent Model, 26 per cent the Governmental Model and 15 per cent the Mixed Model (the remaining 4 per cent corresponds to countries that do not hold national-level elections).

2.5 Concept and relevance of Electoral Administration:

The Electoral Administration is a holistic experience. It has three essential aspects to work in harmony such as the electoral machinery; the law and order machinery and the monitoring mechanism for enforcing code of conduct during the electoral process.⁴⁴ These three aspects determine the quantity of understanding, reliability and the effectiveness of the machinery.

In some countries where elections are conducted by the Executive, both governing and administrative bodies are usually organized into central, provincial and local levels. Governing bodies comprise of national electoral commission, regional or

⁴⁴ Kamala Prasad (1991). 'Free, Fair, Peaceful Election and the Administration' in *Quarterly Journal of IIPA July-Sept*, Vol-XXXVII No. 3. New Delhi: p.377

provincial electoral commissions, local or municipal electoral commissions and polling station committees. In the older western democracies, elections were conducted by the interior ministry and the local municipal authorities. In some countries where government-run elections were supervised by Electoral Commissions comprising Judges and representatives of political parties. As a historical development, elections have been managed by Electoral Commissions that are independent of the executive. The latter has become the prevailing model of electoral administration today.⁴⁵

Article 21 of the Universal Declaration of Human Rights (UDHR) of 1948 contained the main legal international standards instruments for democratic elections which provided that:⁴⁶

- 1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- 2) Everyone has the right of equal access to public service in his country.
- 3) The will of the people shall be the basis of the authority of government; this will be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 25 of the UN International Covenant for Civil and Political Rights (ICCPR of 1966) also provided that the eight democratic principles such as:⁴⁷

⁴⁵ www.undp.org/.../Electoral Administration Arab World En.pdf. Accessed on 27.10.2016

⁴⁶ Article 21 of the Universal Declaration of Human Rights of 1948

- (1) periodic elections
- (2) universal suffrage
- (3) equal suffrage
- (4) right to stand for public office
- (5) right to vote
- (6) secret ballot
- (7) genuine elections and
- (8) free expression of the will of the people

So, it is necessary for election management bodies and other public authorities to be enforced neutrality of law, fair legal provisions and good will.

⁴⁷ *Article 25 of the UN International Covenant for civil and political rights (ICCPR of 1966)*

Table No. II – 3

Different Countries from Different Regions of the World according to different Type of Electoral Administration

TYPE OF ELECTORAL ADMINISTRATION	GOVERNMENTAL MODEL (40 COUNTRIES)	MIXED MODEL (31 COUNTRIES)	INDEPENDENT MODEL (114 COUNTRIES)
NORTH AMERICA AND WESTERN EUROPE (26 COUNTRIES)	Austria, Belgium, Denmark, Finland, Germany, Greece, Ireland, Italy, Luxemburg, Norway, San Marino, Sweden, Switzerland, United Kingdom, USA 15	Andorra, France, Italy, Iceland, Monaco, Netherlands, Portugal, Spain 8	Canada, Lichtenstein, Malta 3
LATIN AMERICA AND THE CARIBBEAN (33 COUNTRIES)	Grenada 1	Argentina, Belize, Cuba 3	Antigua and Barbuda, Bahamas, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint KittsNevis, Saint Lucia, Saint Vincent, Suriname, Trinidad and Tobago, Uruguay, Venezuela 29
ASIA AND THE PACIFIC (36 COUNTRIES)	Democratic People’s Republic of Korea, Iran, Marshall Islands, Micronesia (The Federated States of), Nauru, New Zealand, Singapore, Sri Lanka, Tonga, Tuvalu, Vietnam 11	Japan, Lao People’s Democratic Republic, Maldives, Timor-Leste 4	Afghanistan, Australia, Bangladesh, Bhutan, Cambodia, Fiji, India, Indonesia, Kiribati, Malaysia, Mongolia, Nepal, Pakistan, Palau, Papua New Guinea, Philippines, Republic of Korea, Samoa, Solomon Islands, Thailand, Vanuatu 4
ARAB STATES (15 COUNTRIES)	Algeria, Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Syria, Tunisia 10	Djibouti 1	Iraq, Sudan, Yemen, Occupied Palestinian Territories 4

EASTERN EUROPE AND CIS (30 COUNTRIES)	Cyprus, Czech Republic 2	Hungary, Slovakia 2	Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Macedonia (the former Yugoslav Republic of), Montenegro, Poland, Republic of Moldova, Romania, Russian Federation, Serbia, Slovenia, Tajikistan, Turkey, Turkmenistan, Ukraine, Uzbekistan 26
AFRICA* (45) COUNTRIES	Sao Tome and Principe 1 1	Burundi, Cameroon, Cape Verde, Central Ghana, African Republic, Chad, Congo, Cote d'Ivoire, Equatorial Guinea, Gabon, Madagascar, Mali, Senegal, Togo 13	Angola, Benin, Botswana, Burkina Faso, Comoros, Democratic Republic of the Congo, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Seychelles, Sierra Leone, South Africa, Swaziland, Uganda, United Republic of Tanzania, Zambia, Zimbabwe 31

Source: UNDP – April 2011 – *Comparative experience in Electoral administration and the Arab World*.p.19

2.6 Electoral Administration: The Global Scenario:

In all the democratic countries in the world, elections are conducted before the expiry of its normal terms and the methods of elections are also different from one

country to another. Globalization has brought rapid and dynamic changes in electoral administration. Some changes are influenced by different types of Electoral Management Bodies (EMBs) by moving away from the hierarchical structures and routines of the past. Election officials are also working together with well-established networks by exchanging and sharing information and experiences to find solutions for a various problems facing at regional, national and international levels. The first Conference of the Global Electoral Organization Network for regional electoral officers which were convened in Ottawa in April 1999 discussed the following objectives. Such as ⁴⁸

- (a) To provide an opportunity for associations of electoral officials to link with each other in a global professional network.
- (b) To offer organizational and programmatic models for collaboration and cooperative ventures among members and between associations or with the supporters of electoral governance projects.
- (c) To serve as a forum in which to identify areas of need in electoral governance and programmes which can be developed to respond to those needs.
- (d) To identify a common agenda for all electoral management bodies around the world.

⁴⁸ *International IDEA, Electoral Management Design Handbook. 2006. p.282*

In fact, no electoral system is the same and all systems have their own special features and peculiarities.⁴⁹ To understand the electoral administrations of democratic countries in the world, it is essential to identify and study the following electoral systems of democratic countries with some newly Independent countries in the world.

2.6.1 Electoral System in India:

The Indian electoral system dates back to the Government of India Act, 1919 and 1935, under the British rule which introduced limited suffrage based on property, community, religion and other qualifications.⁵⁰ India has its present electoral system since the first election was held in 1952. The modern Indian electoral system is based on the representation of the people, where people exercise their powers through their representatives selected by the process of free and fair elections.⁵¹

The elections are conducted by the Election Commission of India. All members of the Lok Sabha, except two members nominated by the President of India, are directly elected through general elections which take place every five years in a normal situation by universal adult suffrage and a first-past-the-post system. The members of the upper house of the Indian parliament – Rajya Sabha are elected by elected members of the Legislative Assemblies of the States and the Electoral College for the Union Territories of India. The elected members are chosen under the system of proportional

⁴⁹ P.Rathanaswamy(2004). *Electoral Reforms:Law and Institutions of India and World*. New Delhi: Book Well. p.9

⁵⁰ Morley, Recollections (1946). *Indian Constitutional Documents* Vol.II, p.181. A.C. pp.238-241

⁵¹ Raisa Ali (1996). *Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications. p.28

representation by means of the single transferable vote. The twelve nominated members are usually appointed from eminent artists (including actors), scientists, jurists, sportspersons, businessmen and journalists and common people.

The electoral process in India starts with the declaration of dates by the Election Commission. The model code of conduct comes into force from the day that the dates are announced. The polling is held normally from 7 AM to 5 PM, whereas it might be changed under special circumstances. Electronic Voting Machines (EVMs) are being increasingly used instead of ballot boxes to prevent election fraud via booth capturing, which is heavily prevalent in certain parts of India. Electronic voting machines (EVMs) are being used in Indian general and State elections to implement electronic voting in part from 1999 elections and in total since 2004 elections to reduce the time in both casting a vote and declaring the results compared to the old paper ballot system. An indelible ink which has applied usually on the left finger of the voter as an indicator that the voter has cast his vote has been followed since the 1962 general elections to prevent a bad vote. Re-polling happens if the initial polling is unsuccessful due to reasons such as adverse weather, violence etc. The polled votes are counted to announce the winner. India follows first past the post methodology to declare the winner.

On 14th, August 2013, the Government of India amended the elections rules to permit the use the Voter-Verified Paper Audit Trail (VVPAT) system. This new system of Voter-Verified Paper Audit Trail (VVPAT) was first implemented in a bye-election in the 51 Noksen Assembly Constituency of Nagaland. About 8 of 543 parliamentary

constituencies as a pilot project in Indian general election of 2014, VVPAT is implemented in Lucknow, Gandhinagar, Bangalore South, Chennai Central, Jadavpur, Raipur, Patna Sahib and Mizoram constituencies.⁵²

The Election Commission of India has implemented the option of "none of the above" (NOTA) voting option in EVM machines for five States polls starting from November 2013. The main objective of the NOTA option is to enable electors who do not wish to vote for any of the candidates to exercise their right not to vote for any candidate without violation of the secrecy of their decision.⁵³ However it does not mean that if 'NOTA' gets highest votes, then the election will be conducted again, rather even in that case, the candidate with the highest votes will be treated as an elected candidate.

2.6.2 Electoral System in the United States of America (USA):

The American Constitution does not give details of electoral provisions but there is a greater association of voters with public affairs. The United States is a federation with elected officials at the Federal (national), State and Local levels. The Federal Election Commission (FEC), created in 1975 by an amendment to the Federal Election Campaign Act has the responsibility to disclose campaign finance information, to enforce the provisions of the law such as the limits and prohibitions on contributions and to oversee the public funding of United States (U.S) Presidential elections. The

⁵²*Data collected from personal visit of the ECI. New Delhi on 10.06.2015*

⁵³*ECI Newspaper, July – September. 2015.p.5*

Federal Election Commission (FEC) of the United States of America consists of six Commissioners appointed by the President with the advice and consent of the Senate. They can be members of political parties, but not more than three Commissioners can be members of the same political party. They serve for a term of six years; two of them retire every two years.⁵⁴ The President, members of both houses of Congress and even the Judges in some States are elected. The President, who is the head of the State, is elected indirectly by the people through an Electoral College. The President is elected for a term of four years, Members of the House of Representatives for two years and Senators for Six years, one- third of them being elected every two years. The election is by secret ballot, generally, there are two types of ballot used in different States. In one ballot paper, the names of the candidates are placed in the party column. In another ballot, the names of the candidates of all parties are placed office-wise and this facilitates a better choice.⁵⁵

⁵⁴ S.Y. Quraishi(2014).*The making of the Great Indian Election*. New Delhi: Rupa Publication.p.36

⁵⁵ Jeevan Nair & U.C.Jain(2000). *Electoral System in India*. Jaipur: Pointer Publishers. pp.110-111

The most common method used in the elections of the United States is the first-past-the-post system, where the highest polling candidate wins the election. Today, the electors practically always vote with the popular vote of their State. All members of the federal legislature, the Congress are directly elected. There are many elected offices in all the levels of State, Local, Counties and Cities. The United States has a presidential system of government which means that the executive and legislature are elected separately. Congressional and presidential elections take place simultaneously every four years and the intervening Congressional elections which take place every two years are called Mid-term elections. At the local level, county and city government positions are usually filled by election, especially within the legislative branch. The extents to which offices in the executive or judicial branches are elected vary from county-to-county or city-to-city.⁵⁶

⁵⁶ https://en.wikipedia.org/wiki/Elections_in_the_United_States. Accessed on 25.09.2015

2.6.3 Electoral Systems in the newly democratic countries:

Electoral System of Afghanistan: Afghanistan officially the Islamic Republic of Afghanistan, is a sovereign nation-state located within South Asia and Central Asia. The modern political history of Afghanistan had begun with the Hotak and Durrani Dynasties from the 18th century. Elections were held in the Kingdom of Afghanistan in the 1960s. During the Soviet occupation after 1979, they were never an internationally recognized standard. During this period, the universal franchise to include women was adopted. After the defeat of Taliban in late 2001, the anti-Taliban Afghan factions assembled in Bonn to agree on future stability and democratic government. Afghanistan has established a well-democratic system in late 2001. This Bonn Agreement in Dec. 2001 recognized Afghan's Sovereignty. There was no existing Afghan institution to conduct election but Afghan authorities were responsible for neither the election nor a legal framework to make a credible election possible.⁵⁷

In early 2003, the United Nations body created an Electoral Management Body. In mid-2003 an Interim Joint Electoral management Body (JEMB) was created Afghan as an international member. In the early 2004 the United Nations (UN) component was transformed into an advisory service to an Afghan- led secretariat responsible to the

⁵⁷ *An Electoral Management Body Evolves: A Case study of Afghanistan* by Reginald Austin on International IDEA, *Electoral Management Design Handbook*. 2006. p.113

Joint Electoral Management Body. This organization conducted presidential elections in 2004.⁵⁸

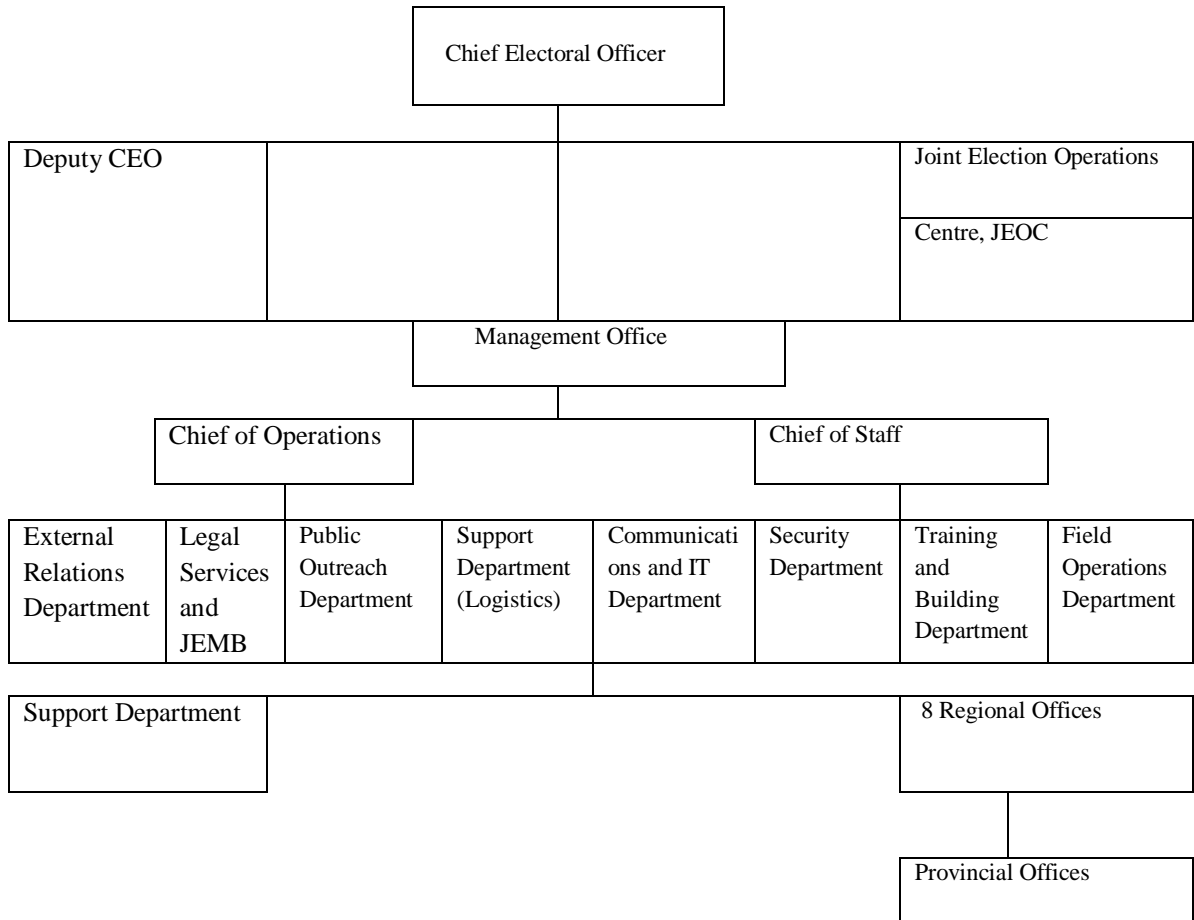
In early 2005 the Joint Electoral Management Body (JEMB), Afghanistan Commissioners were replaced by a new set of Afghan nationals and some of its international members were also replaced, the secretariat was replaced by an Electoral component appointed by UN Assistance Mission in Afghanistan (UNAMA) to conduct 2005 parliamentary elections. The Joint Electoral Management Body with its secretariat of national and international staff played an important role in preparing and drafting the Election Laws and related decrees. Finally, in late 2005 the Joint Electoral Management Body was replaced by the Independent Election Commission (IEC).⁵⁹

⁵⁸ *An Electoral Management Body Evolves: A Case study of Afghanistan* by Reginald Austin on *International IDEA op.cit.,p.114*

⁵⁹ *Ibid.,p.117*

Chart No. II – 1

Organizational Structure of Independent Election Commission of Afghanistan.



Source: *International IDEA, Electoral Management Design Handbook*. 2006. p. 127

Electoral System of Iraq: Iraq was a Constitutional monarchy with a bi-cameral legislature consisting of an elected House of Representatives and an appointed Senate under the Iraqi Constitution of 1925. The term of the lower house was 4 years by manhood suffrage (the women did not vote). Ten general elections were held before the overthrow of the monarchy in 1958. The electoral system was manipulated by the King and his Advisors. Between 1958 and 2003 Iraq was ruled by a series of military governments all dominated by Iraqi Arabs. In 2003, the multinational forces' invasion of Iraq overthrew Saddam's government and installed an Interim Administration. During the transitional period, Coalition Provisional Authority (CPA) was empowered to create Independent Electoral Commission of Iraq (IECI) as order no. 92 of 31st May 2004 to be the exclusive electoral authority throughout the country. The Independent Electoral Commission of Iraq (IECI) was set up as an Independent and autonomous non-partisan with neutral and professional government office mandated to organize, oversee, conduct and implement all elections set forth in the law of administration for the State of Iraq during Transitional period. All general elections to Transitional National Assembly (TNA), the Kurdistan National Assembly (KNA) and Governorate Councils were successfully conducted by the Independent Electoral Commission of Iraq (IECI) on 30th January 2005. An electoral law was adopted on 12th September 2005 for the 15th December general elections.⁶⁰

⁶⁰ *International IDEA, Electoral Management Design Handbook.2006.Case Study on Iraq by Jarrett Blanc pp.106 - 109*

The Independent Electoral Commission of Iraq (IECI) has two major components- the Board of Commissioners and the Electoral Administration comprising of seven voting members and a non- voting Chief Electoral Officer. An international electoral expert was appointed by the UN to serve as non-voting members of the Board. The electoral administration is headed by the Chief Electoral Officer (CEO) to implement and conduct elections under the Board's authority. The administration of the National Assembly was elected in Dec. 2005. However, the Independent Electoral Commission of Iraq (IECI) put efforts to have build support for the concept of Independent Electoral Administration. Generally, Iraq's elections were not turning on party platforms, but on sectarian and ethnic interest. Security is very high for the election. There are major restrictions on movements during Election Day. Any citizens who is 18 years or older is eligible. The United Nations did most of the work on Iraqis electoral procedures and the election is being supervised by the Independent Electoral Commission of Iraq (IECI) and Iraqi group assisted by U.N Officials.⁶¹

⁶¹*International IDEA, Handbook.2006.Case Study on Iraq by Jarrett Blanc. op.cit.,pp.106 - 109*

2.6.4 Electoral System in South Africa:

The Union of South Africa was created on 31st May 1910 by the South Africa Act 1909, an Act of the Imperial Parliament. The House of Assembly (the lower house of the newly created Parliament of South Africa) and the Provincial Councils were elected by the First-Past-the-Post voting in single-member electoral divisions. Elections to these houses were conducted every 5 years on the basis of First-past-the-post voting in single member electoral divisions. Elections in South Africa are held for the National Assembly, Provincial Legislatures and Municipal Councils. The Elections are run by an Independent Electoral Commission (IEC) who administers every part of the elections to ensure that are free and fair elections. Each political party chooses one person to represent the party in each Constituency. Provincial and national elections are held together and have to take place every five years. The Independent Electoral Commission (IEC) is responsible for all the logistic of running elections including the setting up of voting station in the most remote rural areas installing telecommunication facilities and setting up a computer network to link all voting stations. The Electoral Act of 1998 makes specific provisions for accrediting neutral observers for South African electors only organization can apply to the Independent Electoral Commission (IEC) to observe electors.⁶²

⁶² https://en.wikipedia.org/wiki/Elections_in_South_Africa. Accessed on 25.09.2016

2.6.5 Electoral System in Latin America:

Latin America consists of 27 Sovereign States and several territories. Competitive elections were introduced in Latin America in different phases. After 1928, elections were held in Argentina, Chile, Columbia and Uruguay but Chile reverted to authoritarianism. Some countries held elections in the period roughly from 1943 to 1962, though again many countries did not retain democratic governments. From the beginning of the mid-1970s, competitive elections were introduced gradually throughout most of Latin America. Most of the countries in Latin America adopted the presidential type of governments with bi-cameral legislature and Governors and Municipalities at the provincial levels. The term of the Parliaments also differs from one country to another. Some members/deputies are elected for four years while others are elected for 5 years. Some countries like Costa Rica, Ecuador, El-Salvador, Guatemala, Nicaragua, Panama, Honduras, Peru adopted uni-cameral legislatures for 3years, 4years, 5 years and 6 years simultaneously. The electoral laws governing legislative election project an extremely complex scenario under the common denominator of proportional representation which does not tend to work in practice. Legislative elections in a large number of countries are carried out the lists of candidates that are closed and blocked to ensure controlled by political parties.⁶³

⁶³ https://en.wikipedia.org/wiki/Latin_America. Accessed on 17.10.2016

2.6.6 European Union with Common Parliament:

The European Parliament in Brussels represents people living in the 28 member countries of the European Union (E.U) on matters such as foreign affairs development, agriculture, civil liberties and fisheries. The member countries elect their representatives to the European Parliament which consists of 567 directly elected members sitting according to the party affiliation and not nationality. Direct elections to the European Parliament were introduced in 1979. Direct and universal elections to the European Parliament were first held in the member States of that European Community in June 1979 and have been held every five years since June 1984 and the last elections were held in June 2014. The procedures for electing the European Parliament are governed both by European Legislation defining rules common to all member States and by specific national provisions which vary from one state to another. The common rules lay down the principle of proportional representation and certain incompatibilities with a mandate as a member of the European Parliament. The election of the representative of the European Parliament should be direct universal suffrage. The Maastricht Treaty of 1992 provided the elections must be held in accordance with uniform procedure.⁶⁴

According to Article I of the Council Decision 2002/772 provide that elections must be based on Proportional Representation with single transferable vote system. In European election, most of the member-States function as a single constituency, however, five member States (Belgium, France, Ireland, Italy and UK) have divided

⁶⁴ https://en.wikipedia.org/wiki/European_Union. Accessed on 25.07.2016

their national territory into a number of regional constituencies. The voting age is 18 years in all member States except Austria, where it is 16. The minimum age to stand for election is 18 years in all Member States, except as being Belgium, Bulgaria, Cyprus, the Czech Republic, Estonia, Ireland, Latvia, Lithuania, Poland and Slovakia (21) Romania (23) and Italy and Greece (25).

The year 2016 is a landmark for the European Union due to the Brexit of Britain from the European Union. Article 50 of the Treaty on European Union, states that any country can join or withdraw his membership from the European Union. Britain joined European Union in 1973. The balance in the European Council on economic policy debates would shift, with the loss of a large member States supporting liberalization.

2.7 Electoral Administration: The Indian Scenario:

Under the Government of India Act of 1935, there was no provision for the establishment of Election Commission of India for performing the function of holding free and fair elections to the Federal Legislatures and the Provincial Assemblies. The Govt. of India Act of 1935 by its schedule I laid down that it was the function of the Federal Government to conduct elections for the composition of Federal Assembly and its paragraph 27 entrusted Governor General with all rule-making and elections conducting powers.⁶⁵

⁶⁵ U.N Gupta (1986).*Indian Parliamentary Democracy*. New Delhi: Atlantic Publishers and Distributor. p. 326

Only once the election was held under this system in 1939. India has adopted the British Westminster system of the parliamentary form of government. We have an elected President, elected Vice-President, elected Parliament and elected State Legislature for every State. Now, we also have elected municipalities, panchayats and other local bodies.

2.7.1 Indian Electoral process from the first General Elections of 1951&1952 to 2014 under the Constitution of India:

Under Article 324 of the Constitution of India, the Election Commission was established for the superintendence, direction, planning, and preparations and conducting of elections to Parliament, State Legislatures and the offices of President and Vice- President of India in accordance with the Constitution and statutes.⁶⁶ Under Article 71 and 327, laws relating to the elections of the offices of President and Vice-President and to Parliament and State Legislatures have been enacted. The parliament has enacted laws relating to Presidential and Vice-Presidential Elections Act 1952, this Act has been supplemented by the Presidential and Vice-Presidential Elections Rules 1974.

Under Articles 243 K and 243 ZA any laws relating to the conduct of elections to municipalities, Panchayats and other local bodies are framed by the respective State Legislatures. Under Article 71 of the Indian Constitution, the Supreme Court decides all

⁶⁶ *Data collected from personal visit of the ECI, New Delhi on 20.01.2016*

disputes relating elections to the office of President and Vice-President. The matters relating to elections disputes to municipalities, etc. are decided by the lower courts in accordance with the laws made by the respective State Governments.

There are three types of elections in India such as (1) General Elections - It is held when the legislature completes its term of five years. (2) Mid-term Election- If the Government falls due to lack of Confidence in the Lok Sabha or the State Assembly before completion of its full-term and no alternative government is possible, mid-term elections are held. (3) Bye- Election-It is held in case of vacation of any seat due to death or resignation of the elected members during the term of the legislature.⁶⁷

The first general election in India was conducted in the years of 1951-1952 with total number 1874 candidates for 489 elective seats. In the last General Election held in 2014, there were 8251 candidates for 543 elective seats. For the first time, the General Elections were conducted using 10.75 lakh Electronic Voting Machines in the country replacing completely the traditional system of ballot papers and ballot boxes.

⁶⁷ *Data collected from personal visit of the ECI, New Delhi on 20.01.2016*

Table No. II – 4**Summary of the General Elections of 1951-1952 – 2014 in India:**

<i>Year</i>	<i>Total Number of seats</i>	<i>Total Number of candidates</i>	<i>Total Electorate</i>	<i>Total Number of Votes Polled</i>	<i>Total Number of Polling Stations</i>
1951-52	489*	1,874	1,73,212,343	105,944,495	196,084
1957	494*	1,519	1,93,652,179	1,20,513,915	2,20,478
1967	520	2,369	2,50,207,401	1,52,724,611	2,43,693
1971	518	2,784	2,74,189,132	1,51,536,802	3,42,918
1977	542	2,439	3,21,174,327	1,94,263,915	3,73,910
1980	529/542**	4,629	3,56,205,329	2,02,752,893	4,36,813
1984-85	541/542****	5,492	4,00,375,333	2,56,294,963	5,06,058
1989	529/543*****	6,160	4,98,906,129	3,09,050,495	5,80,798
1991-92	534/543*****	8,749	5,11,533,598	2,85,856,465	5,91,020
1996	543	1,3952	5,92,572,288	3,43,308,090	7,67,462
1998	543	4,750	6,05,880,192	3,75,441,739	7,73,494
1999	543	4,648	6,19,536,847	3,71,669,104	7,74,651
2004	543	5,435	6,71,487,930	3,89,948,330	6,87,402
2009	543	8,070	71,69,85,101	41,72,36,311	8,30,866
2014	543	8251	834,101,479	553,801,801	9,30,000

Source: *General Elections 2014 Reference Handbook Published by Press Information Bureau, Ministry of Information & Broadcasting. Govt. of India.* p.139 & website: www.eci.nic.in. Accessed on 21st.Oct. 2016

From the above table, we have seen star mark (*) which shows that some Constituencies were representing 2 or 3 seats up to 1975 election. In 1980 general

elections to 7th Lok Sabha 12 seats in Assam and 1 seat in Meghalaya were not held along with the whole country. In 1984 general elections to 8th Lok Sabha, 14 seats were held in Assam and 13 seats were held in 1985 general election. 14 seats of Assam were not held in the general election of 1989. In the general election which was held in 1991, 13 seats in Punjab and 6 seats in Jammu & Kashmir (J & K) were not held. In 1991 general election, 2 seats in Bihar and 1 seat in Uttar Pradesh were not held.

2.7.2 Elections to Local Self Government – Rural and Urban:

Local bodies are institutions of the local self-governance to look after the administration of an area or small community such as villages, towns, or cities. The Local bodies in India are broadly classified into two categories. The local bodies constituted for local planning, development and administration in the rural areas are referred as Rural Local Bodies (Panchayats) and the local bodies which are constituted for local planning, development and administration in the urban areas are referred as Urban Local Bodies (Municipalities). There are different types of local bodies such as Corporations, Municipalities, Zilla Parishads, District Panchayats, Panchayat Samitis, Gram Panchayats. Seats are also reserved for scheduled castes, scheduled tribes, backward classes and women. The elections to local bodies are conducted by State Election Commissioner with the help of District Collector (DC) and Tehsildar.⁶⁸ The

⁶⁸ <http://www.elections.in/political-corner/process-local-body-elections>. Accessed on 17.10.2016

elected members select a president among themselves to preside over the meetings of these bodies.

2.7.3 Elections to individual positions - President and Vice President of India:

The President is indirectly elected by the people through Electoral College consisting of both members of Parliament, the Legislative Assemblies of all the States and Union Territories. The Vice-President is also indirectly elected by an electoral college consisting of members of both houses of the Parliament in accordance with the system of Proportional Representation by means of the Single transferable vote and the voting is by secret ballot. The election of the Vice-President is slightly different from the election of the President as the members of state legislatures are not part of the Electoral College for the vice-presidential election. Under the Presidential and Vice-Presidential Elections Act of 1952, a candidate is to be nominated for the office of President needs 50 electors as proposers and 50 electors as seconders for his name to appear on the ballot.

2.7.4 Electoral Machinery at the State Level:

Under the superintendence, directions and control of the Election Commission, the State government appointed the Chief Electoral Officer (CEO) to supervise the preparation and revision of all electoral rolls and the conduct of elections to members of State legislatures. The Chief Electoral Officer is appointed or designated from amongst the competent State Senior Officers who are possessing necessary background by the

Election Commission of India in consultation with the State. As per the rule, the CEO must function as a whole time officer during the general election. He or she must be assisted by the Joint or Deputy Chief Electoral Officers (Jt/Dy.CEO).The administrative set up of the office of the Chief Electoral Officer has varied from State to State as well as in point of time. Some States have whole time Chief Electoral Officers (CEOs) while others have part-time ones i.e. they are burdened with other duties as well.⁶⁹

2.7.5 Election Machinery at the District level:

The organization of the election machinery at the district level varies from State to State. There are three patterns of such organizations in some States, there is a whole time District Election Officer (DEO) in every district with a nucleus office of his own; in other States, an administrative officer in the district is placed in charge of election work in addition to his normal duties and he is provided with a nucleus office for the election work and yet other States there is no separate individual pattern as the election work is done by normal administrative machinery.⁷⁰ There is an obvious need for adequate and permanent election machinery in the district as well as in the sub-divisions to conduct elections successfully.

⁶⁹ Jeevan Nair &U.C Jain (2000).*Electoral System in India*. Jaipur: Pointer Publisher.pp.20-21

⁷⁰ Jeevan Nair & U.C.Jain.*op.cit.*, p.21

2.7.6 Election machinery at the Constituency Level:

At the constituency level, the two phases of election work like preparation of electoral rolls and actual conduct of elections are entrusted to separate officers - Electoral Registration Officer (E R O) and the Returning Officer (R O) respectively.⁷¹ On the advice of the Election Commission, the Government of India issued notifications on January 1st.1961 for inclusion of names in the electoral rolls. For each Constituency, the Election Commission in consultation with the State government designates or nominates a Returning Officer who is an officer of the State government as well as one or more Asst. Returning Officers to assist him in performing his functions. He is normally of the rank of District Collector (D C) and Sub-Divisional Officer (S D O) and is in charge of the conduct of elections. He receives nomination papers and within the limit set by the electoral laws decides on the validity of constituency and appoints a Presiding Officer (PRO) for each polling stations and such Polling Officer (P O) or officers as he thinks necessary.⁷² The entire district is treated as a unit from the view point of conducting the poll.

2.8 Electoral Administration: The Contemporary Scenario:

To ensure free and fair elections in India, the Election Commission of India has taken necessary steps for the improvement of our electoral systems in our country. In order to bring about various improvements and reforms in the electoral administration

⁷¹ Jeevan Nair & U.C.Jain.*op.cit.*, p.22

⁷² *Ibid.*, p.23

in contemporary scenario on various issues and dimensions have been taken by the Election Commission such as

(1) Electronic Voting Machines (EVMs): The Electronic Voting Machines are being used in Indian General and State Elections to implement electronic voting in part from 1999 elections. It replaced paper ballots in Local, State and General (parliamentary) elections in India. It consists of two units, control unit and balloting unit. EVMs are easier to transport in compared to ballot boxes as they are lighter, more portable, and come with polypropylene carrying cases. Vote counting is also faster. In places where illiteracy is a factor, illiterate people find EVMs easier than ballot paper system. Bogus voting is greatly reduced as the vote is recorded only once.⁷³

⁷³ https://en.wikipedia.org/wiki/Electronic_voting_in_India. Accessed on 07.05.2015

Figure II-2

Electronic Voting Machine:



Source: www.eci.nic.in. Accessed on 07.05.2015

(2) Comparison between the working of the ECI during Paper Ballot System and EVM System: The Election Commission of India has been conducted general elections by using paper ballot system from the very first general election to Lok Sabha in 1951 & 1951 to 1999 in all over the country. The electoral system has been improving with the introduction of EVM in 1999. We can compare the old system (paper ballot system) and the new system (Electronic voting machines) as under:

Table No. II – 5

**Comparison between the Old System (Paper Ballot System) and New System
(Electronic Voting Machines System)**

Paper Ballot System	EVMs System
Time consuming	Time saving
Long time voting	Less time voting
Long time counting	Less time for counting
Fear of booth-capturing	Fear of tampering
Fear of rigging	Counter tampering charges with the introduction of VVPAT

Source: Based on Data collected from the ECI Headquarters, New Delhi

(3) Electors Photo Identity Card (EPIC): The Electors Photo Identity Card is an identity document issued by the Election Commission of India which primarily serves as an identity proof for Indian citizens while casting votes in the country's Local bodies, State, and National elections. It also serves as general identity, address, and age proof for other purposes such as buying a mobile phone, Subscriber Identification Module (SIM) Card or applying for a passport. It was first introduced in 1993 during the tenure of the Chief Election Commissioner TN Seshan.⁷⁴ The Commission has issued Electors Photo Identity Cards (EPIC) in 1993 to prevent electoral fraud in our

⁷⁴ https://en.wikipedia.org/wiki/Voter_ID_India. Accessed on 20.03.2015

country and started using in 1994 in some Constituencies. After ten years it was mandatory from 2004 elections. Any persons who have completed 18 years of age have to register themselves in the Constituency where they live upon which they will be issued photo election identity cards. Any citizens who have not registered or do not possess a voter Identity Card (ID) are not permitted to participate in the electoral process.⁷⁵

(4) Rights of Voters granted by the Constitution of India: The Indian Constitution has granted the right to vote to all Indian citizens of who have completed age of 18 yrs irrespective of an individual's caste, religion, social or economic status. Voting is not a fundamental right but is a legal right granted to citizens. Some of the rights of new voters as granted and safeguarded by the Indian Constitution are as follows:-

(a) Right to Know about candidates: All voters have the right to know about the candidates who are contesting for the elections. In order to make democracy healthy and fresh, citizens have right to know about Candidates to whom they prefer as their representative.

⁷⁵ [https://en.wikipedia.org/wiki/Voter ID. India](https://en.wikipedia.org/wiki/Voter_ID_India). Accessed on 20.03.2015

(b) Right Not to Vote (NOTA): Voters have been granted the right not to vote also known as NOTA (None of the above) which is recorded in the system. The voter participates in the election but chooses not to vote for any of the candidates contesting the elections.

(c) Special Assistance to Infirm and Illiterate Voters: As per the guidelines of the Election Code, any voters who are unable to cast their votes due to physical disability or other such infirmity can take the assistance of an electoral officer, who will record their vote.

(d) Voting rights of NRI: An NRI (Non Resident Indians) was not permitted to vote until recently. However an amendment was made in 2010 which allows NRI's to register themselves as voters and vote in elections, even if they have not been in the country for over 6 months for any reason.

(e) Tendered Votes: Tendered vote applies to an individual who declares himself a voter and seeks to cast his vote when a vote has already been cast in his name. In such a case the individual can cast his vote if he can provide proof as to his identity. His vote will be recorded on a separate ballot paper as decided by the Election Commission.

(f)Postal Ballot: Postal ballots are issued for those individuals who are unable to visit a polling booth in persons like members of the Armed Forces posted across the country and overseas, to individuals who are on election duty (such as electoral officers,

policemen on duty etc). The postal ballot can also be granted to those individuals who are under preventive detention, resulting in their inability to visit a polling booth and cast their vote in person.

This chapter has discussed the meaning, definitions and nature of elections in a democratic country in the world. It also covers the main classifications, significance and functions of elections. The electoral cycle and the three types of election models are also discussed. This chapter also focuses on the concept and relevance of electoral administration under global, Indian and contemporary scenario on various issues and dimensions of electoral administration like- rights of new voters, use of EVM, EPIC, NOTA, etc., are also discussed in this chapter.

CHAPTER – III

Origin and History of Election Commission of India

- 3.1 Origin and history of Elections in Ancient Period
- 3.2 History of elections during Pre-Independence Period
- 3.3 Origin and history of Election Commission of India in the Post-Independence Period
 - 3.3.1 Composition of Election Commission of India
 - 3.3.2 Appointment of Chief Election Commissioner(CEC) and Election Commissioners (ECs)
 - 3.3.3 Qualifications for Chief Election Commissioner (CEC) and Election Commissioners (ECs)
 - 3.3.4 Role of the Chief Election Commissioner
 - 3.3.5 Relationship of Election Commission of India with India International Institute of Democracy and Electoral Management (IIIDEM)
- 3.4 Constitutional Provisions on Elections and Election Commission of India
- 3.5 Electoral Laws and Representation of the People Acts of 1950 and 1951

The previous chapter discusses the meaning, definitions and nature of elections in democratic countries in the world. It also covers the main classifications, significance, and functions of elections. The electoral cycle and the three types of

election models are also discussed. It has also focused on the concept and relevance of electoral administration under global, Indian and contemporary scenario on various issues and dimensions of electoral administration like- rights of new voters, use of EVM, EPIC, NOTA, etc. In this chapter, we will discuss the origin and history of elections from the ancient period to pre- Independence period. The present chapter will also trace the origin and history of Election Commission of India in the post- Independence period by adding Constitutional Provisions on elections and Election Commission of India. The Electoral Laws and Representation of the People Acts of 1950 and 1951 will also be discussed in this chapter.

3.1 Origin and history of elections in Ancient Period:

Elections were used in history as early as ancient Greece and ancient Rome and throughout the medieval period to select rulers such as the Roman Emperor and the Pope. The modern 'election' which consists of public elections of government officials, did not emerge until the beginning of the 17th century when the idea of representative government took hold in North America and Europe.¹

From times immemorial, taking decisions or running the affairs at the level of individual families or at the community level, collectively and with the consensus of all concerned has been the pervading philosophy of Indian way of life. Republican forms of government existed in many parts of ancient India. There are numerous references to

¹ Viplav (2010). *Encyclopedia of Electoral Reforms and Political Development*. New Delhi: Vista International Publishing house. p.1

such Governments in the Buddhist literature. In ancient India, voting was by tickets (Salaka) slips of wood of different opinions. Complicated and serious matters were often referred to a Special Committee selected from among the Members of the Assembly. The Samitis and Sabhas (assemblies and the council of the Kings) were aristocratic bodies.²

Elections in India are not a new phenomenon or a new concept born in modern times. The nature of franchise for election to the popular assemblies was not fully known. While in the aristocratic republics, the basis appears to have been a family in other States, all adult male persons who were not otherwise disqualified appears to have had their right to vote. Apart from the evolution of the democratic form of government in sovereign States in ancient India as described above, the genius of India also evolved as a natural growth, the system of autonomous and almost self-sufficient village communities, under every system of government. Even after the Republican States were absorbed within empires the system of regulating the local corporate life through popular assemblies survived for very long time.³

During the Muslim period, the affairs of the trade corporations and the villages continued to be carried on by popular assemblies. A fundamental change came with the British administration when revenue, Judicial and legal affairs were centralized and conducted away from the villages. Adult franchise on a liberal scale had been common

² A.S Altekar (1972). *State and Govt. in Ancient India*. Varanasi: Mittal Banarasidas. p.80

³ S K.Menduratta (2006). *How India Votes- Election Laws, Practice and Procedure*. New Delhi: New Model Impex Pvt.Ltd . p.3

in various parts of ancient India and by providing for universal adult suffrage, the country boldly achieved the consummation of its electoral aspirations on a national basis.⁴

3.2 History of elections during the Pre-Independence Period:

During the pre-Independence period, the unity of India was very much diluted by the existence of communal and separate electorates.⁵ The Government of India Act of 1858 marked a turning point in the history of legislatures in India. The Act was said to be the Prime Charter of the Indian Legislature inaugurating the system of legislative devolution in India. It introduced important changes in the machinery for legislation both at the Centre and Provincial levels.⁶

The Indian Councils Act, 1892 was the result of the pressure exerted by the Congress for responding to the growing Indian demand for representative institutions. The adoption by the British Parliament of the Indian Councils Act, 1892 with a view to giving the people of India a real living representation in the Legislative Councils was regarded as a victory for the Congress in so far as the British Government for the first time recognized the representative element in the enlarged Councils. The Congress had

⁴ S K.Menduratta *op.cit.*, pp.3-4

⁵ Anjana Kaw Bhagat (1996).*Elections and Electoral Reforms in India*. New Delji: Vikash Publishing House, Pvt. Ltd. p.27

⁶ C. Subhash Kashyap (1994). *History of Parliament of India*. New Delhi: Shirpa Publications. p.34

the satisfaction of being responsible for unifying Indians for the common purpose of their political enfranchisement.⁷

The electoral system in India developed during the British rule in an undemocratic manner. During the British period, the Indian Legislatures were restricted franchise and only a small fraction of the population was eligible to exercise the right to vote. The elective element was first introduced under the Indian Council Act of 1882. The British Crown in India introduced an indirect election in India by amending the rules and regulations for the election of eight members of each Provincial Council by Municipalities, District Boards, Chambers of Commerce, Universities, etc. and four for the Supreme Council by the non-official members of the local councils.⁸ The reforms introduced under this Act were restricted as well as unsatisfactory. The right of election was not conferred upon any religious community but it was left to the Governor-General and the provincial Governors were to nominate persons belonging to certain religious bodies in case they failed to secure adequate representation by election.⁹

When the British Parliament in the 19th century took over from the East India Company, the Government of India Act 1858 had provided for the Constitution bodies to legislate on local laws under the Indian Councils Act of 1861.¹⁰

⁷B. Pattabhi Sitaramayya(1935). *History of Indian National Congress*. Vol-I. p.28

⁸ N.S.Gehlot (1992).*Elections and Electoral Administration in India*.New Delhi: Deep and Deep Publications. p.2

⁹ S.L Sikri (1978). *A Constitutional History of India*. Vol. I. Jullundhur, S.Nagin and Co. pp.70-72

¹⁰ SK.Mendurrata, *op.cit.*, pp.2-4

Important changes were made in the constitution and functions of the Indian Legislatures by the Indian Councils Act of 1909. The Act enlarged the size and function by increasing from 16 to 60 excluding the Executive Councilors who were ex-officio members and the size of the Legislative Councils in the Presidencies/Provinces was also more than doubled. The Act required the members of the Legislative Councils should include elected as well as nominated members. Under this Act, the First Central Legislative Council was formed as 7 ex-officio members, 28 nominated official members, 5 nominated non-official members and 27 elected members. The total member came to 68 including Viceroy. To elect the 27 members of this Council, the system of the general electorate or normal territorial representation was not accepted. The members were elected by classes, communities, interests and by the Provincial Councils. Out of 27, five were elected by Muslims, six by landlords, one by Muslim Landlord, one by the Chamber of Commerce of Bengal, one by the Chamber of Commerce of Bombay and the remaining 13 by the non-official members of the Provincial Legislative Councils. There was a little relation between the members of the Councils and the mass of the people of the 27 elected members, only nine were supposed to represent the people of India as a whole.¹¹ The Indian Councils Act of 1909 part of the Minto-Morley Reforms provided elections to the legislative Councils under the Governor General and Provincial Governors. But, these elections were based on the limited suffrage of special Constituencies, namely municipalities, districts and

¹¹ John Cuning (1932). *Political India- 1832-1932*. Oxford. pp.171-172

local boards, universities, chambers of commerce, trade associations, holders, tea planters and others.¹²

The Government of India Act of 1919 introduced many important changes in the Indian Constitutional system. Indian Legislative Council was replaced by a bi-cameral Legislature consisting of a Council of State (upper house) members of 60 were to be elected directly for 5 yrs and the Legislative Assembly (lower house) 145 members were indirectly elected for 3 yrs. The elections of the two houses of the Indian Legislature were held six times under the 1919 Act, during 1920 – 1947. The elections to the Council of State were held 4 times during 1920-1936. Out of 60 members, 33 were elected, 17 were nominated officials and 10 were nominated non-officials. It may be of interest to recall that women were not entitled to be elected to the council or to vote for election to it.¹³ The Government of India Act of 1919 not only retained separate electorates for Muslim, but also, extended it to others like Sikhs in Punjab, Indian Christians, Anglo-Indians, Europeans and evens to non-Brahmins in Madras Presidency¹⁴. Elections were also part of the Constitution of India Act of 1919 under the sunshade of the Montagu-Chelmsford Reforms.

¹² James Michael Lyngdoh (2004). *Chronicle of an Impossible Elections: The Election Commission on the 2002, Jammu and Kashmir Assembly Elections*. Noida: Saurabh Printers . pp.49-50

¹³ C.Kashyap Subhash (1994). *History of the Parliament of India*. New Delhi: Vol-I Shirpa Publications. p.91

¹⁴ Brij Kishore Sharma (2005). *Introduction to the Constitution of India*. New Delhi: Ashoke K. Ghosh. Prentice- Hall of India. Pvt. p.6

In the Government of India Act of 1935, the provincial governments were placed under popular control. Under this Act, the Governor still had powers which reduced the powers of the ministry. The Central government was to be a federation comprising of the British India (parts of India ruled by the British) and the Indian States (ruled by the princes). The Central legislature was bi-cameral enjoying identical powers. Elections were to be even more important under the Government of India Act 1935 envisaging a more complex bicameral federal legislature, but this part never came about. All of these elections were simple affairs involving small members and were conducted by the authorities at the centre and the states.¹⁵ The Act also provided for a legislature in every British province. Assam, Bengal, Bihar, the United Provinces, Bombay and Madras were having bi-cameral legislatures consisting of two chambers namely the legislative assemblies and legislative council. The other provinces were having a single chamber called the legislative assembly. General elections were held in 1937 in these provinces.

¹⁵ James Michael Lyngdoh, *op. cit.*, pp.49-50

Table No. III – 1
Years of elections held and dissolutions of the Legislative Assemblies
Under the Govt. of India Act of 1919:

Assembly	Year of the elections	Year of dissolution
First Legislative Assembly	1920	1923
Second Legislative Assembly	1923	1926
Third Legislative Assembly	1926	1930
Fourth Legislative Assembly	1930	1934
Fifth Legislative Assembly	1934	1945
Sixth Legislative Assembly	1945	1947

Source: Kashyap C. Subhash (1994). *History of Parliament of India*. New Delhi: Vol-I First published. Shirpa Publications. p.90

From the above table, we have seen that though the term of Assembly was 5 years, the 5th Assembly had the longest life span. It was elected towards the end of 1934 and was dissolved on 30th Sept. 1945. It had its first sitting on 21st Jan. 1935 and the last sitting on 12th April 1945. During this period, it held 22 sessions consisting of 1040 days. The Assembly met on 700 days constituting more than 51 percent of the days of the session.

Table No. III - 2
Years of elections held and dissolutions of the Council of State
Under the Govt. of India Act of 1919:

Council of State	Year of elections	Year of dissolution
First Council	1921	1925
Second Council	1926	1930
Third Council	1931	1936
Fourth Council	1937	1947

Source: Kashyap C. Subhash (1994). *History of Parliament of India*. New Delhi: Vol-I First published Shirpa Publications, p.95

The British government had earlier indicated that it would like to hand over the Governance of India to the people of India by June 1948. To achieve this object, Lord Mountbatten was appointed as the Governor-General of India in March 1947. However, on his arrival in India, the date of transfer of power to Indian people was advanced from June 1948 to 15 August 1947. Under the Indian Independence Act of 1947, India achieved Independence on 15th August 1947 as an Independent dominion.¹⁶ The Constitution of India was signed by 284 members of the Constituent Assembly on 24th January 1950. On that day, the Constituent Assembly also unanimously elected, under

¹⁶ SK.Mendurrata, *op.cit.*, p.13

Article 380 Dr. Rajendra Prasad as interim President of India till the election of the regular President under the Constitution.¹⁷

One of the unique democratic political institutions evolved in India by the country's own genius was the Panchayat System. As an institution of local self-government at the village level, Panchayats had its origin in ancient India. Jawaharlal Nehru also referred to the existence of democratic institutions at the village level in ancient India. These panchayats were elected by the village folk and thus there was a basis of democracy in this system.¹⁸ Nehru also referred to the inscriptions from south India which tells us how the members of the Panchayats were elected, their qualifications and disqualifications.¹⁹

There was no caste restriction to become members of the village council, though no caste records appear to be available about the election or selection of the members and their qualifications.²⁰

¹⁷ K.Mendurrata,*op.cit.*, p.16

¹⁸ Shriman Narayan, as cited in J.C.Johari (1975). *Indian Government and Politics*. Delhi: p.571

¹⁹ Jawaharlal Nehru (1982).*Glimpses of World History*, Oxford. New Delhi. pp. 25,51&130 & *The Discovery of India*(1981).Oxford, ed., New Delhi: pp.11& 249

²⁰ B. Udgaonka Padma (1969).*The Political Institutions and Administration of Northern India during Medieval Times(from 750 to 1200 A.D.)*. p.78

3.3. Origin and history of Election Commission of India in the Post -

Independence Period:

After independence, India has adopted open and competitive electoral system.²¹

It was originally proposed that the superintendence, direction and control of all elections to the legislature including the appointment of Election Tribunals shall be vested in the Election Commission for the Union or the Unit as the case may be appointed in all cases in accordance with the law of the Union. But, in the Advisory Committee, Dr. Rajagopalachari suggested that the provisions regarding elections should not be included in the Fundamental Rights. Regarding this, Dr. BR.Ambedkar and other members had in their mind a Central Election Commission (CEM) assisted by separate Election Commission for each State subordinate to the Central Election Commission. There were two divergent proposals on the constitution of the Election Commission before the Drafting Committee such as (1) to have a permanent body of four or five members and (2) to have an ad hoc body constituted at the time of peak electoral activity. The Drafting Committee decided to adopt a middle course.²² However, Constitutional Advisor in this Draft Constitution of October 1947 provided for only one Election Commission to be appointed by the President which would have

²¹ P.Rathnaswamy (2004). *Electoral Reforms:Law and Institutions of India and World*. New Delhi:Bookwell publishing. p. Executive summary-XV

²² *Constituent Assembly Debates* C.A.D., Vol.VIII June 15, 1949. p.905

the power of superintendence, direction and control of all elections including those of the State Legislatures.²³

The Election Commission has its roots and origins in the deliberations and recommendations made by the Constituent Assembly appointed immediately the following Independence in 1947. The office of the Election Commission was set up on 25th Jan 1950. The Advisory Committee recommended to the Constituent Assembly, the grant of voting rights to all citizens at the age of 21, the conduct of voting by secret ballot and the superintendence and control of elections to be left under an Election Commission.²⁴

3.3.1 Composition of Election Commission of India:

Under Article 324(2) of the Constitution of India, the Election Commission of India consists of the Chief Election Commissioner and other Election Commissioners. The Chief Election Commissioner stands at the apex of the hierarchy of the Election Commission of India and enjoys a fixed tenure of office.²⁵ To assist the Chief Election Commissioner in the performance of his duties, there exists a large staff of the officers and the staff subordinate to him. Article 324 (3) states that if other Election Commissioners are appointed, the Chief Election Commissioner shall act as the

²³ Narendra Chapalgaonkar(1997). *Law of Elections*.New Delhi: An AIR Publication- All India Reports Pvt.Ltd . p.7

²⁴ Dushyantha Mendis (2008). *Electoral Processes and Governance in South Asia*. Kandy Sri-Lanka. Sage Publications. p.161

²⁵ JK Chopra(1989).*Politics of Election Reforms in India*. New Delhi: Mittal Publications.p.2

Chairman of the Election Commission. Originally, the Election Commission was a single member body and it continued to function till 1988. The President of India by issuing a notification on 7th October, 1989 appointed two Election Commissioners on October 16, 1989. When Mr.V.P Singh came to power, the two Election Commissioners were removed. Thus, the multi-member Election Commission was reverted to a single-member Election Commission on 1st January 1990. On 1st. October 1993, the President passed an Ordinance and converted once again to the Election Commission into a multi-member Election Commission and two Election Commissioners were appointed in addition to the Chief Election Commissioner.

3.3.2 Appointment of Chief Election Commissioner and Election Commissioners:

The manner of appointment of Chief Election Commissioner (CEC) and other Election Commissioners (ECs) is extremely critical for the neutrality and a perception of neutrality of the institution.²⁶ Under Article 324(2) the Chief Election Commissioner and other Election Commissioners shall be appointed by the President subject to the provisions of any law made by the Parliament for a term of five years or up to 65 years of age - whichever is earlier. The tenure of the Chief Election Commissioner is thus independent of Executive discretion.²⁷The appointment of the Chief Election Commissioner and Election Commissioners should be made subject to confirmation of parliament by a two-third majority in a joint session of both the Houses of Parliament.

²⁶ S.Y.Quraishi(2014). *The making of the Great Indian Election*. New Delhi: Rupa Publication. p.39

²⁷ N.S Gehlot,*op. cit.*, p.35

In 1990, the Goswami Committee on Electoral Reforms set up by the government recommended that the method of appointments of Chief Election Commissioner and Election Commissioners. The Bill titled the Constitution 70th (Seventieth Amendment) Bill 1990 was introduced at Rajya Sabha on 30 May 1990 but it was withdrawn in 1993 before it could be enacted by Parliament. After that, the appointments of the Chief Election Commissioner and other Election Commissioners have so far been made by the President in consultation with the selection committee and the Council of Ministers headed by the Prime Minister. The first CEC, Shri Sukumar Sen an Indian Civil Service (ICS) assumed charge of his duties on 21st.March 1950, during that time there has not been occasion so far for appointing any other member of the Commission. On the 8th August 1951, the President's sanction was conveyed to the creation on a temporary basis, of four posts of Regional Commissioners to assist the Election Commission in the performance of its functions in connection with the ensuing general elections. Two Regional Commissioners were appointed at the time of first General Elections held in 1951-52 for a period of six months. Only two posts were filled in and these appointments continued until the 1stApril 1952.²⁸

²⁸ *Reports on the 1st General elections in India 1951-52*. Published by Election Commission of India, pp.28-29

3.3.3 Qualifications for Chief Election Commissioner and Election Commissioners:

The Constitution does not prescribe any qualifications, academic or otherwise, for the appointment of Chief Election Commissioner and Election Commissioners. But by Convention, only senior civil servants, either serving or retired, of the rank of the Cabinet Secretary or Secretary to the Government of India or of an equivalent rank have been appointed as the Chief Election Commissioner and Election Commissioners.²⁹

3.3.4 Role of the Chief Election Commissioner:

The Chief Election Commissioner (CEO) occupies an important place in Election Commission which is an autonomous Constitutional body. He performs many powers and functions in conducting elections and in relations with the functionaries of the Commission. Some of the important roles played by the CEO can be discussed as under:³⁰

- 1) The Chief Election Commissioner (CEC) plays important roles on the superintendence, direction and control over all matters pertaining to the elections of the President, the Vice-President, the Parliament and State Legislatures.

²⁹ SK.Menduratta, *op.cit.*, p.187

³⁰ N.S. Gehlot.(1992). Elections and Electoral Administration in India, New Delhi: Deep and Deep Publications.pp.52-53

- 2) It is the duty of the Chief Election Commissioner to get the electoral rolls for all the elections prepared and revised subject to the provisions of the Constitution and Representation of the People Act, 1951.
- 3) He advises the President and the State Governor regarding the disqualifications, by any member of the Union or State Legislature, as the case may be subsequent to his election.
- 4) If and when doubts and disputes arising out in connection with the election arrangements, he may appoints election officers for taking inquiries. He may settle a disputes regarding allotment of symbols to the parties at the time of elections.
- 5) He may postpone the dates of election for some reasons and even cancel elections in case he is satisfied with the complaints about problems relating to election process. His decision cannot be challenged in any court of law.
- 6) He reserves the right to prepare a roaster for central broadcasts and telecast allocating particular days and times to particular parties.
- 7) He may order the rectification of a clerical mistake made by the Delimitation Commission with the prior approval of this authority. He may exempt a person from the disqualification imposed by a judicial.
- 8) He may visit the disturbed areas and make appeals through the mass communication media.

9) Under Section 19A of the Representation of the People Act, 1951 he may delegates his powers to the Dy. Election Commissioner or to the Secretary of the Election Commissioner.

3.3.5 Relationship of Election Commission of India with India International

Democracy and Electoral Management (IIIDEM)

The India International Democracy and Electoral Management (IIIDEM) is an advanced resource centre of learning, research, training and extension for participatory democracy and election management. It is also an autonomous body and undertaking of the Election Commission of India (ECI) and the ECI through its nominees will be represented in both its Governing Body and Programme Advisory Council. In June 2011 the ECI established the IIIDEM as an institute specialized in preparing and grooming a generation of well-trained and committed human resources, through upgrading their expertise, improving professionalism and helping to build up a positive electoral culture in the country as well as internationally.³¹The ECI has a separate budget Head for financial support to uphold the activities of IIIDEM. One of the main aims is to promote inter- institutional contacts and provide technical support to Election Commissions and authorities around the world on request.

³¹ *ECI Newsletter, July-September 2015*.p.20

3.4. Constitutional provisions on Elections and Election Commission of India:

Constitutional Provisions on Elections: Part XV of the Indian Constitution deals with laws relating to the elections in India. Articles (324 to 329) cover all aspects of conducting elections starting from the inclusion of names in electoral roll formulation of laws pertaining to elections such as.³²

Article 324 – Superintendence, Direction and Control of Elections: Laws relating to conduct of elections to President and Vice-president of India, Parliament, State Legislative Assemblies and Legislative Councils

According to Article 324, the Election Commission of India should comprise the Chief Election Commissioner and other Election Commissioners, who will be appointed by the President and also vests in the Commission the powers of superintendence, direction and control of the elections to both Houses of Parliament. Under Article 324(1) of the Constitution of India, the Election Commission of India is vested with the power of superintendence, direction and control of conducting the elections to the offices of the President and Vice-President of India. Article 324 (1) also vests in the Commission the powers of superintendence, direction and control of the elections to both Houses of the State Legislature.

³² www.eci.nic.in. Accessed on 25.08.2016
& Article 324-329 of Part XV of the Indian Constitution

Article 325 – Inclusion of Names in Electoral Roll

According to Article 325, every Constituency will have one electoral roll for both Parliamentary and Assembly elections and no person shall be included or excluded from the electoral roll on grounds of religion, race, caste and sex.

Article 326 – Elections to the Parliament and State Assemblies Based on Adult Suffrage

The practice of conducting elections to the Parliament and State legislatures on the basis of adult suffrage is enshrined in Article 326. It further states that every individual who is a citizen of India and has attained the voting age shall be entitled to be registered as a voter. The exception can happen if the person is disqualified on the ground of non residence, unsoundness of mind, crime or corrupt or illegal practice.

Article 327 – Power of Parliament to Formulate Laws

The Parliament considers Article 327 as an anchor for formulating any law for matters pertaining to elections to either house of the Parliament or the State Legislatures. The Article gives Parliament the power to formulate laws regarding the preparation of electoral rolls, delimitation of constituencies and relevant processes.

Article 328 – Power of State Legislature

The provision of Article 327 empowers the state governments to establish new laws on all matters relating or in connection with the election to the state legislatures. As a manifestation of the government's federal structure, the Indian Constitution guarantees every state the power to make provisions pertaining to the preparation of electoral rolls and other relevant matters.

Article 329 – Prohibits Court's Interference in Electoral Matters

To prevent the judiciary from gaining supremacy and intervening in matters of governance, the Constitution has included Article 329. The Article prohibits courts' interference in electoral matters. No court can question the validity of any law related to the delimitation of constituencies or the allotment of seats. The 52nd Amendment Act of 1985 set the provisions for disqualification of members of Parliament or State Legislature for defecting to another political party after elections.

The provisions deal with general applications and apply to elections to the Parliament and the State Legislatures such as³³

- (a) Article 325 deals with there will be one General Electoral Rolls for every Territorial Constituency
- (b) No person shall be ineligible for inclusion in the Electoral Rolls on grounds of religion, race, caste, sex or any of them.
- (c) Article 325 deals with no person can claim to be included in a special roll on the grounds of religion, race, caste, etc.,
- (d) Adult suffrage shall be the rule for elections. The common disqualifications also highlighted on unsoundness of mind, a conviction for crime, corrupt practice at an election.
- (e) He must be ordinarily resident in the constituency.
- (f) Seats have been reserved for Scheduled Caste and Scheduled Tribe. There is a provision for nomination of not more than 2 members of the Anglo-Indian Community in the Lok Sabha and 1 member in the State Assembly. Apart from these, there is no reservation for any religions or community.

³³ Brij Kishore Sharma (2005). *Introduction to the Constitution of India*. New Delhi: Third Edition Ashoke K.Ghosh. Prentice- Hall of India. pp.304-305

Constitutional Provisions relating to Election Commission of India: Under Article 289 of the Draft Constitution of India as settled by the Drafting Committee on 21.02.1948 provided for a separate Election Commission for the Centre and for each of the States. On 14th May 1949, the Secretariat of the Constituent Assembly pointed out that the interest of the whole country would be best served if there were only one All-India Commission controlling all elections, central as well as provincial. It was strongly in favour of a single electoral authority controlling all the elections in India in order to have uniform electoral procedure, practices and laws for all the units of the India Union.³⁴ On 15th June.1949 Dr. BR.Ambedkar introduced a new article which was accepted and made a provision in Article 289 providing for a single Central Election Commission to be in-charge of Central and State elections.³⁵ The Draft Committee further proposed a new article (Article 289-A) providing all elections to either House of Parliament or the Legislature of any State should be on the basis of joint electorate and there should be one general electoral roll for every Territory Constituency for any election and no person should be excluded from any such roll on the ground of religion, race, caste, sex or any of them.³⁶ The proposals for having separate Provincial Election Commission was criticized by Dr.Munshi, H.V.Pataskar and N. Gopapaswami Ayyanger and supported the amendment for having an Independent and separate Election Commission.

³⁴ N.S.Gehlot, *op. cit.*, pp.23-24

³⁵ *Ibid.*,p.24

³⁶ *Constituent Assembly Debates*, (C.A.D). Vol.8. p.930

Under Article 324 (1) of the Indian Constitution, the superintendence, direction and control and conduct all elections to the offices of the President, Vice-President, and the Parliament and State legislatures of elections vested to the Election Commission. This provision enables the Election Commission to exercise its authority in relation to all those issues in connection with elections.

Article 324 (2) of the Indian Constitution provides that the President of India has the power to appoint Election Commissioners in consultation with the Chief Election Commissioner. The number of Election Commissioner is not fixed and they are expected to assist the Chief Election Commissioner in discharging his functions. The appointment of Election Commissioners shall be subject to the provisions of any law passed by the Parliament.

Article 324 (3) of the Indian Constitution states that when any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission. The appointment of Election Commissioners ensures that there is a system of checks and balances in force to check the Chief Election Commissioner.

Article 324(4) of the Indian Constitution provides that 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 Commission in the performance of the functions conferred on the Commission by clause (1)

Under Article 324 (5), 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. This Article also provided that the Chief Election Commissioner shall not be removed from his office except in 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 further provided that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner

Under Article 324 (6), the President of India, or the Governor of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1)

3.5 Electoral Laws and Representation of the People Acts of 1950 and 1951:

Electoral Laws: With its vast experience of conducting elections in the largest democracy of the world over the last six decades, the Election Commission of India is now regarded as a great store-house of expertise and in-depth knowledge of election laws and procedures. Electoral laws and regulations governing the electoral

procedure flow from four sources such as (1) Constitution of India (2) Acts passed by the Parliament (3) Rules framed under the Acts and (4) Executing Orders or directions of the Election Commission.³⁷

Elections are conducted according to the Constitutional provisions supplemented by laws made by parliament. The major laws are Representation of the People Act, of 1950 which mainly deals with the preparation and revision of electoral rolls and the Representation of the People Act, of 1951 which deals with all aspects of conduct of elections and post-election disputes. The Supreme Court of India has held that where the enacted laws are silent or make insufficient provision to deal with a given situation in the conduct of elections that the ECI has the residuary powers under the Constitution.³⁸

The Constitution did not make exhaustive provisions to cover the details of the law of elections. These details were left to be laid down by the legislation by Parliament under Article 327 of the Constitution reads with Entry 72 in the Union Lists in the Seventh Schedule to the Constitution and by the State Legislatures under Article 328 of the Constitution reads with Entry 37 in the State List in that schedule.³⁹

³⁷ *Elections in India –Major Events and New Initiatives 1996-2000* (2000). Published by Publication Division. ECI.New Delhi: p.323

³⁸ Viplav (2010). *Encyclopedia of Electoral Reforms and Political Development*. New Delhi: Vista International Publishing House. p.43

³⁹ S.P. Sen Verma (1963). *The Law of Election to Parliament and State Legislature*. Allahabad: R.G. Sagar.p.2

The present law relating to elections vis-à-vis elections is mainly contained in the Constitution in the two enactments of the Parliament dealing with People's Representation Acts of 1950 and 1951 with certain provisions of the Indian Penal Code (IPC) and certain other specific laws. These laws were enacted after Independence. Article 71 and 327 of the Indian Constitution dealt with the authority to enact laws for the elections to the offices of President and Vice-President of India and to Parliament and State Legislatures. The law relating to the elections to the offices of President and Vice-President of India has been enacted by Parliament in the form of Presidential and Vice-Presidential Elections Act 1952. This Act has been supplemented by the Presidential and Vice-Presidential Elections Rules 1974 and further supplemented by the Election Commission's directions and instructions on all aspects. Under Articles 243 K and 243 ZA laws relating to conduct of elections to municipalities, panchayats and other local bodies are framed by the respective State Legislatures. Under Article 71 any doubts and disputes relating to the elections to the office of President and Vice-President are dealt with by the Supreme Court. whereas the initial jurisdiction to deal with all doubts and disputes relating to the elections to Parliament and State Legislatures vests in the High Court of the State concerned, with a right of appeal to the Supreme Court. The disputed matters relating to elections to municipalities, etc. are decided by the lower courts in accordance with the laws made by the respective State Governments. All matters relating to the actual conduct of elections are governed by the provisions of the Representation of the People Act, 1951 which have been supplemented by the Conduct of Elections Rules, 1961 framed by the Central

Government in consultation with the Election Commission, under Section 169 of that Act. All post-election matters to resolve doubts and disputes arising out of or in connection with the elections are also dealt with in accordance with the provisions of the Representation of the People Act 1951. Under this Act, all such doubts and disputes can be raised before the High Court of the State concerned, but only after the election is over and not when the election process is still on.⁴⁰

Representation of the People Act, 1950: The Representation of People Act, 1950 deals with the matters relating to the preparation and revision of electoral rolls. The provisions of this Act have been supplemented by detailed rules and registration of Electors Rules 1960 made by the Central Government in consultation with the Election Commission. Under Section 28 of that Act, these rules deal with all the aspects of preparation of electoral rolls, periodic revision and updating, the inclusion of eligible names, exclusion of ineligible names, correction of particulars etc. These rules also provide for the issue of electoral identity cards to registered electors bearing their photographs at the State cost. This Act also empowers the Election Commission to prepare the photo electoral rolls containing photographs of electors, in addition to their other particulars. The Act has also allocated the number of seats in the House of

⁴⁰ [https://www.google.com/search/electoral laws in India](https://www.google.com/search/electoral%20laws%20in%20India). Accessed on 24.10.2016

the People to several States and Union Territories and the Part B Tribal Areas in the States of Assam and has fixed the number of seats in each State Legislature.⁴¹

As per section 13AA of the Representation of the People Act, 1950 the District Election Officer supervises the election work of a district under the superintendence, direction and control of the Chief Electoral Officer of the states.⁴²

Under section 13B of the Representation of the People Act, 1950, the Election Commission of India, in consultation with the State / UT Government appoints an Officer of the Government or the Local Authorities as the Electoral Registration Officer. In addition, the Election Commission of India also appoints one or more Assistant Electoral Registration Officers (AERO) to assist the Electoral Registration Officer (ERO) in the performance of his functions in the matter of preparation / revision of electoral rolls.⁴³

Representation of the People Act, 1951: The Representation of People Act of 1951 is an act of Parliament of India to provide for the conduct of elections of the Houses of Parliament and to the House or Houses of the Legislature of each State. The Acts were amended several times, but one of the notable amendments is the Representation of the People (Amendment) Act, 1966 (47 of 1966), which abolished the election tribunals and transferred the election petitions to the High Court whose orders

⁴¹ S.P. Sen Verma. *Op. cit.*, pp.2-3

⁴² section 13AA of the Representation of the People Act, 1950

⁴³ section 13B of the Representation of the People Act, 1950

can be appealed to Supreme Court. However, election disputes regarding the election of the President and Vice-President are directly heard by the Supreme Court. To ensure free and fair elections to the Parliament and State Legislative Assemblies, the Representation of the People Act, 1951 was enacted. The Act of 1951 reformulated the pre-independence laws without any material change. The Act of 1951 has subsequently been amended six times i.e, in 1956, 1958, 1961, 1966, 1975 and 1989.⁴⁴

All matters relating to the actual conduct of elections are governed by the provisions of the Representation of the People Act, 1951 which have been supplemented by the Conduct of Elections Rules, 1961 framed by the Central Government. This Act and the rules make detailed provisions for all stages of the conduct of elections like the issue of writ notification calling the election, the filing of nominations, scrutiny of nominations, withdrawal of candidatures, taking of the poll, counting of votes and constitution of the Houses on the basis of the results so declared. Under section 26 of the Representation of the People Act 1951, the District Election Officer appoints the Presiding Officers and the Polling Officers. In the case of Union Territories, such appointments are made by the Returning Officers. Under section 20B of the Representation of the People Act, 1951, the Election Commission of India nominates officers of Government as Observers (General Observers and Election Expenditure Observers) for parliamentary and assembly constituencies. They perform such functions as are entrusted to them by the Commission. Earlier, the appointment of

⁴⁴ Hans Raj Jhingta (1996).*Corrupt Practices in Elections*. New Delhi: Deep and Deep Publications. p.329

Observers was made under the plenary powers of the Commission. But with the amendments made to the Representation of the People Act, 1951 in 1996, these are now statutory appointments. They report directly to the Commission.⁴⁵

All post election matters to resolve doubts and disputes arising out of or in connection with the elections are also dealt with in accordance with the provisions of the Representation of the People Act 1951. The above-mentioned Representation of the People Acts of 1950 and 1951 and the Registration of Electors Rules 1960 and Conduct of Elections Rules 1961 form complete code on all matters relating to elections to both Houses of Parliament and State Legislatures. The Conduct of elections to Parliament and State Legislatures are governed by the provisions of two Acts, namely, Representation of the People Act 1950 and Representation of the People Act 1951.

To sum up, this chapter traces the origin and history of elections from the ancient period to pre- Independence period. It also discusses the origin and history of Election Commission of India in the post-Independence period adding Constitutional provisions on elections and Election Commission of India. Electoral Laws and Representation of the People Acts of 1950 and 1951 are also discussed.

⁴⁵ *section 20B of the Representation of the People Act, 1951*

CHAPTER – IV

Structure, Functions and Role of Election Commission of India

- 4.1 The Original Structure of the Election Commission of India
 - 4.1.1 Powers and Functions of the Election Commission of India
 - 4.1.2 Limitations on the powers of the Election Commission of India
- 4.2 Facts about General Elections – 1952 -2014 conducted by the Election Commission of India
- 4.3 Changes in the Commission from time to time- Single Member to Multi - Member Commission
- 4.4 Status and conditions of service of the Chief Election Commissioner and other Election Commissioners

The previous chapter has traced the origin and history of elections from the ancient period to pre- Independence period. It also discusses the origin and history of Election Commission of India in the post-Independence period adding Constitutional provisions relating to Election Commission of India. Electoral laws and Representation of the People Acts of 1950 and 1951 have also been discussed. In the present chapter, we will discuss the original structure, powers and functions of Election Commission of India in a chronological manner. Some changes in the Commission from time to time

from single member to multi-member Commission and the status and conditions of Chief Election Commissioner and other Election Commissioners will also be discussed in this chapter.

4.1 The Original structure of the Election Commission of India:

India is a Socialist, Secular, Democratic Republic and the largest democracy in the World. The modern Indian nation-state came into existence on 15th of August 1947. As per the principles enshrined in the Constitution, general elections have been held at regular intervals in a free and fair manner.

The Election Commission of India is a permanent Constitutional Body. It was established in accordance with the Constitution on 25th January 1950. The structure and powers of the Election Commission and its supervisory arrangements for ensuring efficient and impartial functioning of the electoral machinery are crucial importance to the working of the electoral system that any scheme of electoral reform would be largely ineffectual without certain essential changes in the Commission's structure and powers and more adequate system of supervision over the electoral machinery.¹

Article 324 Clause 2 of the Constitution of India envisages that Election Commission may consist of the Chief Election Commissioner and such member of other Election Commissioners as may be fixed from time to time to be made by the President for a term of six years, or up to the age of 65 years, whichever is earlier.

¹ L. P. Singh (1986). *Electoral Reform- Problems and Suggested Solutions*. New Delhi: Utpal Publishing House. p.11

Under clause 3 of Article 324, it is further provided that when any other Election Commissioner is appointed, the Chief Election Commissioner will act as the Chairman of the Election Commission. The Constitution has ensured that the Chief Election Commissioner shall perform his duty uninfluenced by a party or political consideration and free from executive interference.²

For the first time in 1951-52, the President of India sanctioned four posts of Regional Election Commissioners. Out of the four posts, only two posts of Regional Commissioners were filled. In 1956, a new post of Deputy Election Commissioner (Dy.EC) was created in the Commission in place of Regional Commissioners. The Joint Committee on Amendments to Election Law recommended that Regional Election Commissioners (REC) might also be appointed as contemplated in Article 324 (4) of the Indian Constitution in order to assist the Election Commissioners in the performance of their functions.³ The appointment of Regional Election Commissioners will enable the Commission to have high ranking officers present in the State who can act as a channel of communication with the higher levels of the State administration and coordinate all election work at a fairly high level.⁴

² P.N Krishna Mani (1971). *Elections, Candidates and Voters*. New Delhi: Sterling Publishers. pp.19-20

³ *Report of Joint Committee on Amendments to Election Law* (1972).Part II, Lok Sabha Secretariat New Delhi.pp.1-2

⁴ R.P. Bhalla (1984).*Election Commission of India, Journal of Constitutional and Parliamentary Studies*, Vol-XVIII (1-2). Jan-June.New Delhi . p.20

The Commission has a separate Secretariat at New Delhi consisting of about 300 officials in a hierarchical setup. The three Deputy Election Commissioners who are the senior most officers in the Secretariat are generally appointed with tenure from the national civil service of the country to assist the Commission. Directors, Principal Secretaries and Secretaries, Under Secretaries and Deputy Directors support the Deputy Election Commissioners. There is the functional and territorial distribution of work in the Commission. The work is organized in Divisions, Branches and Sections and each section has a complement of staff consisting of a section officer and a number of Assistants, Upper Division Clerks (UDC), Lower Division Clerks (LDC) and Group D staff.⁵

The Secretariat of the Commission has an independent budget, which is finalized directly in consultation between the Commission and the Finance Ministry of the Union Government. The major expenditure on the actual conduct of elections is, however, reflected in the budgets of the concerned constituent units of the Union - States and Union Territories. If elections are being held only for the Parliament, the expenditure is borne entirely by the Union Government while for the elections being held only for the State Legislature, the expenditure is borne entirely by the concerned State. In case of simultaneous elections to the Parliament and State Legislature, the expenditure is shared equally between the Union and the State Governments. For

⁵ See details on Anjana Kaw Bhagat (1996). *Elections and Electoral Reforms in India*. New Delhi: Vikash Publishing House. p.27

Capital equipment, expenditure related to preparation for electoral rolls and the scheme for Electors Photo Identity Card too, the expenditure is shared equally.⁶

The territorial work is distributed among separate units responsible for different Zones into which the 36 Constituent States and Union Territories of the country are grouped for convenience of management. At the State level, the election work is supervised, subject to overall superintendence, direction and control of the Commission by the Chief Electoral Officer (CEO) of the State, who is appointed by the Commission from amongst senior civil servants proposed by the concerned state government.⁷

At the district and constituency levels, the District Election Officers (DEO), Electoral Registration Officers (ERO) and Returning Officers (RO) who are assisted by a large number of junior functionaries perform election work. They all perform their functions relating to elections in addition to their other responsibilities. During election time, however, they are available to the Commission more or less on a full-time basis. The huge task force for conducting a countrywide general election consists of nearly five million polling personnel and civil police forces. This huge election machinery is deemed to be on deputation to the Election Commission and is subject to its control,

⁶ See details on Viplav(2010).*Encyclopedia of Electoral Reforms and Political Development*. New Delhi:Vista International Publishing House.p.43

⁷Viplav.*op.cit.*,p.44

superintendence and discipline during the election period, extending over a period of one and a half to two months.⁸

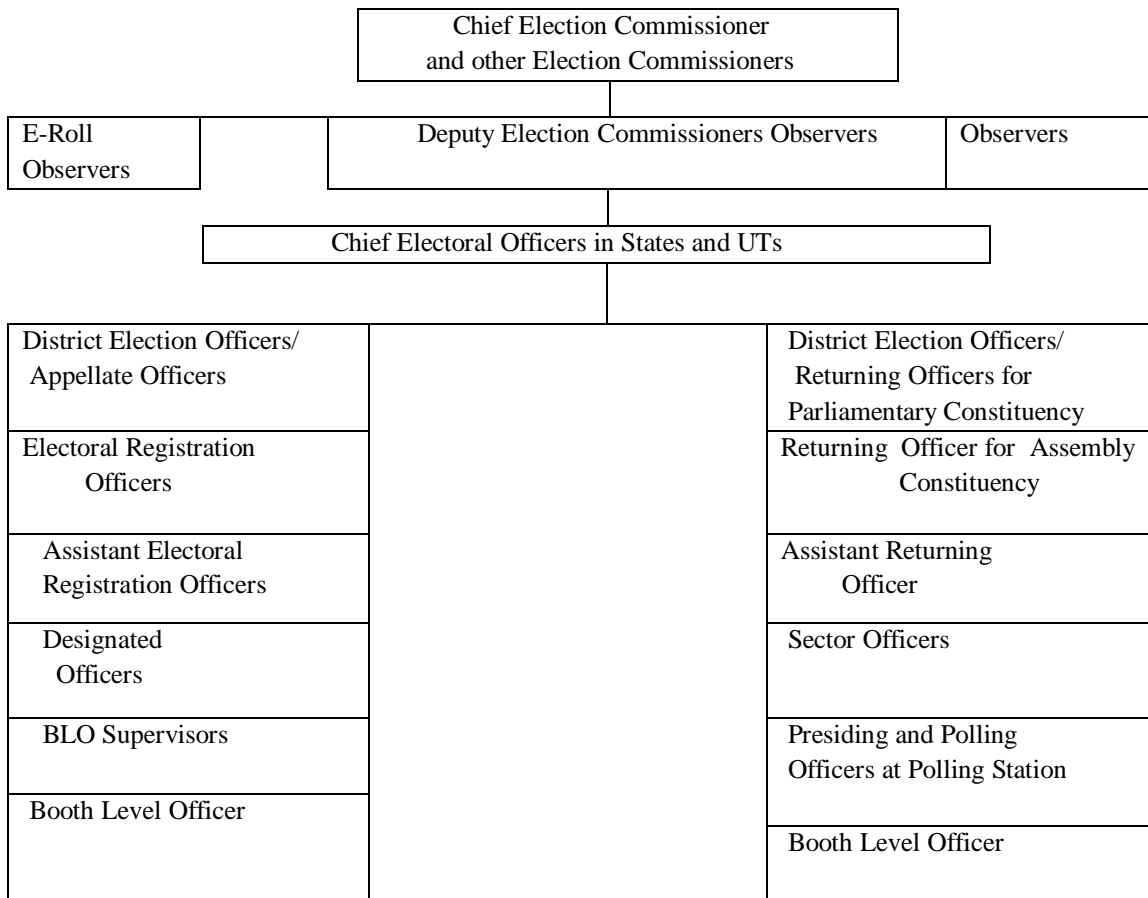
The Commission has its unique administrative structure. There is separate administrative machinery for electoral roll management and separate administrative machinery for conducting elections. Some of the staffs are permanent to Election Commission while some others are from All India Services especially for the management of electoral rolls.

⁸ [https://www.google.com/search/organizational structure of Election Commission of India](https://www.google.com/search/organizational+structure+of+Election+Commission+of+India). Accessed on 26.04.2016

The administrative and organizational structure of the Election Commission of India can be illustrated as under:

Chart No. IV – 1

Administrative and organizational structure of the Election Commission of India:



Source: [https://www.google.com/search/Administrative and organizational structure of ECI](https://www.google.com/search/Administrative+and+organizational+structure+of+ECI). Accessed on 26.04.2016 & Data collected from the personal visit of ECI, New Delhi on 26.04.2016

No doubt sound structure, constitutional status, sufficient Constitutional and legal authority are essential to building up an effective institution, but it is the choice of personnel who finally operate the system that really matters. It is, therefore, essential that the choice of person to be appointed as Chief Election Commissioner shall be made strictly on the basis of merits-caliber, competence, and integrity. Appointment of Chief Election Commissioner as well as other personnel of Commission needs extra care so that democracy can survive in our country.⁹

4.1.1 Powers and functions of Election Commission of India:

The powers and functions of the Election Commission of India are derived from Article 324 of the Indian Constitution, the legislation relating to the elections and the rules and orders issued under the Constitution or under the legislation enacted by the Parliament. The most essential requisite of free and fair elections is that the elections should be conducted by an independent and impartial authority who can act as a guardian of the entire election machinery.¹⁰ The task of conducting free and fair elections has been assigned to the Election Commission of India.

The plenary powers vested in the Election Commission by the Constitution for the conduct of elections are supplemented further by Acts of Parliament namely Representation of the People Act, 1950 and 1951, the Presidential and Vice- Presidential

⁹ Anjana Kaw Bhagat, *op. cit.*, p.97

¹⁰ N.S.Gehlot (1992).*Elections and Electoral Administration in India*. New Delhi: Deep and Deep Publications. p.45

Elections Act, 1952, the Government of Union Territories Act, 1963, the Delhi Administration Act, 1966 and the Rules and Orders made there under.¹¹

Under Article 324 of the Indian Constitution the powers of the Commission are meant to supplement rather than supplant the law in the matter of superintendence, direction and control as provided by Article 324 and therefore, that power does not prevail over the Acts passed by Parliament. In this context the provisions contained in Section 15 of the Representation of the People Act, 1951 vest the power of notifying the date of commencement of election in the Governor. If the Governor is prepared to notify the date of the election, the recommendatory body which the Election Commission is cannot refuse to recommend the date of the election under any pretext. The plenary powers of the Election Commission under Article 324 of the Constitution are of recommendatory value. The Governor can still issue the notification under Section 15 of the Representation of the People Act, 1951 if the recommendation of the Election Commission is not in conformity with the political scenario of the State concerned. In such a contingency, if the Governor considers the elections to be imminent, it would be supplanting the provisions of Section 15 of the Representation of the People Act, 1951 and the powers of the Election Commission under Article 324 cannot be stretched so far.¹²

¹¹ *ECI 2nd Annual Report on April 1984*, p.2

¹² *See details on* W.J.M. Mackenzie (1958). *Free Elections*. London. George Allen and Unwin. pp. 13-14

Under Article 174(1) of the Constitution, the Governor is required to summon the House of the Legislature of the State to meet at such time and place as he thinks fit, but 6 months should not intervene between its last sitting in one session and the date appointed for its first sitting in the next session. If the elections are postponed, compliance with the provisions of Article 174(1) of the Constitution of India would become impossible. The Election Commission is under a constitutional duty to conduct the election at the earliest on completion of the term of the Legislative Assembly on dissolution or otherwise. If there is any impediment in conducting free and fair elections it can draw upon all the requisite resources of the Union and the State within its command to ensure free and fair election. Any man-made attempt to obstruct free and fair election is the antithesis to democratic norms.¹³

If and when the Election Commission finds the law and order situation difficult, it can only require a sufficient number of security forces to be deployed, but postponement of elections is hardly a remedy for that. It would be better if a mechanism is devised to settle such disputes which may arise between the Election Commission and the State Government or the Central Government.¹⁴

The superintendence, direction and control of the elections to the Parliament, to the Legislature of every State, to the offices of the President and Vice-President of

¹³ See details on Ramashray Roy (1971). 'Elections, Electorate and Democracy in India' in *Indian Journal of Public Administration* .October-December New Delhi:p.19

¹⁴ T.N. Seshan (1995). *A heart full of Burden*. New Delhi: UBS. p.130

India, have been vested in the Election Commission. According to the Registration of Election Rules, 1960 and the conduct of Election Rules, 1961, the Election Commission of India has performed the following functions to discharge its duties freely and fairly:-

(1) Preparation of electoral rolls: Article 325 of the Constitution lays down that there shall be one general electoral roll for every territorial constituency, the preparation of electoral rolls based on religion, race, caste or sex is forbidden. The preparation and maintenance of complete and accurate electoral rolls are essential prerequisites for holding elections.¹⁵ Under Article 326 of the Constitution, the electoral rolls must be prepared correctly for all eligible voters irrespective of their religion, race, caste and sex to hold free and fair elections.¹⁶ As per Section 13-D, 15,27(2) and 27(4) of the Representation of the People Act, 1950, the electoral rolls should be prepared for all Parliamentary, Assembly and Council Constitution.¹⁷ The Election Commission of India has to prepare for identification the up-to-date list of all the persons who are entitled to voting at the poll.¹⁸

¹⁵ Anjana Kaw Bhagat.*op.cit.*, p.38

¹⁶ M.Krishnan Nair(1986). *The Law of Elections*. Trivandrum .The academy of Legal Publications.p.47

¹⁷*Ibid.*,p.47

¹⁸ J.K.Chopra (1989).*Politics of Election Reforms in India*, New Delhi: Mittal Publications. p.23

Electoral Roll Data- 2015 prepared and published by the Election Commission of India

at the time of final publications are illustrated as under:

Table No. IV – 1

Electoral Roll Data of 2015

S l o	Name of State/ UT	No. of polling stations	GENERAL ELECTOR				NON-RESIDENT INDIANS (NRIs)			SERVICE ELECTOR			Grand Total
			Men	Women	Third Gender	Total	Men	Women	Total	Men	Women	Total	
1	Andra Pradesh	42323	18414685	18664912	3258	37082855	8	0	8	31393	9525	40918	37123781
2	Arunachal Pradesh	2158	380324	382721	0	763045	0	0	0	1547	304	1851	764896
3	Assam	24280	10061312	9398470	491	19460273	0	0	0	22566	8507	31073	19491346
4	Bihar	62779	35159484	30631704	2274	65793462	0	0	0	50406	24061	74467	65967929
5	Chhattisgarh	22838	9063887	8856245	1471	17921603	1	1	2	4778	1587	6365	17927970
6	Goa	1622	532335	539372	0	1071707	23	9	32	515	245	760	1072499
7	Gujarat	45432	21488034	19583888	306	41072228	6	5	11	18798	5729	24527	41096766
8	Haryana	16357	8982166	7712412	0	16694578	10	2	12	60910	27752	88662	1678252
9	Himachal Pradesh	7382	2432523	2331200	1	4763724	1	1	2	53202	14795	67997	4831723
10	Jammu & Kashmir*	9633	3657877	3275241	0	6933118	0	0	0	46361	11918	58279	6991397
11	Jharkhand	24648	11151358	10103906	30	21255294	1	0	1	11716	4077	15793	21271088
12	Karnataka	54261	23951664	23073249	4181	47029094	0	0	0	29473	8890	38363	47067457
13	Kerala	21438	11882515	12810673	0	24693188	14160	1044	15204	53975	21651	75626	24784018
14	Madhya Pradesh	62690	25682882	23229188	1164	48913234	4	2	6	19105	6702	25807	48939047
15	Maharashtra	89478	44077571	39456271	1038	83534880	0	0	0	107435	40283	147718	83682598

5													
1 6	Manipur	2702	875252	912092	0	1787344	0	0	0	7492	2107	9599	1976943
1 7	Mehgalaya	2583	801421	812513	0	1613934	0	0	0	1023	416	1439	1615373
1 8	Mizoram	1142	349792	363782	0	713574	0	0	0	3732	594	4326	717900
1 9	Nagaland	2104	592968	581402	0	1174470	0	0	0	4580	585	5165	1179635
2 0	Odisha	35896	15514580	14340188	1633	29856401	0	0	0	30164	13367	43531	29899932
2 1	Punjab	22022	10355631	9335192	240	19691063	110	62	172	63107	21533	84640	19775875
2 2	Rajasthan	45334	22852547	20581536	26	43434109	5	1	6	68168	29582	97750	43531865
2 3	Sikkim	549	193758	183269	0	377027	1	0	1	601	103	704	377732
2 4	Tamil Nadu	64094	28068109	28134829	3449	56206487	40	20	60	53669	18368	72037	56278584
2 5	Telangana	31502	14472054	13840715	2351	28315120	3	1	4	6274	1485	7759	28322883
2 6	Tripura	3134	1233626	1189138	0	2422764	0	0	0	2397	896	3293	2426057
2 7	Uttarakhand	10344	3793951	3454940	0	7248891	0	0	0	59697	25250	84947	7333838
2 8	Uttar Pradesh	10344	3793951	3454940	0	7248891	0	0	0	83838	39010	122848	140579402
2 9	West Bengal	77247	33106069	30629238	608	63735915	6	3	9	68119	29760	97879	63833803
3 0	A & N Islands	386	145420	129341	0	274761	0	0	0	270	150	420	275181

3 1	Chandigarh	519	335569	282966	10	618545	5	4	9	732	541	1273	619827
3 2	Daman & Diu	134	57123	55441	0	112564	7	6	13	8	2	10	112587
3 3	D & N Haveli	240	111882	95391	0	207273	0	0	0	12	8	20	207293
3 4	NCT of Delhi	11763	7260633	5823767	851	13085251	19	5	24	3371	1739	5110	13090385
3 5	Lakshadweep	43	25410	24538	0	49948	0	0	0	91	10	101	50049
3 6	Puducherry	875	434036	474676	40	908752	62	7	69	328	147	475	909296
	Total	940191	444290630	404951995	30405	849273030	14472	1173	15645	969853	371679	1341532	850630207

Source: *Data collected from the personal visit of the ECI. New Delhi on 14.06.2015*

(2) **Conduct of Poll:** The function of the Election Commission regarding the conduct of elections begins with the notification of the election and up to the declaration of the result. Under section 30 of Representation of the People Act, 1951, the Election Commission is empowered to issue certain notifications in the official Gazette to fix the last date for making notification, date for the scrutiny of nominations, the last date for the withdrawal of candidatures, the date or dates on which a poll shall be taken and the date before which the election shall be completed and declaration of results.¹⁹ It has the power to issue a code of conduct to be observed by all the political parties and people at the time of the election. The Election Commission has not only the power of holding elections but also to cancel it and order repoll if it is rigged. It is also the responsibility

¹⁹ *Section 30 of the Representation of the People Act, 1951*

of the Election Commission to hold bye-election, whenever there is a mid-term vacancy. In this respect, there is an impression that the Election Commission has been accused of a partisan attitude and it has been alleged that it has favored the party in power at the centre.²⁰ By virtue of Sections 58, 58A and 64A of R.P. Act, 1951, a very wide power to make an order for the fresh poll has been vested in the Election Commission. After taking all material circumstances from the Returning Officer, the Election Commission decides for fresh polls on the following grounds: (i) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer, or is accidentally or intentionally destroyed or lost, or damaged or tampered with, to such an extent, that the result of the poll at the polling station or place cannot be ascertained, or (ii) any voting machine develops a mechanical failure during the course of the recording of votes, or (iii) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll.²¹

(3) Recognition of Political Parties: One of the important functions of Election Commission is to recognize political parties as the All-India or State Political Parties. If in a general election a particular party gets four percent of votes polled in any four States, it is recognized as an All-India Party. If a party gets four percent votes in a

²⁰ N.S. Gehlot (1992). *Elections and Electoral Administration in India*. New Delhi: Deep and Deep Publications. pp.47-48

²¹ Raisa Ali (1996). *Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications. pp.249-250

States, or a region, it is recognized as a State or Regional Party.²² The Election Commission has to register the political parties in accordance with the Provisions of Section 29A of R.P. Act, 1951. The final decision regarding the registration of political party shall be based on Sub- Section 29A of R.P. Act, 1951. The Election Commission has to act quasi- judicially and has to follow principles of natural justice while registering the political parties.

(4) Allotment of Symbols: Under Rule (5) of the Conduct of Elections Rules 1961, the Election Commission is to authorized to specify symbols that may be chosen by candidates at elections in parliamentary and assembly constituencies and the restrictions to which their choice shall be subject, by publishing a notification in the Gazette of India and in the Official Gazette of each State. By Clause 5 of Section 29A of the Representation of the People Act 1951 and Rules 5 and 10 of the Conduct of Elections Rules, 1961 regarding Election Symbols (Reservation and Allotment) Order of 1968, symbols have been classified as the reserved symbols and free symbol. After giving hearing, it will decide whether the newly formed party should be a National party or a state party to be allotted. The power to issue Symbols Order is comprehended in the power of superintendence, direction and control of elections vested in the Commission.²³

²² N.S.Gehlot.*op.cit.*, p.49

²³ Narendra Chapalgaonkar (1997). *Law of elections*. New Delhi: An AIR publication- All India Reports . p.13

(5) Disqualifying of the Candidate and Voters: Under Section 10 A of the People's Representation Act, 1951, after every general election, each candidate is informed to submit his/her election returns. If the candidate does not file election returns within a prescribed period, the Election Commission has the power to disqualify such candidate. Section 11 of Representation of the People Act, 1951 empowers the Election Commission to remove any disqualification list. Under Section 11B of R.P. Act, 1951, the Election Commission also has the power to remove disqualification of voter list.²⁴

(6) Counting of Votes and Declaration of results: The votes polled at each Constituency are counted under the supervision of the Returning Officer by Counting Supervisors and Assistants appointed by him. Under the direction of the Election Commission, the Returning Officer fixes the date, time and place of counting votes. The votes may be counted either at one place for all the Assembly segments of a Parliamentary Constituency or at different places for the various Assembly segments under the supervision of the Assistant Returning Officer (ARO). The final result is collected by the Returning Officer at his headquarters and declared the results on the approval of the Election Commission.²⁵

(7) Advisory Jurisdiction and quasi-judicial functions: Under the Constitution of India, the Election Commission has also advisory jurisdiction in the matters of post-

²⁴ Raisa Ali, *op.cit.*, p.258

²⁵ Rule 51, *Conduct of Elections Rule*, 1961

election disqualification of sitting members of Parliament and State Legislatures. The cases of persons found guilty of corrupt practices at elections which come before the Supreme Court and High Courts are also referred to the Commission for its opinion on the question as to whether such person shall be disqualified and if so, for what period. The opinion of the Commission in all such matters is binding on the President or as the case may be, the Governor to whom such opinion is tendered. The decision of the Election Commission under the provisions of Section 29A (7) of the Act of 1951 is a quasi-judicial one.²⁶

(8) Powers with regard to Electoral Personnel: Representation of the People Acts, 1950 and 1951 empowers the Election Commission to appoint Electoral Personnel and to get the necessary staff for the conduct of elections. Section 13CC of R.P.Act, 1950 provides that the Chief Electoral Officers of the States take Disciplinary action against the Erring Officials. It has also the power to issue instructions on the transfer of officials connected with election work during the period of elections.²⁷

(9) Delimitation of Constituencies: Under section 11 of the Delimitation Act of 1972, the Election Commission is empowered to correct any printing mistake in any of the orders made by the Delimitation Commission.²⁸ The Election Commission maintains delimitation orders up-to-date and makes amendments in the Delimitation of

²⁶ See details on Viplav. *op.cit.*, p.45

²⁷ Section 13CC of Representation of the People Act, 1950

²⁸ Section 11 of the Delimitation Act, 1972

Parliamentary and Assembly Constituencies.²⁹ Sometimes, the work relating to the delimitation of Constituencies arising as a result of the formation of new States is generally entrusted to the Election Commission.³⁰

(10) Media Policy: The Election Commission has a comprehensive policy for the media. It holds regular briefings for the mass media-print and electronics on a regular basis at close intervals during the election period and on specific occasions as necessary on the other occasions. The representatives of the media are also provided facilities to report on the actual conduct of poll and counting. They are allowed entry into polling stations and counting centre on the basis of authority letters issued by the commission. They include members of both international and national media. It also publishes statistical reports and other documents which are available in the public domain. The Election Commission has in co-operation with the State-owned Media, Doordarshan and All India Radio, taken up a major campaign for awareness of voters.³¹

(11) Executive interference barred: In the performance of its functions, Election Commission is insulated from the Executive interference. It decides the election schedules for the conduct of elections, whether general elections or bye-elections. It also decides on the location polling stations, assignments of voters to the

²⁹ Section 9 (1) of the Representation of the People Act, 1950

³⁰ Raisa Ali (1996). *Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications, p.267

³¹ see details on Viplav.op.cit., p.46

polling stations, the location of counting centre, arrangements to be made in and around polling stations and counting centre and all allied matter.³²

(12) Limits on Poll Expenses: The election expense documents include details of expenses on public meeting and processions, campaigning through electronic and print media, expense on campaign workers, expense on vehicles used and expense on campaigns materials.³³ The Election Commission has always tried to get rid of the growing influence and rude acting like improper using the money during elections and made some suggestions to be followed by the political parties and candidates. The Commission has fixed legal limits on the amount of money which a candidate can spend during the election campaign. The election expenses ceiling for candidates has been revised by the Government of India vide Notification dated 28th February 2014. As per the revised ceilings, the maximum limit of election expenses for a Lok Sabha Constituency is Rs.70.00 lakh per candidate for all States except Arunachal Pradesh, Goa and Sikkim. For these three States, it is Rs.54.00 lakh per candidate. For the Union Territories, the maximum limit is Rs.70 lakh per candidate for National Capital Territory (NCT) of Delhi and Rs.54.00 lakh per candidate for other UTs. For the Assembly Constituencies, the maximum limit is Rs.28.00 lakh per candidate for the bigger States and NCT of Delhi and Rs.20.00 lakh per candidate in the other States and Union Territory of Puducherry. Accordingly, in Andhra Pradesh and Odisha the limit of

³² *Ibid.*,p.44

³³ [https://www.google.com/search/ Limits on polls expenses in India](https://www.google.com/search/Limits+on+polls+expenses+in+India). Accessed on 15.02.2016

expenses for Assembly Constituencies is Rs.28.00 lakh per candidate and in Sikkim, it is Rs.20.00 lakh per candidate.³⁴

4.1.2 Limitations on the Powers of the Election Commission:

The Election Commission has the Constitutional responsibility of superintendence, direction and control of the preparation of electoral rolls for elections and conduct of elections. This responsibility covers administrative powers, duties and functions depending on the circumstances. The Supreme Court has emphasized that there are certain limitations on the powers of the Election Commission.³⁵ Some limitations laid down on the plenary character of the powers of Election Commission are:-

(1) Statutory Provisions: When Parliament or any State Legislature has made a law relating to or in connection with elections, the Election Commission shall act in conformity with such provisions. It has been held by the Supreme Court that the powers of the Election Commission under Article 324 of the Constitution are subject to any Act passed by the legislature and any rule or orders made there under.³⁶ We have seen in Mohinder Singh Gill vs. Chief Election Commissioner Case that the Supreme Court held that the Commission is bound to act in conformity with the provisions of law. In

³⁴ *The Hindu Daily Newspaper*. New Delhi on 12th May 2014

³⁵ Raisa Ali (1996). *Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications. p.271

³⁶ Raisa Ali. *op.cit.*, p.271

view of the statutory provisions, Mr. K. Ganesan, former Secretary to the Election Commission observed: “It is dangerous to claim any extraordinary and plenary powers under Article 324 to deal with matters already covered in the law even if provisions are found inadequate”.³⁷

(2) Rules of Natural Justice: The Election Commission cannot overlook its obligation to preserve and maintain the rule of law, act bona fide and be amendable to the norms of natural justice. The Commission is, therefore, bound to act in accordance with rules of natural justice but the application of the rules of natural justice depends on circumstances and the matter is incapable of generalization.³⁸

(3) Judicial Review: In the case of postponement of elections as we experienced in Assam and Jammu & Kashmir by the Election Commission, the Supreme Court has made it clear that the orders of the Election Commission are subject to judicial review and its powers are not “Unbridles”. The judicial powers enjoyed by the Election Commission should depend on the facts and circumstances of each case.³⁹

³⁷ See *The Times of India*, New Delhi. May 6.1993. p.20

³⁸ Raisa Ali. *op.cit.*,pp.272-273

³⁹ Raisa Ali. *op.cit.*,pp.273-274

4.2 Facts about General Elections 1952 – 2014 conducted by the Election

Commission of India:

There have been an increasing number of candidates contesting since the first general elections in 1952 in India. There were 1874 candidates for 489 elective seats in 1952 and the number of candidates has been increased to 2784 candidates in 1971. We have seen that an increase in the number of 4629 candidates in the general election in 1980. There were 6160 candidates and 8668 candidates in the 9th and 10th general elections. In the 11th General Elections, 13952 candidates contested for the 543 seats but the number of candidates had been reduced to 4750 candidates in the 12th general elections because of an increase of security deposit amount in August 1996. The Election Commission set up 6,87,402 polling stations for 5435 candidates in 2004. For the first time, the General Elections were conducted using 10.75 lakh Electronic Voting Machines in the country replacing completely the traditional system of ballot papers and ballot boxes. In 2009 there were 8070 candidates for 543 seats in the Lok Sabha election. In the last general election in 2014, there were 8251 candidates contested for 543 seats in Lok Sabha.⁴⁰

We have seen that number of voters have been increasing from the 1st general elections to the 16th general elections to Lok Sabha. The number of eligible voters went up from 17.3 crore in 1951 to 83.40 crores in 2014. While only 53 political parties contested the election in 1951, 465 political parties contested in 2014. There has been a huge changed in the country from the time of the first general election to the Lok Sabha

⁴⁰ *Data collected from personal visit of the ECI. New Delhi on 25.08.2016*

in 1951 to the 16th general election in 2014. A lot of numbers related to elections have also changed, from voter turn out to polling booths to contesting political parties.⁴¹

During these six decades, the Election Commission has conducted a number of laudable electoral reforms to strengthen democracy and enhance the fairness of elections successfully.

4.3 Changes in the Commission from time to time - Single Member to

Multi - Member Commission:

The Constitution makers left it to the President of India to decide whether the Election Commission should be a single member body or a multi-member body depending upon the exigencies of work in the Commission. Provision has been made for the establishment of Election Commission consisting of more than one Commissioner. But, the Commission has functioned till 1989 as a single member body consisting of the Chief Election Commissioner. The multi-member Commission worked for a brief period of less than three months from October 16, 1989 to January 1, 1990. At that time Mr. R.V.S. Peri Sastri was the Chief Election Commissioner, only a few days before the ninth Lok Sabha, two Additional Election Commissioners, Mr. S.S.Dhanao and Mr. V.S. Siegal were appointed by the President. But after the election was over, the two additional Commissioners were removed. The multi-member Election Commission was reverted to a single – member Election Commission. On October 1, 1993 the President of India passed an Ordinance and converted, once again, the Election

⁴¹ [https://www.google.com/search/Facts about general elections 1952-2014 in India](https://www.google.com/search/Facts+about+general+elections+1952-2014+in+India). Accessed on 20.07.2016

Commission into a multi-member Election Commission fixing the number of Election Commissioner three including the Chief Election Commissioner. In 1989 one more Commissioner was added. In 1990, the National Front government again made it single member on 1.10.1993. The Provision was made to appoint two more Commissioners.⁴² The Constitution Amendment Act, 1993 made Election Commission to be multi member body. It currently consists of Chief Election Commissioner and two Election Commissioners.

Thus, the Election Commission is now functioning as multi-member Commission comprising the Chief Election Commissioner and two Election Commissioners from 1st October 1993. The Election Commission has submitted its proposals to the Government of India in July 1998 on electoral reforms to fix at three to strengthen democratic setup and has expressed satisfaction in July 2004. The Commission has also recommended that the Election Commissioners should also be given equal protection under the Constitution in the matter of their conditions of service and removability from office as is available to the Chief Election Commissioner.⁴³

⁴² Brij Kishore Sharma (2005). *Introduction to the Constitution of India*. New Delhi: Ashoke K. Ghosh. Prentice- Hall of India. p.305

⁴³ *Data collected from the personal visit of ECI*. New Delhi on 25.08.2016

Table No. IV - 2

List of Chief Election Commissioners from 1950 to 2018:

Sl.No	Name	Took Office	Left Office
1.	Sukumar Sen	21 March 1950	19 December 1958
2.	Kalan Sundaram	20 December 1958	30 September 1967
3.	S P Sen Verma	1 October 1967	30 September 1972
4.	Nagendra Singh	1 October 1967	6 February 1973
5.	T. Swaminathan	7 February 1973	17 June 1977
6.	S.L. Shaktihar	18 June 1977	17 June 1982
7.	R.K. Trivedi	18 June 1982	31 December 1985
8.	R.V.S. Peri Sastri	1 January 1986	25 November 1990
9.	V.S Ramdevi	26 November 1990	11 December 1990
10.	T.N. Seshan	12 December 1990	11 December 1996
11.	M.S.Gill	12 December 1996	13 June 2001
12.	J.M. Lyngdoh	14 June 2001	7 February 2004
13.	T. S. Krishnamurthy	8 February 2004	15 May 2005
14.	B.B.Tandon	16 May 2005	29 June 2006
15.	N. Gopaldaswami	30 June 2006	20 April 2009
16.	Navin Chawla	21 April 2009	29 July 2010
17.	S.Y. Quraishi	30 July 2010	10 June 2012

18.	V.S. Sampath	11 June 2012	15 January 2015
19.	H.S. Brahma	16 January 2015	18 April 2015
20.	Dr. Nasim Zaidi	19 April 2015	5 July 2017
21.	A K Joti	6 July 2017	22 January 2018
22.	Om Prakash Rawat	23 January 2018	Incumbent

Source : www.eci.nic.in. Accessed on 25 January 2018

4.4 Status and conditions of service of the Chief Election Commission and other Election Commissioners:

The existing Constitutional provisions are silent on the position of the Chief Election Commissioner with respect to the Election Commissioners. Article 324(5) of the Constitution states that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and his conditions of service shall not be varied to his disadvantage after his appointment and the other Election Commissioners shall not be removed from his office except on the recommendation of the Chief Election Commissioner.⁴⁴

⁴⁴ SK. Menduratta. *op. cit.*, p.188

The status of the Chief Election Commissioner indicated that the Commission was to observe a high degree of impartiality in the conduct of elections. At the same time, the fact that the Chief Election Commissioner was appointed by the President from the senior administrative cadres who was close and confidante of the Prime Minister and Home Minister.⁴⁵ The Chief Election Commissioner stands at the apex of the hierarchy of the Election Commission of India. In a multi-member Commission, the Chief Election Commissioner has to act as the Chairman. He is solely responsible for the conduct of all elections to the Parliament and the State Legislatures.⁴⁶ Here the President of India appoints Chief Election Commissioner and Election Commissioners who have equal voting on decisions. They enjoy the same status and service conditions as one enjoyed by the judges of the Supreme Court of India, but, however, the removal of Election Commissioners and Chief Election Commissioner is different.⁴⁷ It may be noted that the protection given to the Chief Election Commissioner that he cannot be removed without following procedure applicable for the removal of the Judge of the Supreme Court is not given to other Election Commissioners and they can be removed on the recommendations of the Chief Election Commissioner. Again on 1st October

⁴⁵ U.N.Gupta (1986). *Indian Parliamentary Democracy*. New Delhi: Atlantic Publishers and Distributors. p.385

⁴⁶ J.K.Chopra (1989). *Politics of Election Reforms in India*. New Delhi: Mittal Publications. p.2

⁴⁷ P.Rathnaswamy (2004). *Electoral Reforms: Law and Institutions of India and World*. New Delhi: Bookwell. p.19

1993, the President issued an Ordinance fixing the number of the election Commissioners other than the Chief Election Commissioner.⁴⁸

The Chief Election Commissioner and the two Election Commissioners draw salaries and allowances at par with those of the Judges of the Supreme Court of India as provided for by the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Rules, 1992. So, the salary of Chief Election Commissioner is same as Justice of Supreme Court of India. It has been provided that the conditions of service of the Chief Election Commissioner cannot be altered to his disadvantage after his appointment, the same has not been extended to the Election Commissioners.

To conclude, in this chapter, we have mentioned the original structure, powers and functions of Election Commission of India in a chronological manner. Some changes took place in the administrative set up of the Election Commission of India by effecting changes from time to time from single member to multi-member Commission and the status and conditions of service of Chief Election Commissioner and other Election Commissioners are also discussed in this chapter.

⁴⁸ Narendra Chapalgaonkar (1997). *Law of Elections*. New Delhi: An AIR Publication- All India Reports. p.8

CHAPTER – V

Changing Role of Election Commission of India

- 5.1 Traditional functions and role of Election Commission of India
- 5.2 Initiatives and the new steps taken by the Election Commission of India
- 5.3 Strict implementation of Model Code of Conduct for the political Parties and Candidates

In the fourth chapter, we have discussed the original structure, powers and functions of Election Commission of India in a chronological manner. We have mentioned some changes that took place in the administrative set up of the Election Commission of India by effecting changes from time to time from a single member to multi-member Commission and highlighted the facts about the general elections from 1952 to 2014 conducted by the Election Commission of India. The status and conditions of service of Chief Election Commissioner and other Election Commissioners have also been discussed. The present chapter deals with the changing role of Election Commission of India starting from the traditional functions to present day functions performed by the Commission. It also discusses the implementation of the model code of conduct and several initiatives and the new steps like EPIC, VVPAT, NOTA, etc., taken by the Commission in recent years to ensure free and fair elections in the country.

5.1 Traditional functions and role of the Election Commission of India:

Under Article 324 Clause (1) of the Constitution of India, the responsibilities of superintendence, direction and preparations of electoral rolls are entrusted to the Election Commission. The primary functions of the Election Commission are to conduct general elections to Parliament and State Legislatures and also the offices of the individual positions of the President and Vice- President of India. Originally, the Constitution vested in the Election Commission, the responsibility of appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the legislatures of the States.¹

The Election Commission is expected to conduct elections in free, fair and impartial manner to the general elections to Parliament and State Legislatures by controlling and supervising the working of election officials both at the Centre and the State levels. The fixation of the date of the poll would depend upon a various conditions, all of which have to be taken into account by the Election Commission acting in consultation with the Government of India, which would have the necessary material in this behalf.² Under Section 15 of the Representation of the People Act, 1951, in consultation with the Election Commission, the Governor of the States has the power to notify the election Schedule for the Assembly Constituencies in the States. If there is

¹ See details on Article 324 Clause (1) of the Constitution of India

² Manoranjan Mohanty (2004). *Theorizing Indian Democracy in Indian Democracy - Meaning and Practices*. New Delhi: Sage Publications. p.107

any disagreement in the election processes, the Governor should be referred back to the Election Commission to work out the agreed date. However, the decision of the Governor is not the final as the recommendatory body cannot be ignored.³

At present, the Election Commission, by taking a decision on its own has a sudden change from its object in getting the election conducted to secure functioning of democratic government in the State. Thus, the Election Commission plays a key role regarding the conduct, supervision and control of free, fair and peaceful elections if the State has failed to adopt a realistic approach.⁴

Under the Constitution and by the two Representations of the People Acts of 1950 and 1951 the following functions are assigned to the Commission such as:⁵

(1) The Election Commission undertakes proper preparation and maintenance of the Electoral Rolls. It directs and controls the annual preparation or revision of electoral rolls in all States and fixes programmes connected therewith. With the approval of the Election Commission, Revising Authorities are appointed by the State Governments to decide claims and objections during the preparation of electoral rolls.

³ See details on Robert Dalh (1989). *Democracy and its Critics*, Orient Longman. p.29

⁴ See details on Myron Weiner (1987). *Empirical Democratic Theory in Competitive Elections in Developing Countries*. Durham: NC. Duke University Press. p. 4

⁵ Jeevan Nair & U.C.Jain (2000). *Electoral System in India*. Jaipur: Pointer Publishers. pp.18-19

(2) It appoints Chief Electoral Officer (CEO), Electoral Registration Officers (EROs) Returning Officers (ROs) and Asst. Returning Officers (AROs) for each Assembly and Parliamentary Constituency in consultation with the concerned authorities. It holds the elections of President and Vice-President of the Indian Union, the elections of the members of both houses of Parliament and the members of State legislatures.

(3) It superintends election to fill vacancies occurring from time to time in Parliament as well as State legislatures.

(4) On the basis of the election petitions challenges receives the validity of elections, the Commission appoints Elections Tribunals for their hearing, can withdraw the petition pending before the Tribunal and transfer to other tribunals at any stage after notice to parties and for reasons to be recorded.

(5) The Commission decides whether any contesting candidates have failed to lodge his account of elections expenses within the time or in the prescribed manner. The decision is announced in the Gazette and the candidate is informed about it.

(6) It advises the President or the Governor (as the case may be) in deciding whether a Member of Parliament or a Member of the State legislatures (as the case may be) has incurred any of the disqualifications.

(7) It is the duty of the Commission to re-determine the number of seats to be reserved for Schedule Tribe and Schedule Caste in the Lok Sabha and State legislatures and to amend the former Delimitation Commission's final order wherever necessary as provided by the Act.

(8) The Chief Election Commissioner is an ex-officio member of the Delimitation Commission which is an independent Commission set up from time to time, more or less judicial in character and is entrusted with the task of re-adjustment or delimitation of constituencies.

(9) The Election Commission has the authority to order the production and inspection of election papers while in the custody of Returning Officers.

Under the Representation of the People Acts of 1950 and 1951, the Election Commission performs its functions as under:⁶

- (i) Allotment of symbols to recognized political parties and to independent candidates in the election.
- (ii) Advising the president on appointments of Regional Election Commissioner (REC) and other staff for holding elections.
- (iii) Conducting elections including management of counting of votes according to Conduct of Elections Rules 1961.

⁶ *Representation of the People Act, 1950 and 1951 relating to functions of Election Commission of India.*

- (iv) Checking corrupt practices and enforcing Model Code of Conduct during elections.
- (v) Publishing and submitting the result of election to president or Governor.
- (vi) Advising President under Article. 103 (2) and Governor under Article 192 (2) on a questions arising out to disqualification of members.
- (vii) Implementing the disabilities consequential to disqualifications of voters and candidates for participating in elections.

The Election Commission lays down the policy to decide administrative matters of significance and also to solve electoral disputes under Article 324 of the Indian Constitution. The Constitution-makers preferred to remain silent as to the manner in which the Election Commission will transact its business, presumably because they thought it unnecessary and perhaps even improper to provide for the same having regard to the level of personnel it had in mind to man the Commission.⁷

However, Article 324 of the Constitution does not enable the Election Commission to exercise untrammelled powers. It must trace its power either from the Constitution or from the law made under Article 327 or Article 328. Otherwise it would become an *imperium in imperio* which means no one is under our Constitutional order.⁸

The Election Commission plays a vital role in conducting free and fair general elections in India. Under Part XV of the Constitution of India and the Representation of

⁷ See details on Atul Kohli(ed) *The Success of India's Democracy*. Cambridge University Press. p.1

⁸ See details on Rajendra Vora & Suhas Pulsikar (eds) (2004). *Indian Democracy- Meanings and Practices*. New Delhi: Sage publications.pp.24-27

the People Acts, 1950 and 1951, the Election Commission is a permanent and autonomous body. It has been entrusted with enormous powers and functions to conduct the elections in India in a peaceful and fair manner and for this purpose; the electoral body has been kept free from all kinds of political and executive pressures and influences. On many occasions, the Election Commission demonstrated its holiness and fairness in ensuring peaceful elections at all cost while resisting the political pressures exerted either by the party in power or by the contesting candidates.⁹

In recent years, the Election Commission has greatly expanded its international co-operation with other countries by sharing of experience and expertise in the areas of Electoral Management and Administration, Electoral Laws and Reforms. Several countries like Russia, Sri Lanka, Nepal, Indonesia, South Africa, Bangladesh, Thailand, Nigeria, Namibia, Bhutan, Australia, the United States and Afghanistan have sent their elected officials to visit the Election Commission of India for a better understanding of the Indian Electoral Process. The Election Commission has also provided experts and observers for elections to other countries in co-operation with the United Nations and the Commonwealth Secretariat.¹⁰

⁹ N.S. Gehlot (1992). *Elections and Electoral Administration in India*. New Delhi: Deep and Deep Publications. p.302

¹⁰ Viplav. *op.cit.*, pp.46-47

The Union Cabinet headed by the Prime Minister of India Shri Narendra Modi has approved the proposal of the Election Commission of India to enter into Memorandum of Understanding (M o U) on cooperation in the field of electoral management and administration with the Election Management Bodies of these countries- Central Election Commission of Albania, Election Commission of Bhutan, Independent Election Commission of Afghanistan, National Independent Electoral Commission of Guinea, Union Election Commission of Myanmar, India International Institute of Democracy and Election Management (IIIDEM) and the International Institute for Democracy and Electoral Assistance (International IDEA). The Election Commission has conducted an interaction and sharing of skills and knowledge with other election management bodies in the world.

The Election Commission of India is involving in almost all the activities relating to the conduct of elections in Afghanistan by sharing its experiences in conducting elections. It has provided important instructions to the Independent Election Commission of Afghanistan to ensure free and fair elections.

5.2 The initiatives and the new steps taken by the Election Commission of India:

In order to bring about various improvements and reforms in the election procedure, the Election Commission of India has taken the following steps:-

(1) Working Groups and Committees of the ECI: The Commission has set up working groups and committees in its Endeavour to translate its vision into reality and to ensure that the onerous task of the Commission to conduct free and fair elections is based on an error-free electoral roll, with higher level of participation and inclusiveness of voters and also to continuously set a high benchmark for its working. The Commission has launched initiatives to formulate a strategic plan for 5-10 years, incorporating measures and initiatives for institutional strengthening, voter education and leveraging information technology.¹¹

To study the various aspects of issues relating to elections and submit their recommendations to the Commission, the Working Groups and Committees with their task have been set up as under:

¹¹ *ECI Newsletter* First Issue April-June 2015. New Delhi. p.5

Table No. V – 1

Working Groups and Committees of ECI with their assignments:

Working Group	Task
Working Group 1	To prepare the ECI's strategic plan for 5-10 years.
Working Group 2	To study short and long-term requirements of the ECI in the field of Training, IT, SVEEP, International Cooperation, Election Expenditure, Documentation & Publication, Protocol and Media.
Working Group 3	To study the organizational structure for the Library & Resource centre of the Commission.
Working Group 4	To address the requirements of persons with disabilities.
Working Group 5	To explore the feasibility and availability of sufficient office space at any suitable location in Delhi and nearby.
Working Group 6	To find an alternative voting option for overseas voters by electronic transmission of postal ballot.
Working Group 7	To facilitate voting by Non-resident Indian Voters/ overseas electors.
Working Group 8	To study the problems of domestic migrants in electoral participation and suggest suitable facilitative measures.
Steering Committee	To monitor the working and progress of all Working Committees/ Groups mentioned above.

Source: *ECI Newsletter First Issue April-June 2015*. New Delhi. p.5

(2) Working Groups of Chief Electoral Officers (CEOs): To improve the current set of practices and procedures, a high level seminar for all the CEOs was organized to identify key areas of concern through organized feedback and to develop clear and concrete action plans and recommendations, the Working Groups of CEOs were formed and divided into nine working groups on various topics mentioned below.¹²

The Working Groups of CEOs of different States and UTs with their assignments set up by the Election Commission of India to study various topics and to give their recommendations to the Commission.

¹² ECI Newsletter. *op.cit.*, p.5

Table No. V -2

Working Groups and Committees of Chief Electoral Officers with their assignments:

Working Groups	Member CEOs
Working Group 1- Electoral Roll and Related Matters	CEOs of Madhya Pradesh, Maharashtra, Haryana and NCT of Delhi
Working Group 2- Election Planning and Management	CEOs of Gujarat, West Bengal, Chhattisgarh, Jammu & Kashmir and Arunachal Pradesh
Working Group 3- EVMs and Election Materials	CEOs of Kerala, Karnataka, Mizoram and Lakshadweep
Working Group 4- MCC, Observers, Manifestos and Biennial Elections	CEOs of Uttar Pradesh, Bihar and Odisha
Working Group 5- Qualification & Disqualification, Nominations, Affidavits and Political Parties	CEOs of Jharkhand, Uttarakhand and Meghalaya
Working Group 6- SVEEP and Media	CEOs of Andaman & Nicobar Islands, Chandigarh and Tripura, Addl. CEOs of Rajasthan and Uttar Pradesh (UP)
Working Group 7- Information Technology	CEOs of Manipur, Goa, Puducherry, and Dadra & Nagar Haveli and Daman & Diu
Working Group 8- Statistics, Training, Official Languages and Counting	CEOs of Sikkim and Nagaland, and Joint CEOs of Himachal Pradesh and Rajasthan
Working Group 9- Election Expenditure Monitoring	CEOs of Andhra Pradesh, Tamil Nadu and Punjab

Source: *ECI Newsletter First Issue April-June 2015*. New Delhi, pp.5 - 6

The recommendations which were divided into three categories made by the CEOs were considered by a Committee of Officers to improve the electoral procedures in each of the above-mentioned areas. The Commission considered each recommendation and gave clear directions on the implementation of these

recommendations. Some of the recommendations are in the process of being issued as instructions from the Commission to be implemented across the country.¹³

(3) Regulatory Audit Division: A new division, the Regulatory Audit Division has been opened in the secretariat of the Commission to carry out of audits of all the activities of the Commission in the States/ UTs and also in the Secretariat of the Commission. A Senior Officer of the Commission will coordinate with the State/UT CEO to be audited and after advance; intimation teams will visit the districts/constituencies for the audit. After completing the audit, a consolidated report is to be filed with the Commission. The Commission then considers the reports from the concerned officer and decides to close the matter based on satisfactory explanation, or seek further action for the redressal of grievance or take corrective action on any deficiency. This was just the beginning of the planned audits and in future, not only the electoral roll/ EVMs will be audited but also the auditors will audit the staffing patterns in the offices of CEO, training, accounts of election expenses and public interaction methods.¹⁴

¹³ ECI Newsletter. *op.cit.*, p.6

¹⁴ *Ibid.*, p.6

(4) Voter-Verifiable Paper Audit Trail (VVPAT): Voter Verifiable Paper Audit Trail is a method of providing feedback to voters using a ballot less voting system. It is intended as an independent verification system for voting machines designed to allow voters to verify that their vote was cast correctly, to detect possible election fraud or malfunction, and to provide a means to audit the stored electronic results. It contains the name of the candidate (for whom vote has been cast) and symbol of the party/ individual candidate.¹⁵ On the basis of the rulings of Delhi High Court and Supreme Court and demands from various political parties and as amended the Constitution of India on 14th August 2013 to permit the use of VVPAT system, the Election Commission has introduced VVPAT system in 8 of 543 Parliamentary Constituencies as a pilot project in India General Election 2014. Generated slip tells voter to which party or candidates vote has been given and also includes name of voter's Constituency and polling booth.

¹⁵ https://en.wikipedia.org/wiki/Voter_verified_paper_audit_trail. Accessed on 20.03.2015

Figure No. V-I

Voter Verifiable Paper Audit Trail:



Source:[https://www.google.co.in/search,VoterVerifiedPaperAuditTrail \(VVPAT\)\)](https://www.google.co.in/search,VoterVerifiedPaperAuditTrail+(VVPAT))) used by Indian Election. Accessed on 20.03.2015

(5) None of the Above (NOTA): None Of The Above (NOTA) also known as ‘against all’ or a ‘scratch’ vote, is a ballot option in some jurisdictions or organizations designed to allow the voter to indicate disapproval of all of the candidates in a voting system.¹⁶ As per the Supreme Court’s Order dated 27 September 2013 the Election Commission had introduced ‘NOTA’- the ‘None of the above’ option- on ballot papers displayed on EVMs and all other ballot papers with effect from 11 October 2013. The Election Commission has implemented this option of NOTA voting option in Electronic

¹⁶ [https://en.wikipedia.org/wiki/ None of The Above](https://en.wikipedia.org/wiki/None_of_The_Above). Accessed on 27.11.2016

Voting Machines for the first time in November 2013 in five States. However, it does not mean that if NOTA gets highest votes, then election will be conducted again rather even in that case the candidate with the highest votes will be treated as elected candidates. With regard to the recommendations of the Lyngdoh Committee for the inclusion of NOTA (None of the Above) in student elections. As per the Supreme Court Judgment the Election Commission of India considered to include the Column NOTA-None of the Above option in the Electoral Voting Machines (EVMs) and ballot papers while conducting student elections to ensure free and fair elections among the student bodies.¹⁷

Figure V-2

None of the Above (NOTA) Symbol:



Source: [https://www.google.co.in/search/NOTA used by Indian election](https://www.google.co.in/search/NOTA+used+by+Indian+election). Accessed on 20.01.2016

(6) Use of Bulk SMS/ Voice messages in Political Campaigning: The Election Commission has issued instructions on 28 May 2015 in order to regulate the use of bulk Short Messages Services (SMS) and recorded voice messages during election

¹⁷ Data collected from personal visit of the ECI. New Delhi on 20.01.2016

campaigning by political parties and candidates, their supporters and workers and other organizations supporting them. The main aim is to prevent the misuse of such services for sending cruel and insulting texts during political campaigning, thereby violating electoral and criminal laws and the model code of conduct relating to elections.

(7) Candidates' photo on EVM/Ballot Paper: The Election Commission has directed and instructed that the photograph of candidates shall be printed on ballot papers including the ballot paper to be displayed on the Balloting Unit of EVMs for all elections from 1st May 2015. The photograph will appear in the panel for the name of the candidate to the right of the candidate's name. Candidates are required to submit a stamp-sized photograph taken within the proceeding three months.¹⁸

(8) National Voters' Services Portal (NVSP): In keeping with the Election Commission of India's effort to provide all possible support services to electors with the help of Information Technology (IT) tools, it launched the NVSP on 25th January 2015 to search their name in the Electoral List, to apply for new registration and corrections in online, to view their polling booth, Assembly Constituency and Parliamentary Constituency, to find the contact details of Booth Level Officers (BLOs) Electoral Registration Officers (EROs) and other election officers, to feed their Aadhaar Number to link it with their Elector's Photo Identity Card (EPIC) data, to get a link to the websites of the offices of Chief Electoral Officers and to view instructive short audio-visual films about electoral processes as well Electronic Voting Machines (EVMs).¹⁹

¹⁸ *ECI Newsletter, April-June.2015.p.26*

¹⁹ *Ibid., p. 7*

(9) National Electoral Roll Purification and Authentication Programme

(NERPAP): To bring a totally error free and valid electoral roll the National Electoral Roll Purification and Authentication Programme (NERPAP) has been launched on 3rd March 2015. One of the major objectives of NERPAP is linking and authentication of EPIC date of electors with data of Unique Identification Authority of India (UIDAI).²⁰ Under NERPAP, the facility has also been provided for voluntary disclosure of multiple entries by voters. NERPAP is focused on making the Electoral Roll as error-free as possible, providing voters facilitation services, such as voter slips, electronically and initiating voter awareness measures.²¹

(10) E-registration: The Commission introduced the facility of e-registration to improve the electoral systems in July 2004 in Greater Mumbai, Suburban Mumbai, Thane and Pune districts of Maharashtra on the pilot project basis. This new initiative received an overwhelming response. Over 16,000 people filled up forms to get their names included as electors without incurring any cost or wasting time. This facility is being extended to other States where special summary revision of electoral rolls is currently being undertaken.

²⁰ *ECI Notification on NERPAP Dated on 13th August 2015*

²¹ *Ibid., p.12*

(11) Indelible ink mark on Voter's forefinger to be bigger: The Election Commission has issued orders that Indelible ink should be applied using a brush on voter's finger from the top of the nail to the bottom of the first joint of the left forefinger. It is used in General Elections which plays an important role in controlling fake voting. It is a challenge for Election Commission to ensure each voter exercising only One Vote to avoid fake voting. The Election Commission has sent this instruction to all districts Election Officers and Returning Officers and it also be brought to the notice of all Presiding Officers and Polling Officers during trainings for strict compliance.²²

(12) Award for Best Performance in Voter Education and Electoral Participation: The Election Commission has introduced the National Civil Society Award (NCSA) for the best campaign on Voter education and awareness. The Young Mizo Association (YMA), the largest Community-based organization in Mizoram has been conferred by the Election Commission in recognition commendable works for promoting electoral participation through effective innovative programmes or projects. The President of India handed over the award to the President of Central Young Mizo Association (CYMA) during National Voters Day's function in New Delhi on 25th January 2016. The Young Mizo Association in Mizoram which has branches across the State effectively helps the State Election department in spreading awareness on voters participation for the establishment of good governance. It also removes

²² Data collected from personal visit of the ECI .New Delhi on 27.01.2016

foreigners from Voters' Lists across the State. In association with the Church-Sponsored election watchdog, Mizoram People Forum (MPF), the YMA has made elections in Mizoram low-profile, clean and fair in Mizoram, which has won accolades from the ECI.²³

(13) Steps taken for Persons with Disabilities (PwDs): The following steps were taken by the Election Commission for Persons with Disabilities (PwDs) while conducting elections in some constituencies such as:²⁴

(a) The ECI conducting a single window camp in all the Blocks to enroll them in the electoral rolls in Cuttack Odisha. Every Person with Disability voter was contacted to the phone and informed about the special facilities at the booths. Two volunteers were provided at polling booths to assist PwDs. Besides measures directed by the ECI, special initiatives such as sign-language interpreters for the hearing impaired were launched. To motivate PwDs electors and to boost the morale of their family members, a household-contact programme was conducted for 10 days in March-April 2014. As a result, 88,30% of the enrolled PwDs voted in the district- the highest ever in the State's election history.

(b) In Jammu & Kashmir, the Reasi District administration launched a mission under Systematic Voters' Education and Electoral Participation (SVEEP) - 'Rehbar' in collaboration with the District Red Cross Society (DRCS) for providing a home to

²³ *Newslink, Mizoram Daily Newspaper*.28.February.2016

²⁴ *ECI Newsletter.op.cit.*, p.17

booth services for the aged, the PwDs and the infirm. A village-wise survey was conducted and such special voters identified. These special voters were assigned one assistant from the same polling booth area to facilitate him or her to and from the polling booth, tricycles were hired and vehicles were pressed into action for ferrying PwDs and their nominated attendants were helped to the polling booths and back home.

(c) In Delhi, special voters like PwDs, the aged and the infirm were provided a separate link on the Chief Electoral Officer's website where PwDs could get registered and request assistance/facilities required by them on poll day. Wheelchairs with dedicated volunteers were made available at all the polling station locations with the support of the Department of Disability Affairs, Ministry of Social Justice and Empowerment.

(d) In Uttar Pradesh, in Sitapur district, painting/ poster competition for PwDs titled 'Mera mat bhi dega loktantra ko naya aayam aur majbooti' was organized to increase the voter turnout among the special voters. It was very successful with a voting percentage of 67.p.c in the 2014 Lok Sabha election compared to only 56 p.c in the 2009 Lok Sabha election in that district.

(14) Voters' Awareness Programme: The Election Commission has been organized the following Voters' Awareness Programmes to ensure free and fair elections in our country:²⁵

²⁵ *ECI Newsletter.op.cit.*, pp.18-19

(a) Consultations with Stakeholders: The Election Commission undertook consultations with stakeholders including Civil Society Organizations (CSO), academicians, media houses, experts and volunteers to finalize the action plan for the Systematic Voter's Education and Electoral Participation (SVEEP) programme. The main aim is to consult as widely as possible both with partners and with stakeholders across the country. The consultation focused on identifying gaps in registration and voting, chalking out targeted interventions to meet the identified gaps through the three-pronged strategy of information, motivation and felicitation and promoting ethical and informed voting.

(b) Consultations workshops with stakeholders: The Election Commission undertook Consultation workshops with stakeholders and made recommendations on the following grounds such as (i) Electoral literacy should be made a component in all in-house capacity building programmes of various departments and federations. (ii) Special sensitization should be taken up towards the needs of Special marginalized groups such as disabilities and transgender electors or sex workers. (iii) While social media may be reaching only a small percentage of the Indian population, it is nevertheless going to increase its outreach and hence, the ECI should engage with people on this platform too.

(c) Engaging People Online: In a constant endeavor to move with the changing times, the Commission is making all efforts to adapt and adopt the latest technology to reach out to its voters. The ideas and inputs from its large electorate are deemed of great

value, which is why the ECI launched a range of online contests on National Voters' Day 2015.

(d) Learning with Games and more: A Videogame titled Get! Set! Vote! was launched on voter awareness and education programme. The game has been created to engage citizens of all age groups to learn about democracy and the electoral process.

(15) Use of Bulk SMS/ Voice messages in Political Campaigning: The Election Commission has issued instructions on 28th May 2015 to regulate the use of bulk short messages services (SMS) and recorded voice messages during election campaigning by political parties and candidates, their supporters and workers and other organizations supporting them and to prevent the misuse of such services for sending malicious and vilifying texts during political campaigning, thereby violating electoral and criminal laws and the model code of conduct relating to elections. These instructions intend to monitor the contents of such bulk SMS to the electors during the electoral process so that objectionable content is not transmitted by this medium. Legal provisions applicable to other modes of electronic media shall be applicable on bulk SMSs/voice messages as well. The procedure prescribed in the order dated 15 April 2004 shall be followed for this purpose.²⁶

²⁶ ECI Newsletter. *op.cit.*, pp.25-26

(16) Regular Monitoring Systems of the works of CEOs, DEOs and ECI HQ- First Management Information System (MIS): With a view to improving accountability in the system, the Commission has decided on a regular monitoring system to be followed to track and evaluate the progress of work in the offices of CEOs and DEOs. In an instruction dated 21 April 2015, The Commission has instructed on 21st April 2015 that the CEOs should prepare and forward a Monthly Progress Report to the Commission in a prescribed format prepared under the signature of the concerned CEO with all the required information on various aspects of electoral management. The CEOs should ensure that along with the static and dynamic information required, they will send a General Summary Report as well as highlights. The CEOs have been instructed to ensure that the Monthly Progress Reports for a particular month should reach the Commission electronically by the 20th of the following month. The DEOs are to forward their Monthly Progress reports in the given format as well as a general summary report electronically to the respective CEOs by the 10th of the following month.²⁷

(17) Proper infrastructure in the office of CEO/DEO: The Chief Election Commissioner of India has written a D.O letter on 30 May 2015 to the Chief Secretaries (CSs) of all States/ UTs that the offices at the State and District Level need an improved working environment including adequate staff and sufficient infrastructure and space. These offices represent the Commission at the grass-root level and are responsible for implementing the directives and instruction of the Commission and providing all the

²⁷ ECI Newsletter. *op.cit.*, p.25

services due to the voters. The CEC requested the CSs to consider the proposals of CEOs for staff, amenities and space on a priority basis.²⁸

(18) Special Summary Revision: Several important new initiatives have been introduced by the ECI following the mandate of making electoral processes as error-free and electorate-friendly as possible. Uploading of relevant documents in support of one's identity and of a photograph at the time of online filing of an application for registration has been made mandatory. Now, Electoral Registration Officers (EROs) may reject the application at the preliminary stage if relevant documents are not uploaded. The registration authorities have been instructed by the ECI to issue an acknowledgment or receipt of an application to the applicant at the time of receiving claims and objections. Further information about the status of the application at each stage of its disposal shall be given to the applicant by SMS/e-mail or by post if the mobile number/e-mail ID of the applicant is not given. Emphasis has been laid on the ECI's earlier instruction that Form 6 should not be processed if part IV is blank or incomplete, whereupon it should be rejected without exception.²⁹

(19) Simplification of Forms for the Electoral Roll: The Commission received inputs from the public and other stakeholders that the Forms need to be more user-friendly, decided to simplify these forms. After considering the views of the CEOs on

²² ECI Newsletter. *op.cit.*, p.26

²⁹ *Ibid.*,p.3

draft forms, the Commission finalized the simplified forms and they are being forwarded to the Ministry of Law and Justice for notifying the same.³⁰

(20) Guidelines for Media Coverage: The Election Commission has issued guidelines regarding media coverage on 18th September 2015 under section 126 of the Representation of the People Act, 1951 in connection with the General Elections. The Press Council of India issued special guidelines for all the media to be observed by the Election Commission during the elections. The News Broadcasting Standards Authority (NBSA) had earlier issued 'Guidelines for Election Broadcasts' on 3rd March 2014 for electronic media.³¹

(21) Communication Plan: The Election Commission attaches great importance for preparation and implementation of a perfect communication plan at the District/ Constituency level for the smooth conduct of elections and to enable concurrent intervention and mid-course correction on the poll day. For the said purpose, it has directed the Chief Electoral Officers to coordinate with the officers of Tele-communication Department in the States/ UT Headquarters, Bharat Sanchar Nigam Limited (BSNL) and Mahanagar Telephone Nigam Limited (MTNL) authorities, the representatives of other leading service providers in the State, so that the network status in the State is assessed and communication shadow areas are identified.

³⁰ ECI Newsletter. *op.cit.*, p.4

³¹ *Ibid.*, p.15

(22) Videography: All critical events must be video-graphed. District Election Officers will arrange a sufficient number of video and digital cameras and camera teams for the purpose. The events for videography will include the filing of nominations, scrutiny thereof and allotment of symbols, preparation and storage of EVMs, important public meetings, processions etc. during the campaign, process of dispatching Postal Ballot papers, polling process and counting of votes etc. Digital cameras must be deployed inside Polling Stations, wherever needed and inside all counting centers. Compact Discs (CDs) of video recordings will be available on payment to anyone who wishes to obtain a copy of the same.

(23) Public Grievances Redressal Management System (PGRMS): The ECI is aware that unless grievances from citizens are addressed effectively and on time faith cannot be gained in the system, therefore effective addressing method to the grievances and strong monitoring is required. ECI developed IT solution of Public Grievance Redressal Management System (PGRMS). All the complaints received are given unique number for tracking and monitoring. Complaints are immediately forwarded to the concerned officer for handling. Weekly and monthly review system is effective knowledge to higher management about the type of complaints emerging. This is further used for policy decision if required. The unique feature of PGRMS is its connectivity with mobile technology in keeping complaints fully aware the progress of the complaints, helping them track down their complaints through SMS as well.³²

³² *ECI Newsletter. op.cit., pp.23-24*

(24) The Inclusion of NOTA in Student Elections: With regard to the recommendations of the Lyngdoh Committee for the inclusion of NOTA (None of the Above) in student elections. As per the Supreme Court Judgment, the Election Commission considered to include the column NOTA- None Of The Above option in the Electronic Voting Machines (EVMs) and ballot papers while conducting student elections to ensure free and fair elections among the student bodies.³³

(25) To review National and State status of Political Parties every 10 years: On 22nd August 2016, the Election Commission amended rules to review the national and state party status of political parties every 10 years instead of the present five. The criteria of being recognized as a National and State party will remain unchanged, the review of the status will take place every two consecutive Lok Sabha or Assembly elections instead of one. The Commission has amended Paragraph 6 C of the Election Symbols (Reservation and Allotment) Order, 1968 to affect the change. It was last amended in 2011. This change in rules will ensure that ruling parties do not lose their status due to anti-incumbency factor after every election.

³³ *Supreme Court order based on the recommendations of the Lyngdoh Committee issued on July 2016*

5.3 Strict implementation of Model Code of Conduct for the Political Parties and Candidates:

The Model Code is a unique document evolved by the political parties themselves to govern their conduct during elections so as to ensure that a level playing field for all political parties is maintained during elections and, in particular, to curb the misuse of official power and official machinery by the ruling party to further the electoral prospects of their candidates. It is very important to have an effective model code of conduct while conducting general elections in our country. Suitable punishments should be given those who corrupt practices, misuse of governmental machinery, booth capturing to ensure free and fair elections in our country. During the election campaign the political parties and contesting candidates are expected to abide by a Model Code of Conduct evolved by the Election Commission on the basis of a consensus among political parties. The model Code lays down broad guidelines as to how the political parties and candidates should conduct themselves during the election campaign. It is intended to maintain the election campaign on healthy lines, avoid clashes and conflicts between political parties or their supporters and to ensure peace and order during the campaign period and thereafter, until the results are declared. The model code also prescribes guidelines for the ruling parties, either at the Centre or in the States, to ensure that a level playing field is maintained and that no cause is given for any complaint that the ruling party has misused its official position for the purposes of

its election campaign. Over the years, the Election Commission has been sternly enforcing the model code of conduct and ensuring free and fair elections.³⁴

It is an essential and important tool for ensuring free and fair elections in India. The Election Commission has issued various instructions on the observance of the model code of conduct from time to time. Some of the important restrictions made by the Election Commission of India on various grounds can be discussed as under³⁵

(1) On governmental works and Welfare schemes: Restrictions and relaxations have been imposed to new schemes and also ongoing schemes. Approvals should be obtained from the Election Commission or the Chief Electoral Officer for some scheme which has been sanctioned earlier and various schemes done by civil authority and without associating politicians and voters. If, work orders have been issued before the model code of conduct came into operation, works should be started without obtaining the permission from the concerned authority. On the other hand, if the works and schemes have not actually started at the right time, it can be started only after the completion of election process.

(2) On Transfers and posting of officials: With the approval of the Election Commission, the Central government and the State governments have the power to issue orders on transfer and posting of officials. The transfer orders issued in respect of the officials prior to the date of the announcement but not implemented till the time

³⁴ See a detail on M.S.Gill. *The Electoral System in India*. Former Chief Election Commissioner of India. p.27

³⁵ *ECI Notification on Model Code of Conduct regarding Do's & 'Don'ts* issued on 07.01.07. New Delhi.

when the model code came into effect should not be given effect to without obtaining specific permission from the Commission. The State government can approach the Commission for prior clearance regarding the transfer of an officer on administrative grounds. New appointments and promotions in Government or Public Undertaking should not be made without the approval of the Election Commission during the model code of conduct is in operation.³⁶

(3) On Misuse of Official Machinery: Official vehicles cannot be used for electioneering work. But, if and when a Minister is traveling in some emergent situation which cannot be avoided in public interest, a letter to this effect should be sent from the Secretary concerned of the Department to the Chief Secretary of the state, a copy should be sent to the Commission. The Commission will keep watch on such arrangements in due consultation with its Chief Electoral Officer. On the other hand, Ministers are entitled to use their official vehicles only for commuting from their official residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity.³⁷

(4) 'Dos and Don'ts' for the guidance of the candidates and political parties: The Election Commission has drawn up a list of 'dos' and 'don'ts' to be followed by candidates and political parties after the announcement of elections and till the completion of the process of elections. It has also directed that this is given the widest

³⁶ *www.eci.nic. in accessed on 27.07.2017*

³⁷ *www.eci.nic. in accessed on 27.07.2017*

possible publicity and its contents brought to the knowledge of all candidates and political parties including in the official language of the State.³⁸

(5) Permission for meetings and procession: Permission should be obtained for the use of loudspeakers or any other such facilities for the proposed meetings. No disturbances shall be created in public meetings or processions organized by other political parties or candidates. The time and place of the starting of any procession, the route to be followed and the time and place at which the procession will terminate should be settled in advance and advance permissions obtained from the police authorities.³⁹

Article 324 of the Indian Constitution empowers the Election Commission to enforce of the Model Code of Conduct for the guidance of political parties and candidates in general conduct, meetings, procession, polling day, polling booth, observers, party in power, and guidelines on election manifestos.⁴⁰ Thus, Article 324 of the Indian Constitution mandates the Election Commission, to conduct general elections to the Parliament and the State Legislatures in consultation with the Central government, State governments, Political Parties and Candidates.⁴¹

³⁸ *www.eci.nic.in. Accessed on 30.07.2017*

³⁹ *www.eci.nic.in. Accessed on 30.07.2017*

⁴⁰ *See detail on Election Commission of India (1991). Model Code of Conduct for the Guidance of Political Parties and Candidates. New Delhi:1991.*

⁴¹ *www.eci.gov.in accessed on 14.10.2015*

To sum up, the present chapter discusses the changing role of Election Commission starting from the traditional functions and role to the present day functions performed by the Commission. It also discusses the new initiatives and steps that have been taken by the Commission in recent years. Some restrictions on the model code of conduct for the political parties and candidates during the elections are also discussed in this chapter.

CHAPTER – VI

Issues, Problems and Challenges faced by the Election Commission of India

6.1 Problems relating to

6.1.1 Infrastructure

6.1.2 Finance

6.1.3 Personnel

6.1.4 Lack of awareness among the citizens or voters

6.1.5 Coordination with the Central government and State governments

6.1.6 Political pressure

6.1.7 Filing of nominations

6.1.8 Misuse of money and muscle power

6.1.9 Funding patterns

6.1.10 Checking of criminalization of politics

6.1.11 Electoral fraud

6.1.12 Buying of votes

6.1.13 Misinformation

6.1.14 Misleading or confusing ballot papers

6.1.15 Preparing error-free electoral rolls

6.2 Challenges on-

- 6.2.1 Increase in population and increase in number of polling stations
 - 6.2.2 Difficulty in maintaining accurate voter list
 - 6.2.3 Criminals contesting elections
 - 6.2.4 Carrying out peaceful elections in sensitive areas
 - 6.2.5 Three types of major challenges - muscle power, misuse of government resources and black money
 - 6.2.6 Malpractices during elections
 - 6.2.7 Paid media or misuse of media by political parties during elections
 - 6.2.8 Management of electoral rolls
- 6.3 Election Commission's decisions on recognition, allotment of symbols, Suspension and continuation of registration of political parties
- 6.4 Procedures of regular and emergency enrolment of voter ID-Electors Photo Identity Card (EPIC)
- 6.4.1 Issues on election affidavit
 - 6.4.2 Need for videography and digital cameras during election process
 - 6.4.3 Relationship of ECI with central govt. in selection of the CEC and ECs

6.4.4 Issues on None of the Above (NOTA)

6.4.5 Responsibilities of social media and mass media on voter awareness campaigns

6.4.6 Issues on expenditures in elections

6.4.7 Public perceptions regarding the overall working of ECI

6.4.8 Issues of Facebook - Cambridge Analytica scandal on Indian Election process

In the preceding Chapter, we have discussed the changing role of Election Commission of India starting from the traditional functions to present day functions performed by the Commission. It has covered the model code of conduct and several initiatives and the new steps like VVPAT, NOTA, etc., taken by the Commission in recent years to ensure free and fair elections in the country. The present chapter deals with different issues, problems and challenges being faced and experienced by the Election Commission. Some problems relating to infrastructure, finance, personnel, lack of awareness among the citizens and voters, coordination with the Central government and State governments, political pressure, filing of nominations, misuse of money and muscle power, limits on expenditure, funding patterns in the elections, checking of criminalization of politics, electoral fraud, buying of votes, misinformation, misleading or confusing ballot papers, preparing clean electoral rolls, duplication of electoral rolls are discussed in this Chapter. Some of the challenges like increase in population and

increase in number of polling stations, difficulty in maintaining accurate voter list, criminals contesting elections, to carry out peaceful elections in sensitive areas, three types of major challenges such as muscle power, misuse of government resources and black money, malpractices during elections, paid media or misuse of media by political parties during elections, management of electoral rolls will be discussed. Some issues on recognition, suspension, allotment and continuation of registration of political parties, Voter-ID (EPIC), videography and digital cameras during elections, election affidavit, NOTA, expenditures in elections, facebook scandal on Indian election, social media and mass media on voter awareness are public perceptions regarding the overall working of the Election Commission of India will also be discussed in the present Chapter

6.1 Problems faced by the Election Commission of India:

The conduct of elections is not an easy task in one of the biggest democratic countries in the world like India. The Election Commission has been conducted general elections to the Parliament, State legislatures and the offices of the President and Vice-President of India since 1951. There are a number of problems prevalent and being faced by the Election Commission which have been diagnosed from various corners and angles using different methods such as interviews with the officials, visit the office and Annual Reports prepared by the Election Commission of India. The problems being faced by the Election Commission can be categorized as under:-

6.1.1 Problems relating to Infrastructure:

The Election Commission started functioning from 1950 with a separate building in New Delhi. It is located in the central part of New Delhi, the national capital of India. It is preferable that its location should be isolated from a public place for maintaining security. This isolation of the office building will provide a better chance to hold free and fair elections. So, there should be enough space for organizing seminars and workshop regularly for the election officials from different States and UTs.¹ The Election Commission needs good infrastructural facilities for collection of data which may facilitate the Commission to arrive at any conclusion. Information can be gathered and inquiry can be held by the Commission through the Government only. It is again the Government which on request of the Commission makes public servants available for conducting elections.²

6.1.2 Problems relating to Finance:

All the expenditure for elections to Rajya Sabha and to the offices of the President and Vice President are borne by the Central government. If elections are being held only for Lok Sabha, the expenditure is borne entirely by the Union Government. The Central government and State government share 50 p.c. of the expenditure each for

¹ *Data collected from personal visit of the ECI. New Delhi on 20.06.2015*

² *Data collected from personal interactions with the functionaries of the ECI Headquarters. New Delhi on 27.01.2016*

simultaneous elections to Lok Sabha and State Legislative Assemblies.³ The Government of India and State Government share 50 p.c. of the expenditure each for annual revision of Electoral Rolls. Regarding the budget, the Central and State Governments make necessary budget proposals every year for the conduct of elections and annual revision of Electoral Rolls.

In the present condition, the Commission receives funds allocated by the Finance Ministry Govt. of India. In comparison with other Electoral Commissions of other countries, the Commission needs adequate financial assistance for conducting smooth, free and fair elections to general elections in the country.⁴

6.1.3 Problems relating to Personnel:

Several powers are vested in the Election Commission with regard to electoral personnel under the Representation of People Acts, 1950 and 1951.⁵ The success and failure of the Commission depend upon the qualities and efficiency of its employees. It faces a shortage of necessary personnel to manage different activities relating to the elections. The civil servants are under the control of Election Commission during the

³ M.S.Gill(2003).*The Electoral System in India*. New Delhi. p.28

⁴ *Data collected from personal interactions with the functionaries of the ECI Headquarters*. New Delhi on 27.01.2016

⁵ Raisa Ali(1996).*Representative Democracy and Concept of Free and Fair Elections*. New Delhi: Deep and Deep Publications.p.258

times of elections, but there are cases of non coordination with the government in devolving necessary authority to the Election Commission.⁶

6.1.4 Problems relating to lack of awareness among the citizens and voters:

It is observed that there is a lack of awareness among the citizens and voters on election laws and regulations. Many problems are being faced by the Commission in different parts of India during the times of elections due to lack of proper instructions and awareness among the people. As citizens of India, everyone is expected to exercise the right to vote to elect the representatives to form the government. There should be proper instructions or awareness inculcated among the people through seminars and awareness campaigns in different places where elections are held. Knowledge of the rules and regulations prepares the people regarding how to exercise their political rights by knowing what to do and not to do during the polls. The people are to be aware of the model code of conduct issued by the Commission for holding general elections throughout the country.⁷

⁶ *Data collected from the field visits of ECI.* New Delhi on 27.01.2016

⁷ *Data collected from personal interactions with the functionaries of the ECI Headquarters.* New Delhi on 27.01.2016

6.1.5 Problems relating to Coordination with the Central Government and

State Governments:

There should be a good relationship between the Central government with the State governments to ensure free and fair elections to general elections conducted by the Election Commission. While preparing the draft and final rolls for the General elections to Parliament and Legislative Assemblies, the Commission should have direct contact with central government and state governments. The Commission with its agencies at the State level, it should perform its functions with each other agencies with its various units serves as the key factors, playing an important role in the preparation of electoral rolls. Some problems are arising while preparing Electoral rolls and conducting elections, if and when the Election Commission takes its own decision without taking the advice of the Government of India and the State Government. Thus, there should be a close relationship between the Commission and Central government with the state governments for getting updated, revised and corrected electoral rolls.⁸

6.1.6 Problems relating to Political Pressure:

Some problems may have arisen due to the pressure of politicians regarding declaration of the date of polls to general elections to Parliament and State Legislative Assemblies. Some feel that the officials of the Commission are under the influence of the politicians. The Commission is also expected to keep up neutrality while appointing the election officials like Chief Electoral Officers, Observers, District Election Officers

⁸ *Data collected from the field visits of ECI. New Delhi. on 28.01.2016*

(DEOs) Electoral Registration Officers (EROs) and Asst. Electoral Registration Officers (AEROs).As per the rules and regulations, the Commission is also expected to maintain independence. The politicians also should not be allowed to be involved in some kind of activities while conducting general elections. It has been the observation by some, that the functions of the Commission as a constitutional body are gradually being exploited due to political pressure.⁹

6.1.7 Problems relating to Filing of Nominations:

Under Section 31 of the Representation of the People Act, 1951, public notification of elections has been issued in a prescribed manner for inviting nomination of candidates specifying the places.¹⁰ Filing of nomination papers should be done carefully by the candidates reflecting all his/her relevant documents. The Commission had issued rigid instructions to prevent the entry of criminals during the exercise of filing of nominations. Some candidates do not have clear agenda and programmes of action. There are some candidates who are not serious and playful in filing nomination papers and create problems not only to the Election Commission but also in the field during polling.¹¹

⁹ <https://www.google.co.in/search/?q=problem+on+political+pressure+by+ECI> accessed on 17.07.2016

¹⁰ N.S.Gehlot(1992).*Elections and Electoral Administration in India*. New Delhi: Deep and Deep Publication.p.92

¹¹ *Data collected from the field visits of ECI*. New Delhi on 28.01.2016

6.1.8 Problems on Misuse of Money and Muscle Power:

In India, money and muscle powers are closely connected with the elections. The role of money in moulding and shaping the vote-choice and voting decision of certain electors can hardly be minimized. Though money alone is not only the determining factor that influences the voting decision of voters, it plays a very important and dreadful role in influencing the choice of the electors.¹² Elections are very expensive. The political parties are also collecting donations from the voters to capture the power. Most of the candidates win the elections because of unfair means by using money and muscle powers and may lead to uncontrolled corruption. Some voters who donated huge money for party funds expect a high return on their investments. Besides, the muscle power too has become a critical component of electioneering in present day elections. It has become an integral part of elections.¹³ The corrupted politicians exploit people's sentiment for electoral gains and also obstructed physically the voters from participating in the democratic exercises.

6.1.9 Problems relating to Funding Pattern:

As per the funding pattern, all the funds needed for general elections are distributed to the State governments. All the requirements of funds for the conduct of elections are worked out by the Commission and scrutinized under the close supervision

¹² APK Singh(2009). *Election Politics in Manipur*. New Delhi: Mittal Publication. p.192

¹³ APK Singh.*op.cit.*,p.195

of the Central government and State governments. In 1990, the Goswami Committee recommended for State Funding to the candidates belonging to recognized political parties through material supports. The partial funding is no funding. Under State funding system, there is no need for restriction on the election money from other sources.¹⁴ But we are still following the present funding pattern that the needed funds for conducting general elections are distributed to the State governments by the Central government. The present system is still creating problems to ensure free and fair elections to general elections throughout the country.

6.1.10 Problems relating to checking of Criminalization of Politics:

Criminalization of Politics means that the criminals entering the politics, contesting elections and getting elected to the Parliament and State legislature. The criminalization of politics is a serious problem in India. Section 8 of the Representation of the People Act, 1951, provides that persons convicted and sentenced to imprisonment for the offences shall be disqualified from contesting elections for the period of their sentence and shall continue to be disqualified for further period of 6 years since release from prison.¹⁵ In 2003, a law was introduced to check the election of criminals to the Parliament and State legislative bodies. Though the Election Commission has made recommendations and set down norms to the government to control the danger of criminalization of politics. Some persons with criminal background continue to hold

¹⁴ P.Rathanaswamy(2004).*Electoral Reforms: Law and Institutions of India and World*. New Delhi: Book Well. pp.98-99

¹⁵ *Elections in India Major Events & New Initiatives 1996-2000* Published by the ECI on 2000. p.327

seats in Parliament and State Assemblies till date. The entry of anti-social and criminal persons in politics may leads to a very adverse and uneasy situation when law-breakers become law-makers and move around under police protection.

6.1.11 Problems relating to Electoral Fraud:

Technically, the term ‘electoral fraud’ covers only those acts which are illegal, sometimes it is used to describe acts which although legal, are considered to be morally unacceptable, outside the spirit of electoral laws or in violation of the principles of democracy. Electoral fraud is illegal interference with the process of an election. In national elections, successful electoral fraud can have the effect of a coup d’état or corruption of a democracy. In a narrow election small amount of fraud may check the voter’s hand for any shoe polish and note that the voter has left some shoe polish after the handshake.¹⁶

6.1.12 Problems relating to Buying of Votes:

Buying of vote means any reward given to a person for voting in a particular way or for not voting. Vote buying is a corrupt election practice. Vote buying is a threat to the conduct of fair elections.¹⁷ Voters may be given money or other rewards for voting in a particular way, or not voting. In some jurisdictions, the offer or giving or

¹⁶ Viplav(2010). *Encyclopedia of Electoral Reforms and Political Development*.New Delhi: Vista International Publishing House.p.17

¹⁷ <https://definitions.uslegal.com/v/vote-buying> accessed on 15.07.2016

other rewards is referred to as ‘electoral treating’. So, it is difficult for some people to exercise their political rights to ensure free and fair manner due to vote buying in the elections.¹⁸

6.1.13 Problems relating to Misinformation:

People may distribute false or misleading information in order to affect the outcome of the election. Most commonly, smear campaigns like circulation of false rumors are made against a particular candidate or party. Another way in which misinformation can be used in voter fraud is to give incorrect information about the time or place of polling, thus causing them to miss their chance to vote.¹⁹

6.1.14 Problems relating to Misleading or Confusing Ballot Papers:

Ballot papers may be used to discourage votes for a particular party or candidate, using design or other features which confuse voters into voting for a different candidate. Another method of confusing people into voting for the wrong candidate is to run candidates or create political parties with similar names or symbols as an existing candidate or party.²⁰

¹⁸ Viplav, *op.cit.*, p.22

¹⁹ *Ibid.*,p.22

²⁰ *Ibid.*,p.22

6.1.15 Problems of preparing Error-free Electoral Rolls:

Under Article 324 of the Indian Constitution, the Election Commission is entrusted with preparation and updating of electoral rolls. The Election Commission is required to prepare Error-free electoral rolls to maintain the election process is free and fair. It is very difficult to maintain clean electoral rolls due to rapid urbanization and creates problems in preparing error-free electoral rolls. The people who are moving from one place to another also leads to duplication of names in both electoral rolls. Re-organization of the assembly constituency is another problem which can create some problems while preparing electoral rolls.

6.2 Challenges faced by the Election Commission of India:

India is one of the largest democratic countries in the world. It is not easy to conduct elections successfully in a vast country like India. The Election Commission should be well-equipped with highly capable, skilled managers, high budget, highly visible for the Election Commission of India to conduct free and fair elections in India. Some of the challenges faced by the Election Commission during the election process in different places are increase in population and increase in number of polling stations, difficult to maintain accurate voter list, criminals contesting elections, to carry out peaceful elections in sensitive areas, three types of major challenges such as muscle power, misuse of government resources and black money, malpractices during

elections, paid media or misuse of media by political parties during elections, management of electoral rolls.

6.2.1 Increase in Population and increase in Number of Polling Stations:

There has been an increase of 100 million voters between the 2009 and 2014 general elections making it the largest-ever election in the world. With the increase of voters, more polling stations, election machinery and security personnel are needed. With facing some problems in conducting elections, the Election Commission has conducted successfully general elections in India. ²¹

6.2.2 Difficulty in maintaining accurate Voters List:

The first and foremost challenge is the increase of electoral population in India. Due to the migration of the voters from one place to another, the voters list always keep changing. They demanded the transfer of their names to the new residence, this creates a big challenge for the Election Commission to maintain accurate voters list. When the voter dies, his/her name has to be deleted from the electoral rolls and correction of electoral rolls has to be done by the concerned authorities. There are many cases relating to delete or correct the lists of voters in different parts of India. In this way

²¹ [https://en.wikipedia.org/wiki/ Indian general election 2014](https://en.wikipedia.org/wiki/Indian_general_election_2014). Accessed on 16.07.2016

maintaining of proper and accurate voter lists has been done by the Election Commission.²²

6.2.3 Criminals contesting elections:

One of the challenging tasks for the Election Commission is checking of criminals entering into politics and contesting elections. According to the Association for Democratic Reforms, which analyzed the election affidavits filed before the Election Commission, we have seen that 34 p.c of the new MPs face criminal charges in Lok Sabha election in 2014. Of the 5,380 candidates contesting the Lok Sabha election in 2014, 17 per cent were declared criminal charges in the affidavits submitted to the Election Commission, 10 per cent have declared serious criminal charges such as murder and rape charges.²³ To reduce the number of entry of criminals into politics and contest elections, the Election Commission should have the power to audit the financial accounts of political parties and should be brought under the Right to Information (RTI) law. The Election Commission must take adequate measures to break the nexus between the criminals and the politicians. So, there is a need of setting up special courts for trying the cases of criminalization of politics.

²² *Data collected from personal visit of ECI. New Delhi on 28.01.2016*

²³ *<http://www.thehinducentre.com/verdict/get-the-fact/article5962667>. Accessed on 16.07.2016*

6.2.4 Carrying out Peaceful Elections in Sensitive Areas:

The Election Commission of India is facing a big challenge to conduct free, fair and peaceful elections in different regions like Naxalites or Maoist hit regions, sensitive and hyper-sensitive areas throughout the country. The Election Commission needs to go in the deepest regions with to conduct elections of the country. Election officials made arrangements to provide additional security in sensitive and hyper-sensitive polling stations in different parts of India. Accordingly, police personnel for each polling station was selected by the election officials in consultations with the Election Commission. All important arrangements were made by the Election Commission to conduct elections peacefully and successfully in different places of sensitive and hyper-sensitive areas.²⁴

6.2.5 Three types of major challenges – Muscle Power, Misuse of government resources and Black money:

The three types of major challenges such as muscle power, misuse of government resources and black money which the Election Commission faces during election process in different places are:-Muscle power also known as ‘booth capturing,’ a type of electoral fraud in which party supporters capture a polling booth by intimidating election officers, filling the polling station with party loyalists, preventing legitimate electors from entering and illegally voting in their place, thus ensuring victory for the party they support. Misuse of government resources in the form of personnel, funds,

²⁴ *Data collected from personal visit of ECI. New Delhi on 28.01.2016*

program advertising, vehicles and aircraft are against the model code of conduct issued by the Election Commission. Black money usually refers to funds earned on the black market, on which taxes have not been paid. In the context of Indian elections, it refers more generally to funds that are difficult to trace and that enter election campaigns in the form of prohibited donations and illegal spending. The funds are used to avoid the contribution and spending limits imposed on candidates and political parties. The Election Commission has been trying to come to grips with the problem by imposing more tough accounting and reporting requirements on parties and candidates, ordering the co-operation of banks and deploying more financial observers. In spite of these hardship faced by the Election Commission during elections, it has been conducted general elections to Parliament and State legislature and also individual positions to the offices of the President and Vice-President of India.

6.2.6 Malpractices during Elections:

During elections, the Election Commission conducts seizures like cash, liquor, drugs, and illegal arms by using State Police forces, State Excise Departments and the Investigation Directorate of Income Tax. Mobilizes Flying Squads and creates static Surveillance Teams in each constituency to conduct seizures.²⁵

²⁵ *Fight electoral malpractices to strengthen democracy*. The Hindu. January 26,2010

To control the electoral malpractices, the Election Commission has to come up with the following measures to control the electoral malpractices during elections.

1) To allow citizens to upload video and audio clips, speeches, or distribution of cash or liquor among voters to the Commission's website to avoid confusion among voters and election officials.

2) To install hidden cameras in all sensitive polling booths would be directly linked via the internet to the office of the Election Commission of India in New Delhi. The new facility has been set up at the offices of all the Chief Electoral Officers across the country.

6.2.7 Paid Media or Misuse of Media by Political Parties during Elections:

Media has played a crucial role in safeguarding the democratic rights of the people by educating and informing voters about their electoral duties. But its power to influence public opinion has also encouraged its obvious misuse by parties and candidates, who connived with obliging editors and media house owners to encourage paid news. Today, it is a major challenge in the way of fair elections because on one hand, it provides wealthier candidates with an edge over other, candidates, on the other, it defeats the very principle of fair elections by denying equal opportunity to other candidates. The Election Commission does have some powers to deal with the problem of paid news. To deal with the issue of Paid News, a mechanism has been laid out with three tiers of Media Certification and Monitoring Committees (MCMCs) at the district,

State and Central levels.²⁶ However, the measures and guidelines are not enough as the media houses or publications are beyond the Election Commission's purview and it can only forward these cases to the Press Council of India and the News Broadcasting Standards Association

6.2.8 Management of the Electoral Rolls:

In the democratic countries like India, the electoral roll is being managed in the light of constitutional, legal provisions and on the direction of the Election Commission. Starting from the preparation of the electoral roll till its final publication in the management of electoral roll fidelity various challenges is being faced by the Election Commission. Under the guidance of the Election Commission, some problems have been overcome in the management of the electoral roll.²⁷ Accurate and error-free electoral roll is the most important pre-requisite for free and fair elections.

The responsibility of preparation and regular maintenance of the electoral rolls is entrusted with the District Electoral Registration Officers and their subordinate officers by the Election Commission. The rolls are dynamic because they keep changing every day. The rolls need to be updated regularly. The details contained yesterday may not be correct today. The voters keep migrating from one place to another and demand for transfer or transposition of their names to the new place of residence. It is very

²⁶ *ECI Newsletter. July-September. 2015.p.9*

²⁷ *Bidhuri Paper Presented on Challenges in Management of Electoral Rolls . Champhai. Mizoram. pp.1-*

challenging to identify the underage electors because of their illiterate and non-production of age proof. The people enrolled who have shifted to other districts without obtaining deletion certificate, creates difficulty in preparation of electoral rolls, poor infrastructure facility including road and telecommunication in district area is another challenge. So, the Election Commission has introduced innovative concepts specific to the challenges faced, it has instructed the Chief Electoral Officers and District Election Officers to upload the Electoral Roll in their websites along with search facility for wider publicity and transparency.²⁸

6.3 Election Commission's Decisions on Recognition, Allotment of Symbols, Suspension and Continuation of Registration of Political Parties:

Under Section 29A of the Representation of the People Act, 1951 and Conduct of Elections Rules, 1961, the Election Commission has the power to recognize political parties and allot them election symbols. A new provision Part IVA of the Representation of the People Act, 1951 on Registration of Political Parties has now been added from 15th June 1989.²⁹ One of the important functions of Election Commission is to recognize political parties as the National Parties or State Political Parties. If in a general election a particular party gets four percent of votes polled in any four States, it is recognized as National Party. If a party gets four percent votes in a

²⁸ D.Anandan- paper presented on *Challenges in the Management of Electoral Rolls* . East Sikkim. Gangtok. pp.1-5

²⁹ Anjana Kaw Bhagat (1996).*Elections and Electoral Reforms in India*.New Delhi:Vikas Publishing House. p.214

States, or a region, it is recognized as a State or Regional Party.³⁰ The Election Commission has to act quasi-judicially and has to follow principles of natural justice while registering the political parties. By using these provisions, the Election Commission had issued the Election Symbols (Reservation and Allotment) Order, 1968 which regulate and govern election symbols of National Political Parties or State Political Parties in the country. There are two kinds of symbols such as *reserved* or *free*. A reserved symbol is the one which is reserved for a recognized political party. Symbols other than reserved symbols are free symbols.

When disputes on controversy arise due to split into political parties, the Election Commission tries to settle the disputes by collecting all the available facts and circumstances related to the case and hearing from the representatives. It is under the Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 that the Commission makes decision-based on its own assessments of the facts and circumstances.

Under Para 16A of The Election Symbols (Reservation and Allotment) Order, 1968 the Election Commission issued instructions to all the political parties to file their election expenditure statement within 75 days in the case of general election to an Assembly and within 90 days in the case of a general elections to the Lok Sabha. We have seen that, though the Election Commission had issued two reminders to the NPP to submit the expenditure statement, the National People's Party (NPP) of Meghalaya led

³⁰ N.S.Gehlot. *op.cit.*, p.49

by Mr. PA Sangma failed to submit their election expenditure statement to the ECI. The ECI in its order dated 12th June 2015 suspended the recognition of NPP as a State Party in Meghalaya. But the suspension was not the permanent withdrawal of recognition; it is only a temporary measure. The party submitted its election expenditure statement, explaining the delay and assuring full compliance in future and requested the Commission for revocation of the suspension. After considering the facts, the Commission revoked the suspension order under Symbol (Reservation and Allotment) Order, 1968 on 1st July, 2015.³¹

6.4. Procedures of Regular and Emergency or Special enrolment of Voter ID -

Electors Photo Identity Card (EPIC):

Voter Identity Card also known as EPIC is the identity document not only a ticket to vote for the government formation in the State and at the Centre, but also a valid identity proof that is required in various applications for other documents such as passport, adhaar card, driving license etc. The Election Commission in its Notification dated 28 August 1993, that the Voter ID (EPIC) should be strictly enforcing from 1st January 1995 failing which elections in such States going to polls would not be allowed.³² Earlier Voter IDs were issued by the Election Commission in various States on offline mode. But now the entire procedure to submit an application for new election card to receive a digital copy can be done online after registration. Under the supervision of the Election Commission of India, the Chief Electoral Officers is

³¹ *ECI Newsletter*. April-June 2015. p.11

³² Anjana Kaw Bhagat. *op.cit.*, pp.231-232

conducting online Voter ID registration to improve e-services for online registration of election card.

Regarding the procedures for issue of Emergency or Special Enrolment of voter ID, he or she should file an First Information Report (FIR) to the police station of his area to obtain duplicate Voter ID by doing legal formalities with enclosing all the required documents and should submit to the nearest election office of his State to get emergency or special enrolment of Voter ID.

6.4.1 Issues relating to Affidavits by the Candidates:

An affidavit is a legal document that is very similar to a witness's sworn testimony in a court of law. A Candidate is required to furnish an election affidavit in the shape of Form 26 appended to The Conduct of Elections Rules, 1961, containing information regarding their criminal antecedents, their assets, liabilities, and educational qualifications. Under Section 125A of The Representation of the People Act, 1951, a candidate who is making any false statement or declaration before the Election Commission, Chief Electoral Officer, District Election Officer, Presiding Officer or any authority appointed is punishable by up to 6 months or with fine or both. The submission of false affidavits in matters of election can have extremely serious consequences as it affects the purity of elections. The Commission has issued instructions that in the affidavit to be filed along with the nomination paper, candidates

are required to fill up all columns.³³ Some issues regarding assets, educational qualifications and criminal records and the impact of such affidavit on the candidates (before and after) suggested by many experts and national observers of Indian elections that the affidavit today are accepted just as routine matters. As a result after a candidate wins the elections and subsequently it is found out that there are mistakes or serious gaps in the affidavit then it needs to court cases in such a situation, the necessity of scrutinizing the affidavits long before a candidate is declare eligible or the candidature is accepted as valid.

6.4.2 Issues regarding Videography and Digital Camera during Election Process:

All the important events starting from the filing of nominations, scrutiny thereof and allotment of symbols, preparation and storage of EVMs, process of dispatching Postal Ballot papers, polling process, Polling Stations (inside the booth and the nearby areas), storage of polled EVMs, counting of votes and declaration of results should be video-graphed. These arrangements should be arranged by the concerned authority in a sufficient number of video and digital cameras and camera teams for the various purposes. Sometimes violence and booth capturing occurred in some areas during polling day inside and outside the polling station and also inside the counting hall. The

³³ *ECI Newsletter*. July-September 2015, p.9

recorded video-graphed and digital cameras are needed during these critical situations to take corrective measures.³⁴

6.4.3 Relationship of ECI with the Central Government in Selection of the CEC and other ECs:

Under Article 324(2) of the Indian Constitution, the Chief Election Commissioner and other Election Commissioners shall be appointed by the President subject to the provisions of any law made by the Parliament for a term of five years or up to 65 years of age- whichever is earlier. At the same time, the fact remains that the Chief Election Commissioner was appointed by the Government from the senior administrative cadres who was close and confidante of the Prime Minister and Home Minister.³⁵ Here, we have seen that the Central Government uses pick and choose a policy for the appointment of CEC and ECs. The Supreme Court also raised a question to the Central Government regarding the lack of proper procedure for appointment of CEC and ECs. The practice of appointing the members of the EC without making law for a fair, just and transparent process selection by constituting an independent and neutral collegiums/ selection committee to recommend the name is in violation of Art.14 and 324(2) of the Constitution of India.³⁶

³⁴ *Data collected from personal interactions with the functionaries of the ECI.* Headquarters. New Delhi on 28.01.2016

³⁵ U.N.Gupta (1986). *Indian Parliamentary Democracy.* New Delhi:Atlantic Publishers and Distributors.p.385

³⁶ *Data collected from personal visit of ECI, Headquarters.* New Delhi, on 25.06.2015

6.4.4 Issues relating to None of the Above (NOTA) in the EVMs:

On the basis of the Supreme Court's Order issued on 27 September 2013, the Election Commission of India had introduced 'NOTA'- the 'None of the above' option- on ballot papers displayed on EVMs and all other ballot papers with effect from 11 October 2013.³⁷ The Election Commission of India has implemented this option of NOTA voting option in Electronic Voting Machines for the first time in November 2013 in five States. However, it does not mean that if NOTA gets highest votes, then the election will be conducted again rather even in that case the candidate with the highest votes will be treated as elected candidates. The main objective of the NOTA option is to enable electors who do not wish to vote for any of the candidates to exercise their rights not to vote for any candidate without violation of the secrecy of their decision.³⁸ With regard to the recommendations of the Lyngdoh Committee for the inclusion of NOTA (None of the Above) in student elections. As per the Supreme Court Judgement, the Election Commission of India considered to include the Column NOTA- None of the Above option in the Electoral Voting Machines (EVMs) and ballot papers while conducting student elections to ensure free and fair elections among the student bodies. The new symbol of NOTA, a ballot paper with a black cross across it was introduced on 18 September 2015. Practically, NOTA cannot make or make a candidate or an election. Even if the number of NOTA votes is the majority, that will

³⁷ *ECI Newsletter*. July- September. 2015 p.5

³⁸ *Ibid.*, p.5

not result in re-election or the constituency remaining vacant. At present, the law does not allow NOTA to supersede the votes cast in favour of candidates.³⁹

Some countries, who initially introduced this option to the voters discontinued this system. In countries where Electronic Voting Machines (EVMs) contain a NOTA button, there are chances of it receiving a majority of the vote and hence “winning” the election.

6.4.5 Roles of Social Media and Mass Media in Voter Awareness Campaigns:

Social media platforms like WhatsApp, Facebook, Twitter and sending SMS to play an important role in reaching out to people. Many people who are regular users of WhatsApp, Facebook and sending SMS have accessed this tool as one of the best tools to reach out to the youth of the state. We need a strong social media to reach out the unreached people. One of the challenges is that it is not possible to sort WhatsApp users by location, age, or other demographics, which means that any message he sends on the platform can be sent only to all subscribers. So, WhatsApp may have to do some extra work to optimize its service for political campaigns.

Social media platforms, such as Twitter, Facebook and YouTube provide new ways to stimulate citizen engagement in political life, where elections and electoral campaigns have a central role. Social media has reshaped structures and methods of contemporary political communication by influencing the way politicians interact with

³⁹ *Data collected from personal visit of EC. Headquarters. New Delhi on 25.06.2015*

citizens and each other. However, the role of this phenomenon in increasing political engagement and electoral participation is neither clear nor simple.⁴⁰

The Election Commission had issued instructions on 28 May 2015 regarding the use of bulk SMS and recorded voice messages during election campaigning by political parties and candidates, their supporters and workers and organizations supporting them to prevent the misuse of such services for sending hateful and defamatory texts during political campaigning, thereby violating electoral and criminal laws and the model code of conduct relating to elections.

6.4.6 Issues regarding Expenditures in Elections:

Indian elections are the world's biggest exercise in democracy but also among the most expensive. Parties and candidates need large sums of money for voter mobilization, advertising, consulting, transport, propaganda and printing of campaign materials to reach voters in constituencies. The existing definition of election expenses and the revised limit of election expenses should be periodically reviewed and revised. The Election Commission empowers to propose the changes in respect of the definition of election expenses at the beginning of every parliament.⁴¹

For greater transparency and for the alleviate of monitoring election expenses, candidates would be required to open a separate bank account and incur their election

⁴⁰<https://epthinktank.eu/2014/02/12/the-role-played-by-social-media-in-political-participation-and-electoral-campaigns> accessed on 26.08.2017

⁴¹P.Rathnaswamy (2004).*Electoral Reforms: Law and Institutions of India and World*.New Delhi: Book Well.p.121

expenses from that very account.⁴²The entire expenditure on the actual conduct of elections to Lok Sabha is borne by the Centre. But, the expenditure for maintenance of law and order is to be borne respective State governments. State funding of elections is a potential solution to the increased expenditures in elections. Proper maintenance of accounts and compulsory audit after each election is needed to check candidate's own expenditure.

6.4.7 Public Perception regarding the Overall Working of Election Commission of India:

As citizens of India, everyone is expected to exercise the right to vote to elect their respective to form the government. Every voter plays an important to ensure free, fair and peaceful elections in the country. There should be proper instructions or awareness inculcated among the people through seminars and awareness campaigns in different places general elections are held. The Commission should have direct contact with the people, civil society organizations and the government officials while preparing the draft and final rolls for the General elections to parliament and Legislative Assemblies. Today, the roles of civil society organizations have been increasing in ensuring free and fair elections in our country. They are also expected to play multiple roles for the smooth functioning of the government as well as for the electoral process. For the smooth functioning and successfully conducting elections in India, the Election

⁴² *ECI Newsletter*. July- September. 2015. P.9

Commission of India should provide online facilities to all the sections including government officials to give views and feedback regarding elections.⁴³

6.4.8 Issues of Facebook - Cambridge Analytica Scandal on Indian Election

process:

Cambridge Analytica (CA) is a British political consulting firm started in 2013 which combines data mining, data brokerage, and data analysis with strategic communication for the electoral process.⁴⁴ The Election Commission of India has partnered up with Facebook back in 2017 to launch the first nationwide voter registration reminder starting from July 1 till July 4, 2017, the voter registration reminder was sent to people eligible to vote on Facebook in India. As part of this campaign, on 1st July 2017, Facebook runs a voter registration reminder in multiple 13 Indian languages to all the Facebook users in India. In January 2018, the Election Commission announced a National Voters' Day pledge feature on Facebook.

Facebook is accused of misusing data of voters to help political parties and to influence election process. Election Commission has to coordinate with enforcement agencies to prevent unlawful activities such as to influence polls. Social media platform such as Facebook which collaborates with the Election Commission should have to follow a 'code of conduct' to ensure that their user data remains protected from

⁴³ *Data collected from the officials of the Chief Electoral Officer's Establishment. Aizawl. Mizoram on 17.11.2017*

⁴⁴ *<https://www.google.com/search?> Meaning of Cambridge Analytica Accessed on 24.03.2018*

manipulation which could adversely affect elections. The commission is also looking to review its association with Facebook to encourage enrolment of young voters.⁴⁵ The Chief Election Commissioner O.P. Rawat said. “The Election Commission secretariat will be coordinating with enforcement agencies to come up with suggestions on what needs to be done to prevent such unlawful activities which adversely affect the Indian elections,” He also added that the ECI engagement with Facebook is very limited and it is just used to inform voters and there is no means to access our data through it.

Thus, the problem of managing elections in a vast country like India to the satisfaction of the different political parties is of a magnitude which has no parallel anywhere else in the world. The Election Commission is required not only to be impartial but also appear manifestly to be impartial in all respects.⁴⁶

To conclude, we have discussed the problems and challenges faced by the Election Commission of India and the polling officials as well as the voters during general elections in India. The present chapter examines various problems relating to different issues, problems and challenges being faced and experienced by the Election Commission. Some problems relating to infrastructure, finance, personnel, lack of awareness among the citizens and voters, coordination with the Central government and State governments, political pressure, filing of nominations, misuse of money and muscle power, limits on expenditure, funding patterns in the elections, checking of

⁴⁵ *The Asian Age* published on 24th March 2018

⁴⁶ P.N Krishna Mani (1971). *Elections, Candidates and Voters*. New Delhi: Sterling Publishers. P.22

criminalization of politics, electoral fraud, buying of votes, misinformation, misleading or confusing ballot papers, preparing clean electoral rolls, duplication of electoral rolls are discussed in this Chapter. Some of the challenges like increase in population and increase in number of polling stations, difficulty in maintaining accurate voter list, criminals contesting elections, to carry out peaceful elections in sensitive areas, three types of major challenges such as muscle power, misuse of government resources and black money, malpractices during elections, paid media or misuse of media by political parties during elections, management of electoral rolls are also discussed. Some issues on recognition, suspension, allotment and continuation of registration of political parties, Voter-ID (EPIC), videography and digital cameras during elections, election affidavit, NOTA, expenditures in elections, facebook scandal on Indian election, social media and mass media on voter awareness and public perceptions regarding the overall working of the Election Commission have been discussed in the present Chapter

CHAPTER – VII

Conclusion

The previous Chapter has discussed the problems and challenges faced by the Election Commission and the polling officials as well as the voters during general elections in India. It has examined the various problems relating to infrastructure, finance, personnel, lack of awareness among the citizens and voters, coordination with the Central government and State governments, political pressure, filing of nominations, misuse of money, limits on expenditure, funding patterns in the elections, checking of criminalization of politics, electoral fraud, buying of votes, misinformation, misleading or confusing ballot papers, preparing clean electoral rolls, duplication of electoral rolls are discussed in this Chapter. Some of the challenges like increase in population and increase in number of polling stations, difficulty in maintaining accurate voter list, criminals contesting elections, to carry out peaceful elections in sensitive areas, three types of major challenges such as muscle power, misuse of government resources and black money, malpractices during elections, paid media or misuse of media by political parties during elections, management of electoral rolls are also discussed. Some issues on recognition, suspension, allotment and continuation of registration of political parties, Voter-ID (EPIC), videography and digital cameras during elections, election affidavit, NOTA, expenditures in elections, facebook scandal on Indian election, social media and mass media on voter awareness and public perceptions regarding the overall working of the Election Commission also discussed.

The present Chapter is divided into two parts: Part - I and Part - II. The first part contains a brief summary of all the previous chapters. The second part of the chapter presents the research findings in relation to the research questions concluding observations, suggestions for the improvement of the working of the Election Commission to ensure free and fair elections in the country.

PART – I

The present thesis has been divided into Seven Chapters. The first Chapter is an introductory part of the whole body of the thesis. This chapter starts with the meaning and definitions of elections in the democratic countries in the world. It traces the origin of elections during the British rule in India. It also focuses on the formation of Election Commission under the provisions of Article 324 of the Constitution of India and highlights some changes in the administrative set up of the Election Commission. It discusses the statement of the problem for which remedial measures are suggested, review of literature on books, articles, reports, etc., which have direct and indirect link to the topic of the thesis, scope of the study, research questions containing the objectives of the study, methodology of data collection from the primary and secondary sources.

The second Chapter deals with electoral administration - a conceptual study by discussing the meaning, definition and nature of election in a democracy. It also covers classifications significance, functions of elections, electoral cycle, three models of the elections-independent model, governmental model and a mixed model. The concept and

relevance of electoral administration under Global, Indian and Contemporary scenario on various issues and dimensions of electoral administration like- rights of new voters are also discussed in this chapter.

The third Chapter traces the origin and history of elections from the ancient period to pre- Independence period. It also discusses the origin and history of Election Commission of India in the post-independence period by adding Constitutional provisions on elections and Election Commission of India. In this chapter, electoral laws and Representation of the People Act, 1950 and 1951 are also discussed.

The fourth Chapter discusses the original structure, powers and functions of Election Commission of India in a chronological manner. The chapter contains changes in the Commission from time to time from a single member to multi-member Commission and the status of Chief Election Commissioner and other Election Commissioners are also discussed in this chapter.

The fifth Chapter deals with the changing role of Election Commission of India starting from the traditional functions to present day functions performed by the Commission. It also discusses the model code of conduct and several initiatives and the new steps like VVPAT, NOTA, etc., taken by the Commission in recent years to ensure free and fair elections in the country.

The Sixth Chapter discusses different issues, problems and challenges of Election Commission faced by the Commission. Some problems relating to infrastructure, finance, personnel, lack of awareness among the citizens and voters, coordination with the Central government and State governments, political pressure, filing of nominations, misuse of money and muscle power, limits on expenditure, funding patterns in the elections, checking of criminalization of politics, electoral fraud, buying of votes, misinformation, misleading or confusing ballot papers, preparing clean electoral rolls, duplication of electoral rolls are discussed in this Chapter. Some of the challenges like increase in population and increase in number of polling stations, difficulty in maintaining accurate voter list, criminals contesting elections, to carry out peaceful elections in sensitive areas, three types of major challenges such as muscle power, misuse of government resources and black money, malpractices during elections, paid media or misuse of media by political parties during elections, management of electoral rolls have been discussed. Some issues on recognition, suspension, allotment and continuation of registration of political parties, Voter-ID (EPIC), videography and digital cameras during elections, election affidavit, NOTA, expenditures in elections, facebook scandal on Indian election, social media and mass media on voter awareness and public perceptions regarding the overall working of the Election Commission of India also discussed in the present Chapter.

The final Chapter is divided into two parts – Part – I and Part – II. The first part contains a brief summary of all the previous chapters. The meaning and definitions of elections in the democratic countries in the world have been discussed. The study also traces the origin of Election Commission from the pre-Independence period. It has an in-depth study on the changing role and functions of the Election Commission of India. It has also discussed the various problems and challenges faced by the Commission. The study reveals that the Election Commission successfully conducts general elections to Parliament and State Legislative Assemblies though faced with some problems. The second part of the chapter contains the major findings and suggestions for the improvement of the Election Commission to ensure free and fair elections in the country. Four research questions have been formulated in the study and solved with relevant information for the smooth functioning of the Election Commission of India.

PART - II

Since no comprehensive study has yet been made on this topic, the present work attempts to study the origin, powers and functions with the changing roles of Election Commission. Under the provisions of Article 324 of the Indian Constitution, the Election Commission of India has been established on 25th January 1950 with a single-member or one Chief Election Commissioner. The study reveals that many changes were made in the administrative set up of the Election Commission of India by introducing new steps and initiatives to ensure free and fair elections in the country. The present study is guided by the research questions and found out the answers to the

research questions through the whole study. Four research questions have been formulated in the study and solved with relevant information for the smooth functioning of the Election Commission of India.

While trying to get the answer to the first question – Is the Election Commission of India well equipped to conduct free and fair elections in India? The study has found that, though the Commission was not well equipped right from the beginning, numerous functions and responsibilities are given by the Government of India. With facing some problems and challenges, it has conducted general elections to Parliament and State Legislative Assemblies of the States and Union Territories across the country. The central government introduces several new steps and initiatives for the smooth functioning of the Election Commission of India. Presently, the Election Commission is well- equipped to conduct free and fair elections in India.

Our second research question is - What are the traditional functions and the role of the Election Commission of India? In an attempt to answer this question, the primary function of the Election Commission entrusted to it by the Constitution is the superintendence, direction and control of the preparation of the electoral rolls and conduct of elections to Parliament and to the legislature of every State and also elections to the offices of the President and Vice-President of India under Art 324(1). The Election Commission has to take responsibilities on the appointment of election tribunals to settle disputes in connection with the electoral process to Parliament and State Legislatures. The Constitution of India and Sections 15 and 30 of the

Representation of the People Act, 1951 clearly states that there should be a close relationship between the Election Commission and the Central Government to fix the election Schedule for conducting general elections to Parliament. The Election Commission performs several powers and functions to ensure free and fair elections under the Representation of the People's Acts, of 1950 and 1951.

So far as the third question is concerned, that is -What are the issues related to the changing role of the Election Commission of India? This research question deals with the issues relating to the changing role of the Election Commission of India starting from the traditional functions to present day functions performed by the Election Commission. Due to the advancement of technology in today's world, the Election Commission also changes its outlook according to the need of the voters. Thus, the role and functions of the Election Commission always keep changing with the introduction of new steps and initiatives for the smooth functioning of the Election Commission and making it easy to participate for voters to ensure free and fair elections in India. Several new steps and initiatives has been taken by the Election Commission in recent years such as schemes like computerization of electoral rolls, providing electors with Identity Cards, State-owned Electronic Media for broadcast/ telecast by Political parties, checking criminalization of politics, the inclusion of NOTA and VVPAT, proper maintenance of election expenditures by a candidates and to provide a level playing ground to contestants during elections by imposing strict compliance of Model Code of Conduct.

So far as the last question is concerned, that is - What are the related issues of problems and challenges faced by the Election Commission of India and what could be the possible solutions? The fourth and the last question aim at studying the main problems and challenges faced by the Election Commission of India. Some of the problems faced by the Commission are problems relating to infrastructure, finance, personnel, lack of awareness among the citizens and voters, coordination with the Central government and State governments, political pressure, filing of nominations, misuse of money and muscle power, limits on expenditure, funding patterns in the elections, checking of criminalization of politics, electoral fraud, buying of votes, misinformation, misleading or confusing ballot papers, preparing clean electoral rolls, duplication of electoral rolls. Some of the challenges like increase in population and increase in number of polling stations, difficulty in maintaining accurate voter list, criminals contesting elections, to carry out peaceful elections in sensitive areas, three types of major challenges such as muscle power, misuse of government resources and black money, malpractices during elections, paid media or misuse of media by political parties during elections, management of electoral rolls are also faced by the Commission in conducting elections. Some issues on recognition, suspension, allotment and continuation of registration of political parties, Voter-ID (EPIC), videography and digital cameras during elections, election affidavit, NOTA, expenditures in elections, facebook scandal on Indian election, social media and mass media on voter awareness and public perceptions regarding the overall working of the Election Commission are

also reflected. To overcome these problems and challenges, there should be a good relationship between the Election Commission with the Central government, State governments with various functionaries. The success and failure of the Commission also depends upon the efficiency of the election officials with their supporting staff. There should be a good infrastructure to ensure enough space to organize seminars and workshop regularly for the election officials from different States and Union Territories. In view of the present situation, adequate financial assistance should be given for conducting smooth, free and fair elections to general elections in the country and the politicians should not be allowed to be involved in some kind of activities while conducting general elections.

7.1 Major findings on the working of the Election Commission of India:

1) Transparency is guaranteed by the Election Commission of India by utilizing of modern information technology. The well- management of the modern technology leads the Election Commission to takes quick decisions and necessary actions in consultations with the election machineries of Central as well as the State levels. The Election Commission has been taken new steps and initiatives by introducing NOTA, VVPAT etc., to ensure free and fair elections.

2) During the last more than six decades of its working, the Election, Commission has achieved itself an important position in the constitutional set up of the country. The prestigious position held by the Election Commission proved that the Commission has been working efficiently, independently and impartially. It has been

functioning as the most suitable agency for the removal electoral grievances by rendering help and guidance in all matters pertaining to elections and to ensure free and fair elections in the country.

3) One of the achievements made by the Election Commission is that it has been able to reduce the poll schedule to the minimum. While the first General Elections held in 1951-52 took more than three months to complete the polling process and the last General Elections was held in 9 phases from 7 April to 12 May 2014 to complete the polling process. The poll schedule has been reduced from three months to one month due to the efficiency of the staff and the introduction of new facilities for voters. The Election Commission has done by making arrangements for an ever-increasing electorate and commendable work by conducting so far 16 General elections to the Lok Sabha and the State Assemblies.

4) Another admirable achievement on the part of the election Commission is the introduction of EVM, EPIC, NOTA VVPAT and Computerized Electoral Rolls. These new systems have immensely helped in improving the efficiency of the Election Commission. The old system of dropping the ballot paper in the ballot box has been replaced by the new system of voting machine - Electronic Voting Machines (EVM) and Voter Verifiable Paper Audit Trail (VVPAT). The Indian electoral system has been improving with the introduction of Electronic Voting Machines by the Election Commission of India in 1999. In a vast and populated country like India, we have experienced many things for using voting machines. While the old system (paper ballot system) is time consuming, long time voting, long time counting, fear of booth-capturing

and fear of rigging and the new system (Electronic Voting Machines) is time saving, less time voting, less time counting, but fear of tampering and counter tampering charges with the introduction of VVPAT.

5) The Election Commission decides the dates of elections in Consultation with political parties, government, media and other stakeholders. Moreover, the Commission also has the final authority of making any rules and orders as and when necessary.

6) The Chief Election Commissioner has the special authority that bars the removal of the other Election Commissioners from their office without his recommendation.

7) Under the supervision and direction of the Election Commission, the State Election Commissions do the work of reservation of seats in Panchayat and Municipal for the members of Scheduled Castes, Scheduled Tribes and Other Backward Classes unless otherwise provided under the law. Reservations are made for women in each of above categories. Reservations are done as prescribed under law on rotational and quota basis and detailed guidelines are provided for rosters

8) All the elections in India from the House of the people (Lok Sabha) to State Assemblies have been conducted on time as per schedule. Moreover, the Commission's authority to call for either of the elections at any time is the great exercise of democracy.

9) The process of voter registration is also found to be an easy one. Once the voters drop application for registration, an Electors Photo Identity Card (EPIC)number is given to every one of them which is the permanent identification out of which the detailed information can be seen at any time. Moreover, voter registration can be done from anywhere and the update is continuously verified by the server at the center which reduces the duplications.

10) It has been found that, the powers of the Election Commission has been increasing from the time of Mr. T.N Seshan, the former Chief Election Commissioner regarding the transfer and posting of Election officials and the implementation of Model Code of Conduct during election campaign for the political parties, candidates, ruling parties either at the Centre or in the States to ensure free, fair and impartial elections in the country.

11) The study has revealed that there is a good coordination between the Election Commission and the Chief Electoral Officers of the different States to ensure free, fair and impartial in the general elections to Parliament and the State Legislatures.

7.2 Suggestions on the smooth functioning of the Election Commission of India:

1) In addition to the existing rules, regulations and electoral laws, we need a separate Election Commission Act which is to be passed by the Parliament for the smooth functioning of the Commission. So we need Election Commission Act to legislate the obligations and powers and functions of the Election Commission through a separate legislation.

2) We need to re-constitute of the Election Commission into three tiers such as (1) Central Election Commission (2) State Election Commission and (3) District Election Commission to conduct elections in free, fair and impartial manner in a vast country like India. The Central Election Commission will be headed by the Chief Election Commissioner. The State Election Commission will be headed by the Chief Electoral Officer of the respective State. The District Election Commission will be headed by the District Election Officer. So, we need to have three Election Commissions at the Central, State as well as the District levels for the smooth conducting of elections in India.

3) The postal voting is entitled to vote by post in a Parliamentary or Assembly Constituencies. This is a limited form of voting exercised by a voter who is on election duty. This right will creates a meaningful impact in making the electoral process more inclusive if accessed by any voter. It will save times of waiting at the polling booth and it can reduce the expenditures for conducting elections.

4) The Election Commission should allow postal voting for Non-resident Indians (NRIs). To achieve this aim, Registration centre should be established by the Election Commission in some countries where the Indian Citizens lived. The Election Commission should start a pilot project in some countries where the Indian migrant is too high. The Election Commission will designate Indian Foreign Service (IFS) Officers as Observers to save time and expenditures. Awareness campaign for migrant workers should be organized by the Election Commission to be given paid leave to cast in their home Constituencies.

5) Proxy voting is an alternative voting method which was introduced in September 2003 for a registered voter who is unable to vote on the Election Day. Under this voting method a voter can nominate another person to cast a vote on his/her behalf and this measure will be helpful particularly to the soldiers in remote parts of the country.

6) Compulsory voting means all the registered voters should cast a vote in the elections and penalty will be imposed to voters those who fails to cast a vote without a valid reasons. Belgium has been the first country to introduced compulsory voting in 1892. Many countries have considered imposing this voting mandatory but only few countries provide for this mandatory voting. In India, Gujarat is the first State in the country to make compulsory voting in the elections to local bodies by passing the Bill of Gujarat Local Authorities Laws (Amendment) on 19th Dec. 2009. In view of the present electoral system in India regarding the percentage of voter turnout in the general

elections to Parliament and State Legislatures and elections to Local bodies, this compulsory voting system should be introduced to increase the percentage of voter turnout.

7.3 Suggestions on electoral system in free and fair manner:

The following suggestions should be taken into consideration for making electoral system free and fair manner:

1) To conduct free and fair elections in a vast country is not an easy task for the Election Commission. The success and failure of the election machinery depends upon the efficiency of the election officials and the sincerity of the voters while exercising their political rights. To stop the unfair practices, the Election Commission should have a separate and independent election department to improve its neutrality and independence. In order to conduct elections free and fair manner, the Election Commission should not be placed under the control of the political executive and parliament.

2) To ensure free, fair and impartial elections in India, persons with criminal charges and corrupt practices should not be allowed to contest at the elections. The election funds should be given to the candidates only through political parties to minimize political corruption. Besides, the mass media should also play an effective role by providing facts and figures and to inculcate the minds of the voters in a right way to ensure free and fair elections and safeguard of democracy.

3) Every voter should exercise his/her right to vote freely to any candidate without any fear within the law. The secrecy of voter should be maintained by the voters without influenced by anyone. But, voting behavior is deeply influenced by Money power. So, we have to exercises our political rights freely without fear and favour to elect our representatives to form a stable government. So, we need proper machinery with fully equipped to fight with any inconsequentiality.

7.4 Suggestions on Aspects of electioneering and Electoral Machinery:

1) All political parties should be given equal chances to use Television and Radio for their election propaganda before the elections. There should be an agreement between political parties with the media on the allocation of broadcasting time for election purposes. With the advancement of science and technology, the aspects of electioneering should be extended to use social media like Whatsapp, Facebook etc., to update election process to ensure free and fair elections in India.

2) Free conveyance of voters by the candidates from his/her residence to polling station should be treated as corrupt practices. Laws relating to corrupt practices should be revised and made more effective for future. The law relating to the corrupt practice of providing free conveyance to voters to and from polling stations should be revised and made effective. The enforcement of the model code of conduct should be strictly regulated or prohibited other than public transport vehicle plying on a regular schedule.

3) There should be a good relationship between the Election Commission with the Central government with its administrative machinery at the State level to ensure free,

fair and impartial manner in conducting general elections. The successful working of the Election Commission depends upon the effectiveness of the election machineries at the central as well as the State levels.

7.5 Suggestions on Electoral Rolls:

1) For the preparations of accurate electoral rolls and proper maintenance of a particular Parliamentary and Assembly Constituencies, the Election Commission should delegates its power from the Central to the Village levels. Every village adult citizen should also participate for the accurate voter lists by informing relevant information to be deleted from the voters list due to expire of the voters from that particular area or constituency.

2) The Election Commission should prepare common electoral rolls to be used in all the elections such as for the General elections to Parliament and State Legislatures and also for the elections to the Local bodies to reduce the expenditures for the preparations of electoral rolls across the country.

7.6 Suggestions on Election programme:

1) In order to reduce the heavy expenses incurred by the Government as well as the Election Commission with its election machineries of all levels, the General elections to Parliament and State Legislative Assemblies should be conducted simultaneously. It is

desirable that the polling date should also be the same date for Parliamentary and Assembly Constituencies as far as possible.

2) In consultation with the Central and State Governments, the Election Commission should prepare carefully the election timetable and under the Negotiable Instruments Act, only the notified holidays should be regarded as public holidays.

3)After the last date for filing nominations is over, the scrutiny of nominations should be taken up on the following day. So that, the time for the withdrawal of nominations should be reduced by two days and the minimum period for the election campaign should be reduced to 15 days.

7.7 Suggestions on poll:

1) Under Section 126 Clause (1) of the Representation of the People Act, 1951, Public meetings should not be organized in any polling area during the period of 48 hours ending with the hour fixed for the conclusion of poll. After the conclusion of the poll, there is no need to prohibit of organizing public meetings, so, this Act relating to prohibition order after polling should be amended accordingly.

2) A polling officials who are on election duty within their constituency should be allowed to vote personally the nearest polling station, if not at the particular polling station where they are entitled to vote.

3) The Conduct of Election Rules, 1961 provides that a blind or infirm voter is allowed to take companion to accompany him or her to cast the vote. But, some presiding officer does not allow blind or infirm voters to take with inside their companion of their choice. This is a violation of the Conduct of Election Rules, 1961. So that, a blind or infirm voters may exercise their voting rights without violating the secrecy of voters.

7.8 Suggestions on Election Expenses and petitions:

1) The existing law relating to election expenses, such as limiting the period of accounting between the date of calling the election and the date of declaration of the result and not requiring the inclusion of expenditure incurred by political parties are the two main defects and it should be removed by amending the law.

2) There should be legal provisions to prohibit election expenses being incurred by any persons other than the candidate or his election agent. If and when required by the candidate, he or she may authorized any person incurs election expenses. He or she should furnish a detailed return of those expenses to be included in the audited statements. So, it is require to be spelt out the legal provisions in a greater detail to make effective. In view of the present legal provisions relating to election expenses, the Election Commission should take necessary steps for checking the election expenses.

3) To reduce the election expenses, display of large-sized banners, posters, processions and demonstrations should be prohibited. The use of loudspeakers should be prohibited on streets and highways for election propaganda.

4) The election petition should be presented directly to the nearest High Court of the State to take quick decision on election disputes. The Article 324 Clause 1 of the Indian Constitution relating appointment of election tribunals for the decision of doubts and disputes arising out or in connection with elections to Parliament and to the Legislatures of States, simultaneously with the amendment of the election law providing for the trial of election petitions directly by the High Court should be amended accordingly.

7.9 Suggestions on to make democracy sound and healthy:

The following suggestions are offered to make the democracy sound and healthy and to redress the problems faced by the Election Commission of India.

1) To ensure free and fair elections and to make the democracy sound and healthy, the existing procedure for the appointment of the Chief Election Commissioner (CEC) that senior civil services who has close and close friend of the Prime Minister and Home Minister needs to be changed. There should be a searching committee consisting of the Chief Justice of India (CJI), Prime Minister of India (PM) and Leader of the opposition party in the Parliament. In consultation with the searching committee, the Chief Election Commissioner should be appointed and other Election Commissioners should also be appointed by the President in consultation with the searching committee and the CEC. After completion of his or her term of office, the CEC should not be eligible for any office of profit as mandatory.

2) At present, the Election Commission cannot update and prepare accurate electoral rolls without the assistance of the Central and State governments. The Election Commission cannot completely perform functions of its own, it plays an effective role under the compassion of the Central and State governments. Therefore, the Election Commission should have its own staff at the Headquarters as well as the State level to regulate their services.

3) The Election Commission should be given more administrative and financial powers in order to perform better its duties and responsibilities and should be treated as a separate department for the smooth functioning in preparing electoral rolls and conducting elections.

So, the Election Commission of India has been playing an active role in conducting general elections to Parliament and State Legislatures by introducing new facilities and methods to ensure free, fair and impartial elections in the country. As an autonomous constitutional body, the Election Commission has been working successfully under the Constitution of India.

The present study to till date is the most comprehensive and all-inclusive research work on the working of the Election Commission of India. But due to the constraints of time, resources and other contributing factors, a lot of relevant aspects might have been ignored by the researcher. These issues including a case study of different elections and working of the electoral machinery can be taken up in future.

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APPENDICES

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashok Road, New Delhi-110 001

No 3/4/ECI/LRT/LNC/JUD/SDR/Vol.1/2016

Dated: 17th May, 2017

To,

The Chief Electoral Officer of
all States & Union Territories

Subject: - The Conduct of Elections (Amendment) Rules, 2017-Amendment in Nomination
Forms 2A, 2B, 2C 2D, 2E and Affidavit in Form 26-reg.

Sir,

I am directed to state that Nomination Forms 2A, 2B, 2C 2D, 2E and Form 26 appended to
the Conduct of Elections Rules, 1961 have been amended vide Gazette Notification S.O. 1133(E),
dated 7th April, 2017 (copy enclosed). Vide this Notification Part IIIA of Nomination Forms 2A &
2B and Part IIA of Nomination Forms 2C, 2D & 2E have been amended. Further, in PART A of
FORM 26, the following amendment has been made: -

(a) For paragraph (3), the following paragraph shall be substituted, namely: -

*"(3) My contact telephone number(s) is /are..... and my e-mail ID (if any)
is and my social media account(s) (if any) is/are
(i).....(ii).....(iii)....."*

(b) after paragraph (9), the following paragraph shall be inserted, namely: -

"(9A) Details of source(s) of income:

(c) Self.....

(d) Spouse....."

The above amendment may kindly be conveyed to all Returning Officers including
Returning Officers for Rajya Sabha election and to the Political Parties based in your states/UT
urgently.

Yours faithfully,

(N.T.BHUTIA)

UNDER SECRETARY

By Special Messenger

ELECTION COMMISSION OF INDIA
Nirvaahan Sadan, Ashoka Road, New Delhi-110001

No. 437/TA/2015/Communication

Dated: 2nd December, 2015

To,

The Chief Executive Officer,
Prasar Bharti,
(Broadcasting Corporation of India)
Mandi House, Copernicus Marg
New Delhi

Subject: Allotment of Broadcast/telecast time to political parties during election.

Sir,

I am directed to refer to the subject cited and to say that during the recently held Bihar assembly election, some political parties brought to the notice of the Commission that in some cases, on submission of the same transcript to All India Radio and Doordarshan by political parties, there were considerable deviations between the approval to the script as approved by AIR and DD. This variation led to difference in approved scripts.

To rule out any such confusion and deviation in all future elections, the Commission desires that Prasar Bharti may constitute an Apex Review Committee in all the States/UTs during elections which may have members/experts of both AIR and DD. In case of any difference of opinion/approval between AIR/DD and political parties related to transcript of broadcast/telecast, matter may be referred to this Apex Review Committee for final decision.

Early response in this regard would be appreciated.

Yours faithfully,



(Dharendra Ojha)
Director

Phone- 01123052015

Email: director.do.eci@gmail.com

Copy to :

1. Director General, All India Radio,
Akashwani Bhawan, New Delhi - 110001
2. Director General, Doordarshan,
Mandi House, New Delhi - 110001
3. Chief Electoral Officer of all the States/UTs - for information and to bring into the notice of all concerned in the State/UT

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

K. AJAYA KUMAR
PRINCIPAL SECRETARY

No. 437/6/INST/2015-CCS

Dated: 29th December, 2015.

To

1. The Cabinet Secretary,
Cabinet Secretariat,
Rashtrapati Bhawan,
New Delhi.
2. The Chief Secretaries of
All the States and Union Territories.
3. The Chief Electoral Officers of
All the States and Union Territories.

Subject: Banning use of building/civil structures owned by Public Sector Undertakings (PSUs) for political advertisement during period of Model Code of Conduct - regarding.

Sir/Madam,

I am directed to invite a reference to the Commission's circular letter No.3/7/2008-IS-II, dated 7th October, 2008, wherein it has, inter alia, directed that there shall be no display of election posters, hoardings, banners, etc., in any Government premises or civil structures. It has come to the notice of the Commission that political parties have been displaying/pasting their posters, banners, etc., at the buildings/civil structures and/or premises owned by the Govt. and Public Sector Undertakings (PSUs) during election periods as part of their election campaign. It is clarified that buildings and premises of PSUs shall also be treated at par with Govt. premises for the purpose of displaying political ads during election period. The Commission has directed that no political advertisements shall be displayed/pasted at the buildings/civil structures owned by Public Sector Undertakings (PSUs) or in their premises during the period Model Code of Conduct is in force.

In case there is no specific provision in the by-laws of PSUs or in their agreements with the advertisement agencies to whom they let out space for advertisement for prohibiting display of political advertisement, PSUs may be instructed to add a para in their commercial agreements with commercial agencies/companies while providing space on lease to the

By Speed Post/Email

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashok Road, New Delhi-110 001

No. 3/1/2014/SDR-Vol.-III

Dated: 5th March, 2014

To,

The Chief Electoral Officers of
All States and Union Territories

Sub: - Conduct of Elections (Amendment) Rules, 2014 – Amendment of Rule 90 of Conduct of Elections Rules, 1961. Increase in maximum limit of election expenses - regarding.

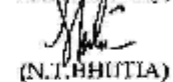
Sir/Madam,

I am directed to send herewith a copy of the Ministry of Law and Justice, Legislative Department, Notification No. II-11019(3)/2014-Leg. II dated 28th February, 2014, amending Rule 90 of the Conduct of Elections Rules, 1961 thereby increasing the upper limit of election expenses applicable to candidates at elections to Lok Sabha and Legislative Assemblies.

This may be brought to the notice of all District Election Officers, Returning Officers and other election authorities concerned and also the State Units of recognized political parties and all registered unrecognized political parties based in your State/ Union Territory for their information.

Kindly acknowledge receipt.

Yours faithfully,


(N.L. BHUTIA)

UNDER SECRETARY

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No.437/6/MISC/ECI/LET/FUNCT/MCC/2017

Dated: 18 January 2018

To

The Chief Electoral Officers of
All States and Union Territories.

Subject: -Clarification regarding enforcement of MCC during bye-election - regarding.

Sir,

I am directed to refer to the Commission's letter No. 437/5/INST/2016-CCS dated 29th June, 2017 regarding application of Model Code of Conduct wherein it has been stated that in case the constituency is comprised in State Capital/Metropolitan Cities/Municipal Corporations, then MCC instructions would be applicable in the area of concerned Constituency only. In all other cases aforesaid instructions would be enforced in the entire district(s) covering the Constituency going for bye-election(s). (Copy enclosed for ready reference)

In this connection, a clarification was sought for by Returning Officer, Ajmer Parliamentary Constituency in Rajasthan, whether the MCC was to be enforced in the entire district of Jaipur or only in the Dudu Assembly segment of Jaipur District during the ensuing bye-election to Ajmer Parliamentary Constituency since Jaipur district has in it state capital, municipal corporation, metropolitan city as well as rural area. The Commission considered the matter and clarified that in order to avoid dislocation/disturbance of normal administrative work in Jaipur-District, MCC would be enforced only in Dudu Assembly segment of Jaipur district.

Now, the Commission has decided that above direction shall be applied in all future bye-elections in the Country involving State Capital/Metropolitan Cities/Municipal Corporations. Accordingly, any district in which Corporation/ Metro/Municipal Corporation is located, MCC would be enforced in the particular Assembly Constituency Segment only and not in the whole of the district.

Yours faithfully,


(NARENDRA N. BUTOLIA)
PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashok Road, New Delhi - 110 001

No. 576/3/2013/SDR

Dated: 7th December, 2013

To,

The Chief Electoral Officers of
all States/Union territories.

Sub: Clarification on 'None of the above'-counting of votes-reg.

Sir,

A question has been raised whether the votes polled against the NOTA option is to be considered for determining the forfeiture of security deposit.

The votes polled against the NOTA option cannot be treated as valid votes. Under Section 158 of the Representation of the People Act, 1951, it is the total number of valid votes polled by all the contesting candidates that is to be taken into account for calculating the one-sixth of votes polled by individual candidates for return of security deposit. Thus, it is clarified that the votes polled against the NOTA option is not to be taken into account for calculating the total valid votes polled by the contesting candidates for the purpose of return of security deposit.

Yours faithfully,



(K.F. Wilfred)
Principal Secretary

By Speed Post/E-mail

ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 51/8/VVPAT/2017-FMS

Dated: 20th December, 2017

To

The Chief Electoral Officers of
All States and Union Territories.

Subject: Counting of VVPAT paper slips in case of CU failure to display result - reg. Sir/Madam,

I am directed to refer to the Commission's letter No. 51/8/VVPAT/2017-FMS, dated 13th October, 2017, wherein it was directed that in case it is not possible to retrieve the result from the Control Unit (CU) even after using printer, the printed paper slips of the respective VVPAT shall be counted, as per counting procedure prescribed by the Commission, for counting of printed paper slips.

The Commission has re-considered the matter and has directed that henceforth in case of non-display of result on the Display Panel of the Control Unit, the following action shall be taken:

- (i) In case any Control Unit does not display result, it should be kept back inside its carrying case and then be kept in the Returning Officer's custody in the counting hall. Counting of votes in other machines should continue as usual.
- (ii) Result from such Control Unit(s) will not be retrieved using Auxiliary Display Unit or Printer.
- (iii) After completion of counting of votes from all the Control Units, the printed paper slips of the respective VVPAT shall be counted as per the counting procedure prescribed by the Commission in para 2.3 (Procedure to count VVPAT paper slips) of its letter of even number dated 5th December, 2017.
- (iv) Thereafter, counting of printed paper slips of VVPAT(s) under Rule 56D of the Conduct of Elections Rules, 1961 should be taken up, if any.

A report regarding counting of VVPAT paper slips is to be sent to the Commission in the following format through Chief Electoral Officer concerned for information.

Presidential Election/Immediate
By Special Messenger/Speed Post/Camp Bag



भारत निर्वाचन आयोग
Election Commission of India

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली-110001
ASHOKA ROAD, NEW DELHI-110001

No. 479/LET/ECI/FUNC/P.E.-BIEN/2017

Dated: 6th June, 2017

To

The Returning Officer for Presidential Election and
Secretary General, Lok Sabha,
Parliament House,
New Delhi-110001.

Sub: Election to the office of the President, 2017-Procedure for deposits and for Refund of deposits.

Sir,

I am directed to state that the deposits made in cash by intending candidates for the ensuing election to the Office of the President of India, with the Returning Officer under section 5C of the Presidential and Vice-Presidential Elections Act, 1952, may be credited to the Account Head "8443-Civil Deposit-121 Elections Deposit. Deposits made by the candidates for Presidential/Vice-Presidential Election" and the money received be deposited in the usual manner in the accredited Bank of the Election Commission of India, namely, "Punjab National Bank", Extension Counter, Nirvachan Sadan, Ashoka Road, New Delhi. The amount deposited in the Bank is adjustable in the books of Pay & Accounts Officer, Election Commission of India, New Delhi.

2. The refund of deposits, in admissible cases, under section 20A of the said Presidential and Vice-Presidential Elections Act, 1952, will be made by the Pay & Accounts Officer, Election Commission of India on presentation of a bill in this behalf by Drawing and Disbursing Officer of the Election Commission in accordance with the instructions contained in the Ministry of Finance (Department of Expenditure), Special Cell O.M. No. F.2/27/76-Special Cell (P.E.II), dated 15.12.1976. In order to enable the Drawing and Disbursing Officer, Election Commission of India to keep proper accounts of the deposits made by the candidates and to record necessary certificates on the bill for making refunds in admissible cases, Returning Officer/Assistant Returning Officer will furnish to the Commission the details of the amount deposited and copies of the orders passed by him authorizing the



भारत निर्वाचन आयोग
Election Commission of India

Presidential Election/Immediate
By Special Messenger/Speed Post/Camp Bag

निर्वाचन मदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली-110001
ASHOKA ROAD, NEW DELHI-110001

No. 481/LET/ECL/FUNC/P.E.-BIEN/2017

Dated: 8th June, 2017

To

The Returning Officer for
Presidential Election and
Secretary General to the Lok Sabha,
Lok Sabha Secretariat,
Parliament House,
New Delhi.

Sub: Presidential Election, 2017 - Directions regarding Public Notice.

Sir,

I am directed to enclose herewith a copy of the Commission's Direction, dated 8th June, 2017 issued under rule 3 of the Presidential and Vice-Presidential Elections Rules, 1974, for your information and necessary action.

2. The Public Notice in Form 1 appended to the Presidential and Vice-Presidential Elections Rules, 1974 shall be published and publicized on 14th June, 2017, the date of issue of Notification of the Election programme by the Commission under section 4 of the Presidential and Vice-Presidential Elections Act, 1952.

3. Kindly acknowledge the receipt.

Yours faithfully,

(VARINDER KUMAR)
PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. ECI/PN/29/2014

Dated: 6th June 2014

Press Note

ECI orders Candidate's election expenses accounts to be made public within 72 hrs.

Under section 78 of the R.P. Act, 1951 every contesting candidate shall lodge account of his election expenses with the District Election Officer (DEO) of the concerned Constituency within 30 days of date from the date of declaration of results.

To bring transparency and quick dissemination of information for public, Election Commission has today issued instructions to the CEOs that the election expenses accounts lodged by the Candidate shall be uploaded on CEO/DEO website within 72 hours of receipt of such accounts and hyperlink is available on the Commission's website www.eci.nic.in. The public can access such accounts under caption "**General Elections to the Lok Sabha/Legislative Assembly 2014- Candidate's Election Expenditure**

The Commission has also issued direction to the CEOs to ensure that if any member of public wants to obtain the copy of the account lodged by the candidate or CD/DVDs on important events/advertisement, he can get the same on payment of Re. 1 per page or Rs. 300/- per CD/DVD at the office of the District Election Officer. The officials have been directed to issue such copies/CDs/DVDs within 48 Hrs of receipt of such request.


(DHIRENDRA OJHA)
DIRECTOR



भारत निर्वाचन आयोग
Election Commission of India

No. 437/6/BCI/INST/FUNC/CCS/MCC/2017

By e-mail/Special Messenger
निर्वाचन सदन

NIRVACHAN SADAN
अशोक रोड, नई दिल्ली - 110 003
ASHOKA ROAD, NEW DELHI - 110 001

Dated: 2nd February, 2017

To,

The Cabinet Secretary,
Cabinet Secretariat,
Rashtrapati Bhawan, New Delhi.

Sub: General Elections-Enforcement of Model Code of Conduct-Regarding

Sir,

I am directed to refer to the Commission's standing instructions dated 20th March 2014, 23rd April 2014 and 27th January 2017, on the subject cited, whereby it has been reiterated that all the references of Government of India, which are proposed to be placed before the Cabinet or any Committee of the Cabinet, should be routed through the Cabinet Secretariat instead of sending the same directly by the Ministries concerned to the Commission.

Despite the Commission's aforesaid clear standing instructions, issued long back and reiterated recently, which have to be followed scrupulously by all concerned, a tendency is being observed to flout the Commission's aforesaid instructions. Matters relating to Cabinet are sent directly to the Commission and that too in last moment leaving no time to ECI to appropriately consider the issue. It leads to creating undue pressure on the Commission to give priority of such reference over its other urgent time-bound business.

The Commission, expressing its unhappiness in the matter, has directed the undersigned to request you again to impress upon all Ministries/Department of Government of India to strictly adhere to the Commission's above-mentioned existing guidelines. While making a reference to the Commission, it should specifically be ensured that at least 48 hours is available to the Commission for processing of such reference, so as to convey its decision in time, otherwise, it would be very difficult for the Commission to entertain such references.

Yours faithfully,

(R.K.SRIVASTAVA)

SENIOR PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 518/VVPAT/2018/EMS

Dated: 8th March, 2018

To

The Chief Electoral Officers of
all States/UTs.

Subject

Clarification regarding conduct of mock poll during commissioning of EVMs
and VVPATs regarding.

Sr.

I am directed to convey that some States have sought clarification whether the
process of conduct of mock poll of 1000 votes on 5% randomly selected EVMs during
commissioning of EVMs is to be followed in case of VVPATs also or not.

In this regard, it is clarified that during the commissioning of EVMs and
VVPATs, mock poll of 1000 votes will be cast in 5% of randomly selected EVMs, as well as
VVPATs. The electronic result shall be tallied with paper count. Candidates/cair
representatives shall be allowed to pick machines randomly for this purpose and also to
participate in the process.

Yours faithfully,



(Madhusudan Gupta)
Under Secretary

Copy forwarded to

1. The Chairman-cum-Managing Director, Bharat Electronic Limited, Bangalore.
2. The Chairman-cum-Managing Director, Electronics Corporation of India Limited,
Hyderabad.
3. for information and necessary action.

By Speed Post/e-mail

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110 001.

No. 51/86/2015-EMS

Dated: 10th July, 2015

To:

The Chief Electoral Officer,
Bihar, Patna.

Sub:

Security measures for Electronic Voting Machines stored in Strong Rooms after First Level Checking of EVMs - Installation of CCTV Camera-regarding.

Sir,

I am directed to state that the following instruction shall be strictly followed for the security and safety of strong rooms where the EVMs are kept after First Level Checking.

A. Security measures for EVMs stored in Strong Rooms from completion of First Level Checking of EVMs to dispersal of EVMs at polling stations:-

1. After first randomization of EVMs the Returning Officer of the constituency, shall take charge of the CUs and BUs randomly allotted to his constituency. The CUs and BUs meant for use at the election shall be separately taken to R.O's strong room under proper escort and will be guarded 24X7. The training EVMs to be distributed to the relevant officers for the training purpose shall be kept in separate strong room within the same premises. At the time of sealing the strong room, the representatives of political parties can remain present and they can also affix their seal on the lock. For this purpose recognised National & State Level Political Parties should be intimated in writing in advance.
2. The strong rooms should have only one entry point and double lock system. One key should be kept with Returning Officer and the other with Assistant Returning Officer of concerned assembly constituency. Other entry points of the strong rooms (including windows) should be sealed in such a way that no one has access inside the strong rooms.
3. Security arrangements should be made round the clock for the strong rooms having EVMs after First Level Checking.
4. The entry point of strong room having EVMs after FLC shall have CCTV coverage round the clock.

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

NO. ECI/PN/47/2017

Dated: 3rd June, 2017

Press Note

Subject – EVM Challenge concludes.

At the outset ECI thanks all the stakeholders for reaffirming their faith and confidence in the EVMs whether by participation or otherwise in the whole exercise of EVM Challenge. The Election Commission of India had, in an extraordinary measure, invited all national and state recognized political parties to come and participate in the EVM challenge announced by it on 20th May, 2017 as per the framework of the challenge. Only two political parties namely, NCP and CPI(M) submitted their interest in participating the EVM challenge till 5.00 PM on 26th May, 2017. Since none of the two political parties specified their choices for EVMs to be chosen from five poll gone states, the Commission brought 14 EVMs randomly in sealed condition kept in strong rooms from 12 Assembly Constituencies of Punjab, Utrakhand and Uttar Pradesh for the EVM challenge scheduled for 3rd June, 2017.

Earlier, Commission had a meeting with all National and State Political Parties on 12 May 2017 in which 42 parties participated. While majority expressed full confidence on the integrity of EVMs, a few continued to raise doubts on functioning of the ECI-EVM.

Commission held a press conference on 20 May 2017 and explained in great detail why it has absolute confidence on non-tamperability of ECI-EVMs working within the technical and administrative safeguards. Commission then announced an EVM Challenge and spelt out a complete framework and send to all political parties on 20th May alongwith invitation.

Today both the parties (NCP and CPI-M) reported to the Challenge Venue on the 7th floor. However CPI(M) told they do not wish to participate in the challenge but only want to understand the EVM process. A detailed demonstration of the entire process was given to them by our technical team. They also expressed desire to interact with the TEC and had a detailed doubt clearing session in which in depth technical doubts were clarified by TEC of the Commission. CPI(M) team then expressed complete satisfaction and suggested that to allay any such doubts Commission should hold such demonstrations and awareness sessions with technical community proactively. Commission welcomes their very constructive suggestion.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashok Road, New Delhi-110 001

No 3/4/ECI/LRT/LNC/JUD/SDR/Vol.1/2016

Dated: 17th May, 2017

To,

The Chief Electoral Officer of
all States & Union Territories

Subject: - The Conduct of Elections (Amendment) Rules, 2017-Amendment in Nomination
Forms 2A, 2B, 2C 2D, 2E and Affidavit in Form 26-reg.

Sir,

I am directed to state that Nomination Forms 2A, 2B, 2C 2D, 2E and Form 26 appended to
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dated 7th April, 2017 (copy enclosed). Vide this Notification Part IIIA of Nomination Forms 2A &
2B and Part IIA of Nomination Forms 2C, 2D & 2E have been amended. Further, in PART A of
FORM 26, the following amendment has been made: -

(a) For paragraph (3), the following paragraph shall be substituted, namely: -

*“(3) My contact telephone number(s) is /are..... and my e-mail ID (if any)
is and my social media account(s) (if any) is/are
(i).....(ii).....(iii).....”.*

(b) after paragraph (9), the following paragraph shall be inserted, namely: -

“(9A) Details of source(s) of income:

(c) Self.....

(d) Spouse.....”

The above amendment may kindly be conveyed to all Returning Officers including
Returning Officers for Rajya Sabha election and to the Political Parties based in your states/UT
urgently.

Yours faithfully,

(N.T.BHUTIA)
UNDER SECRETARY

By Special Messenger

ELECTION COMMISSION OF INDIA
Nirvaahan Sadan, Ashoka Road, New Delhi-110001

No. 437/TA/2015/Communication

Dated: 2nd December, 2015

To,

The Chief Executive Officer,
Prasar Bharti,
(Broadcasting Corporation of India)
Mandi House, Copernicus Marg
New Delhi

Subject: Allotment of Broadcast/telecast time to political parties during election.

Sir,

I am directed to refer to the subject cited and to say that during the recently held Bihar assembly election, some political parties brought to the notice of the Commission that in some cases, on submission of the same transcript to All India Radio and Doordarshan by political parties, there were considerable deviations between the approval to the script as approved by AIR and DD. This variation led to difference in approved scripts.

To rule out any such confusion and deviation in all future elections, the Commission desires that Prasar Bharti may constitute an Apex Review Committee in all the States/UTs during elections which may have members/experts of both AIR and DD. In case of any difference of opinion/approval between AIR/DD and political parties related to transcript of broadcast/telecast, matter may be referred to this Apex Review Committee for final decision.

Early response in this regard would be appreciated.

Yours faithfully,



(Dharendra Ojha)
Director

Phone- 01123052015

Email: director.do.eci@gmail.com

Copy to :

1. Director General, All India Radio,
Akashwani Bhawan, New Delhi - 110001
2. Director General, Doordarshan,
Mandi House, New Delhi - 110001
3. Chief Electoral Officer of all the States/UTs - for information and to bring into the notice of all concerned in the State/UT

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

K. AJAYA KUMAR
PRINCIPAL SECRETARY

No. 437/6/INST/2015-CCS

Dated: 29th December, 2015.

To

1. The Cabinet Secretary,
Cabinet Secretariat,
Rashtrapati Bhawan,
New Delhi.
2. The Chief Secretaries of
All the States and Union Territories.
3. The Chief Electoral Officers of
All the States and Union Territories.

Subject: Banning use of building/civil structures owned by Public Sector Undertakings (PSUs) for political advertisement during period of Model Code of Conduct - regarding.

Sir/Madam,

I am directed to invite a reference to the Commission's circular letter No.3/7/2008-IS-II, dated 7th October, 2008, wherein it has, inter alia, directed that there shall be no display of election posters, hoardings, banners, etc., in any Government premises or civil structures. It has come to the notice of the Commission that political parties have been displaying/pasting their posters, banners, etc., at the buildings/civil structures and/or premises owned by the Govt. and Public Sector Undertakings (PSUs) during election periods as part of their election campaign. It is clarified that buildings and premises of PSUs shall also be treated at par with Govt. premises for the purpose of displaying political ads during election period. The Commission has directed that no political advertisements shall be displayed/pasted at the buildings/civil structures owned by Public Sector Undertakings (PSUs) or in their premises during the period Model Code of Conduct is in force.

In case there is no specific provision in the by-laws of PSUs or in their agreements with the advertisement agencies to whom they let out space for advertisement for prohibiting display of political advertisement, PSUs may be instructed to add a para in their commercial agreements with commercial agencies/companies while providing space on lease to the

By Speed Post/Email

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashok Road, New Delhi-110 001

No. 3/1/2014/SDR-Vol.-III

Dated: 5th March, 2014

To,

The Chief Electoral Officers of
All States and Union Territories

Sub: - Conduct of Elections (Amendment) Rules, 2014 – Amendment of Rule 90 of Conduct of Elections Rules, 1961. Increase in maximum limit of election expenses - regarding.

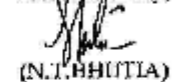
Sir/Madam,

I am directed to send herewith a copy of the Ministry of Law and Justice, Legislative Department, Notification No. II-11019(3)/2014-Leg. II dated 28th February, 2014, amending Rule 90 of the Conduct of Elections Rules, 1961 thereby increasing the upper limit of election expenses applicable to candidates at elections to Lok Sabha and Legislative Assemblies.

This may be brought to the notice of all District Election Officers, Returning Officers and other election authorities concerned and also the State Units of recognized political parties and all registered unrecognized political parties based in your State/ Union Territory for their information.

Kindly acknowledge receipt.

Yours faithfully,


(N.L. BHUTIA)

UNDER SECRETARY

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No.437/6/MISC/ECI/LET/FUNCT/MCC/2017

Dated: 18 January 2018

To

The Chief Electoral Officers of
All States and Union Territories.

Subject: -Clarification regarding enforcement of MCC during bye-election - regarding.


Sir,

I am directed to refer to the Commission's letter No. 437/5/INST/2016-CCS dated 29th June, 2017 regarding application of Model Code of Conduct wherein it has been stated that in case the constituency is comprised in State Capital/Metropolitan Cities/Municipal Corporations, then MCC instructions would be applicable in the area of concerned Constituency only. In all other cases aforesaid instructions would be enforced in the entire district(s) covering the Constituency going for bye-election(s). (Copy enclosed for ready reference)

In this connection, a clarification was sought for by Returning Officer, Ajmer Parliamentary Constituency in Rajasthan, whether the MCC was to be enforced in the entire district of Jaipur or only in the Dudu Assembly segment of Jaipur District during the ensuing bye-election to Ajmer Parliamentary Constituency since Jaipur district has in it state capital, municipal corporation, metropolitan city as well as rural area. The Commission considered the matter and clarified that in order to avoid dislocation/disturbance of normal administrative work in Jaipur-District, MCC would be enforced only in Dudu Assembly segment of Jaipur district.

Now, the Commission has decided that above direction shall be applied in all future bye-elections in the Country involving State Capital/Metropolitan Cities/Municipal Corporations. Accordingly, any district in which Corporation/ Metro/Municipal Corporation is located, MCC would be enforced in the particular Assembly Constituency Segment only and not in the whole of the district.

Yours faithfully,


(NARENDRA N. BUTOLIA)
PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashok Road, New Delhi - 110 001

No. 576/3/2013/SDR

Dated: 7th December, 2013

To,

The Chief Electoral Officers of
all States/Union territories.

Sub: Clarification on 'None of the above'-counting of votes-reg.

Sir,

A question has been raised whether the votes polled against the NOTA option is to be considered for determining the forfeiture of security deposit.

The votes polled against the NOTA option cannot be treated as valid votes. Under Section 158 of the Representation of the People Act, 1951, it is the total number of valid votes polled by all the contesting candidates that is to be taken into account for calculating the one-sixth of votes polled by individual candidates for return of security deposit. Thus, it is clarified that the votes polled against the NOTA option is not to be taken into account for calculating the total valid votes polled by the contesting candidates for the purpose of return of security deposit.

Yours faithfully,



(K.F. Wilfred)
Principal Secretary

By Speed Post/E-mail

ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 51/8/VVPAT/2017-FMS

Dated: 20th December, 2017

To

The Chief Electoral Officers of
All States and Union Territories.

Subject: Counting of VVPAT paper slips in case of CU failure to display result - reg. Sir/Madam,

I am directed to refer to the Commission's letter No. 51/8/VVPAT/2017-FMS, dated 13th October, 2017, wherein it was directed that in case it is not possible to retrieve the result from the Control Unit (CU) even after using printer, the printed paper slips of the respective VVPAT shall be counted, as per counting procedure prescribed by the Commission, for counting of printed paper slips.

The Commission has re-considered the matter and has directed that henceforth in case of non-display of result on the Display Panel of the Control Unit, the following action shall be taken:

- (i) In case any Control Unit does not display result, it should be kept back inside its carrying case and then be kept in the Returning Officer's custody in the counting hall. Counting of votes in other machines should continue as usual.
- (ii) Result from such Control Unit(s) will not be retrieved using Auxiliary Display Unit or Printer.
- (iii) After completion of counting of votes from all the Control Units, the printed paper slips of the respective VVPAT shall be counted as per the counting procedure prescribed by the Commission in para 2.3 (Procedure to count VVPAT paper slips) of its letter of even number dated 5th December, 2017.
- (iv) Thereafter, counting of printed paper slips of VVPAT(s) under Rule 56D of the Conduct of Elections Rules, 1961 should be taken up, if any.

A report regarding counting of VVPAT paper slips is to be sent to the Commission in the following format through Chief Electoral Officer concerned for information.

Presidential Election/Immediate
By Special Messenger/Speed Post/Camp Bag



भारत निर्वाचन आयोग
Election Commission of India

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली-110001
ASHOKA ROAD, NEW DELHI-110001

No. 479/LET/ECI/FUNC/P.E.-BIEN/2017

Dated: 6th June, 2017

To

The Returning Officer for Presidential Election and
Secretary General, Lok Sabha,
Parliament House,
New Delhi-110001.

Sub: Election to the office of the President, 2017-Procedure for deposits and for Refund of deposits.

Sir,

I am directed to state that the deposits made in cash by intending candidates for the ensuing election to the Office of the President of India, with the Returning Officer under section 5C of the Presidential and Vice-Presidential Elections Act, 1952, may be credited to the Account Head "8443-Civil Deposit-121 Elections Deposit. Deposits made by the candidates for Presidential/Vice-Presidential Election" and the money received be deposited in the usual manner in the accredited Bank of the Election Commission of India, namely, "Punjab National Bank", Extension Counter, Nirvachan Sadan, Ashoka Road, New Delhi. The amount deposited in the Bank is adjustable in the books of Pay & Accounts Officer, Election Commission of India, New Delhi.

2. The refund of deposits, in admissible cases, under section 20A of the said Presidential and Vice-Presidential Elections Act, 1952, will be made by the Pay & Accounts Officer, Election Commission of India on presentation of a bill in this behalf by Drawing and Disbursing Officer of the Election Commission in accordance with the instructions contained in the Ministry of Finance (Department of Expenditure), Special Cell O.M. No. F.2/27/76-Special Cell (P.E.II), dated 15.12.1976. In order to enable the Drawing and Disbursing Officer, Election Commission of India to keep proper accounts of the deposits made by the candidates and to record necessary certificates on the bill for making refunds in admissible cases, Returning Officer/Assistant Returning Officer will furnish to the Commission the details of the amount deposited and copies of the orders passed by him authorizing the



भारत निर्वाचन आयोग
Election Commission of India

Presidential Election/Immediate
By Special Messenger/Speed Post/Camp Bag

निर्वाचन मदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली-110001
ASHOKA ROAD, NEW DELHI-110001

No. 481/LET/ECL/FUNC/P.E.-BIEN/2017

Dated: 8th June, 2017

To

The Returning Officer for
Presidential Election and
Secretary General to the Lok Sabha,
Lok Sabha Secretariat,
Parliament House,
New Delhi.

Sub: Presidential Election, 2017 - Directions regarding Public Notice.

Sir,

I am directed to enclose herewith a copy of the Commission's Direction, dated 8th June, 2017 issued under rule 3 of the Presidential and Vice-Presidential Elections Rules, 1974, for your information and necessary action.

2. The Public Notice in Form 1 appended to the Presidential and Vice-Presidential Elections Rules, 1974 shall be published and publicized on 14th June, 2017, the date of issue of Notification of the Election programme by the Commission under section 4 of the Presidential and Vice-Presidential Elections Act, 1952.

3. Kindly acknowledge the receipt.

Yours faithfully,

(VARINDER KUMAR)
PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. ECI/PN/29/2014

Dated: 6th June 2014

Press Note

ECI orders Candidate's election expenses accounts to be made public within 72 hrs.

Under section 78 of the R.P. Act, 1951 every contesting candidate shall lodge account of his election expenses with the District Election Officer (DEO) of the concerned Constituency within 30 days of date from the date of declaration of results.

To bring transparency and quick dissemination of information for public, Election Commission has today issued instructions to the CEOs that the election expenses accounts lodged by the Candidate shall be uploaded on CEO/DEO website within 72 hours of receipt of such accounts and hyperlink is available on the Commission's website www.eci.nic.in. The public can access such accounts under caption "**General Elections to the Lok Sabha/Legislative Assembly 2014- Candidate's Election Expenditure**

The Commission has also issued direction to the CEOs to ensure that if any member of public wants to obtain the copy of the account lodged by the candidate or CD/DVDs on important events/advertisement, he can get the same on payment of Re. 1 per page or Rs. 300/- per CD/DVD at the office of the District Election Officer. The officials have been directed to issue such copies/CDs/DVDs within 48 Hrs of receipt of such request.


(DHIRENDRA OJHA)
DIRECTOR



भारत निर्वाचन आयोग
Election Commission of India

No. 437/6/BCI/INST/FUNC/CCS/MCC/2017

By e-mail/Special Messenger
निर्वाचन सदन

NIRVACHAN SADAN
अशोक रोड, नई दिल्ली - 110 003
ASHOKA ROAD, NEW DELHI - 110 001

Dated: 2nd February, 2017

To,

The Cabinet Secretary,
Cabinet Secretariat,
Rashtrapati Bhawan, New Delhi.

Sub: General Elections-Enforcement of Model Code of Conduct-Regarding

Sir,

I am directed to refer to the Commission's standing instructions dated 20th March 2014, 23rd April 2014 and 27th January 2017, on the subject cited, whereby it has been reiterated that all the references of Government of India, which are proposed to be placed before the Cabinet or any Committee of the Cabinet, should be routed through the Cabinet Secretariat instead of sending the same directly by the Ministries concerned to the Commission.

Despite the Commission's aforesaid clear standing instructions, issued long back and reiterated recently, which have to be followed scrupulously by all concerned, a tendency is being observed to flout the Commission's aforesaid instructions. Matters relating to Cabinet are sent directly to the Commission and that too in last moment leaving no time to ECI to appropriately consider the issue. It leads to creating undue pressure on the Commission to give priority of such reference over its other urgent time-bound business.

The Commission, expressing its unhappiness in the matter, has directed the undersigned to request you again to impress upon all Ministries/Department of Government of India to strictly adhere to the Commission's above-mentioned existing guidelines. While making a reference to the Commission, it should specifically be ensured that at least 48 hours is available to the Commission for processing of such reference, so as to convey its decision in time, otherwise, it would be very difficult for the Commission to entertain such references.

Yours faithfully,

(R.K.SRIVASTAVA)

SENIOR PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 518/VVPAT/2018/EMS

Dated: 8th March, 2018

To

The Chief Electoral Officers of
all States/UTs.

Subject

Clarification regarding conduct of mock poll during commissioning of EVMs
and VVPATs regarding.

Sr.

I am directed to convey that some States have sought clarification whether the
process of conduct of mock poll of 1000 votes on 5% randomly selected EVMs during
commissioning of EVMs is to be followed in case of VVPATs also or not.

In this regard, it is clarified that during the commissioning of EVMs and
VVPATs, mock poll of 1000 votes will be cast in 5% of randomly selected EVMs, as well as
VVPATs. The electronic result shall be tallied with paper count. Candidates/cair
representatives shall be allowed to pick machines randomly for this purpose and also to
participate in the process.

Yours faithfully,



(Madhusudan Gupta)
Under Secretary

Copy forwarded to

1. The Chairman-cum-Managing Director, Bharat Electronic Limited, Bangalore.
2. The Chairman-cum-Managing Director, Electronics Corporation of India Limited,
Hyderabad.
3. for information and necessary action.

BIO – DATA OF THE CANDIDATE

Name of the Candidate : LALSANGZUALA KHIANGTE

Degree : Ph.D

Department : Public Administration

Title of the Thesis : Election Commission of India:
Changing role and Functions

Date of Admission : 21.08.2013

Commencement of the Thesis : 16.05.2014

Approval of Research Proposal

1. B O S : 25.03.2014

2. S S S : 15.05.2014

Registration No. & Date : MZU/ Ph.D/ 660 of 16.05.2014

Due Date of Submission : 16.05.2019

Extension (if any) : NIL

(Prof. SRINIBAS PATHI)

Abstract

Ph.D. Thesis

on

**Election Commission of India: Changing Role and
Functions**

Submitted by

LALSANGZUALA KHIANGTE

(Regd.No.MZU/Ph.D/660 of 16.05.2014)

Under the Supervision of

Prof. SRINIBAS PATHI

Professor of Public Administration

Department of Public Administration

School of Social Sciences

Mizoram University, Aizawl

Mizoram

November 2018

Election Commission of India: Changing Role and Functions

Introduction:

Democracy may be studied and analyzed from two different angles. First, it is a way of life in which different types of individuals live together, that is, rich and poor, urban and rural, educated and illiterate, etc. Secondly, it is also a form of government in which the common people participate in the decision making process. In political and administrative discourse, the second aspect of democracy is taken into consideration.

Democracy and elections are the two sides of the same coin. In order to understand the meaning and role of elections in any society, we need to contextualize the election process. In democracy, the will of the people is decided through periodical elections. Elections provide a vital link between the people and the government. In our Constitution the word 'election' has been used in the wide sense as including the entire process of election commencing with the issue of a notification and with the declaration of election of a candidate.

Being the largest democracy in the world, India itself makes a provision for the election machinery to conduct free, fair and peaceful elections both at the Central as well as the State levels. The success of election in our country greatly depends on effective and purposeful interactions and the combination of the electorate, the candidates, the political parties and the electoral machinery.

Under the Government of India Act, 1935, there was no provision for the establishment of the Election Commission of India to conduct free and fair elections to the Federal Legislatures and the Provincial Assemblies. The Constituent Assembly in India which functioned between 1946 and 1949 framed our Constitution and set up a Sub-Committee called the Union Constitution Committee to shape a federal electoral authority at the centre to conduct, direct and control all elections both at the central and state levels. A considerable debate and discussion were held in the Constituent Assembly on July 29th 1947 for the establishment of an Election Commission.

Under the provisions of Article 324 of the Constitution of India, the Election Commission of India (ECI) was established on 25th January 1950 for the superintendence, direction, planning, and preparations and conduct of elections to Parliament and State Legislatures. The motto of the Election Commission of India is “No Voter to be left behind.” The Election Commission of India has maintained a manner of neutrality so that the elections are conducted in a free and fair manner.

Article 324 Clause (1) of the Indian Constitution empowers very vast functions in the Election Commission of India like preparing, maintaining, updating and making necessary modifications and alterations in the electoral rolls for the entire country. The Election Commission gives instructions and directions to the officials of the Central and State Election machineries in these regard. It conducts general elections and bye-elections for the Parliament and State legislatures. It supervises the entire elections process with the help of law and order machinery at the Central and State levels. It has the power to register, recognized, allot symbols and to decide disputes in relations to national, state level and other political parties.

It has also the power to decide the qualifications or disqualifications of the candidates and voters based on laws and rules. It monitors election manifestos, campaigns, expenditure and all types of administrative and financial activities.

During the last 68 years since its inception, a number of new and the challenging functions have been undertaken by the Election Commission of India such as the Electors Photo Identity Cards (EPIC) to all the voters; introduction of Electronic Voting Machine (EVM); computerization of electoral rolls; implementation of the model code of conduct during elections; organization of awareness campaigns for the voters with the help of governmental agencies, non-governmental organizations and mass media etc. Recently, another new step for the inclusion of a new button - None of the Above (NOTA) below the names of the candidates in the Electronic Voting Machines (EVMs) has been introduced by the Election Commission of India.

Statement of the Problem:

Though many books and articles relating to Election Commission have been written by different authors, no comprehensive study has yet been made on the changing role and functions of the Election Commission. Being the largest democracy in the world, conducting general elections to Parliament and State Legislatures is not an easy task for the Election Commission of India. Moreover, the changing role of the Election Commission of India over the years necessitates

thorough study and analyses. The Election Commission has taken necessary steps in different ways to check the malpractices in the elections.

The traditional functions of the Election Commission assigned by the Constitution of India under Article 324 needs to modify according to the problems and challenges faced by the Commission. New initiatives have to be taken for the smooth functioning of the Election Commission. The study on the changing role of the ECI has been conducted through Annual Reports of ECI, books, Journals, published and unpublished Articles. The role and functions of the ECI have been changing according to the needs of the hour to ensure free and fair elections. To know the actual conditions and problems of the Election Commission, it is necessary to have a detailed study of the different issues, problems and challenges faced by the Election Commission of India and also to suggest suitable measures to make it more effective and efficient to ensure free, fair and impartial elections in India.

Review of Literature:

A number of books, journals and articles have been written which contain information pertaining to Election Commission of India. Some of the available books, journals and articles written by different authors related to Election Commission of India and electoral reforms have been reviewed for carrying out the present study.

It has been found that the role and functions of the Election Commission of India always keep changing by introducing new rules, regulations, acts and various methods to ensure free and fair elections in India. The reviewed of books, journals and articles also provide necessary information on the origin of the Election

Commission of India in the post- Independence period. We have not come across any systematic study on the changing role of Election Commission of India.

Objectives of the Study:

The main objectives of the study are as follows:

- (1) to study the origin and history of Election Commission of India
- (2) to study the structure, functions and traditional role of Election Commission of India
- (3) to study the role of the Chief Election Commissioner of India
- (4) to examine the changing role of Election Commission of India and
- (5) to find out the issues, problems and challenges faced by the Election Commission of India and to suggest remedial measures.

Research Questions:

The present research has attempted to study the following research questions:

- (1) Is the Election Commission of India well equipped to conduct free and fair elections in India?
- (2) What are the traditional functions and the role of the Election Commission of India?
- (3) What are the issues related to the changing role of the Election Commission of India?
- (4) What are the issues, problems and challenges faced by the Election Commission of India and what could be the possible solutions?

Scope of the Study:

The study has been conducted to examine the changing role of the Election Commission of India since its inception to till date in conducting the elections and discharging its other duties and responsibilities. Being the largest democracy in the world, India witnessed elections during the pre-Independence period. Important changes have been made in the election machinery for legislation both at the Centre and Provincial levels during the pre-Independence period in India. Under the Government of India Act of 1935, the Governor still had powers which reduced the powers of the ministry. There were many changes took place in the electoral system of India during pre and post-Independence period. The Election Commission of India conducted 16 General Elections to Parliament and State Legislatures and also the Individual positions of President and Vice- President of India since Independence. So, the present study has conducted an in-depth study on the overall functions of the Election Commission in conducting general elections across the country.

The present study has also covered on the gradual changes that have taken place in the Election Commission in relations to its origin, structure, responsibilities, role, initiatives as well as the links and expectations of all the stakeholders such as the government, the political parties and the voters in general in the context of electoral administration. The present study traces not only the electoral process but also the election machineries up from the Centre to the State levels. The study also focused the various issues, problems and challenges being faced by the Election Commission while conducting general elections to Parliament and State legislatures.

It is the duty of the Election Commission to organize awareness campaign for voters to exercise their voting rights. So, there is a need to study the structure, powers and functions of the Election Commission to know the actual conditions regarding the changing role and functions. Besides, the people need to know the importance and the role played by the Election Commission in conducting General elections at the Centre as well as in all the States and Union Territories in India.

Methodology:

The present research work on the changing role and functions of the Election Commission of India has been conducted on the basis of a Content Analysis and descriptive study. Content Analysis has been done on Compendium, Annual Reports of ECI and Official Websites of the ECI and on personal interactions with the officials of the Election Commission. Further, Content Analysis of Documents and Notifications relating to ECI are also carried out to understand the administrative setup and the changing role ECI. The descriptive study has been carried out to study the electoral system from the British rule. A conceptual study has also been conducted on the origin and functions of elections from the Pre-Independence period and also the origin, powers and functions of the Election Commission till date.

On the other hand, Empirical study has been conducted to study and analyze the problems and challenges being faced by the Election Commission and to provide the major finding on the overall working and suggestions have been made for the proper and smooth functioning of the Election Commission in conducting free, fair and impartial elections in India.

The present study has dealt with on the origin, history, structures, functions, original role, changing role, issues, problems, challenges and possible solutions in relation to the working of the Election Commission of India. To achieve these objectives, data has been collected both from the primary and secondary sources. Primary Sources were collected an interaction with the functionaries at the Central level and their counterparts such as the Chief Electoral Officer with his or her subordinate Officers at the State level. Secondary Sources have also collected from documents, annual reports and publications of the Election Commission of India, both published and unpublished works apart from books, journals; newspapers (local and national) and other relevant materials were extensively used for the present study. Personal interviews have also been conducted with the official functionaries at the Central as well as State levels to collect relevant data and information on the changing role and functions of the Election Commission.

Chapterization:

The present study has been organized into Seven Chapters.

The First Chapter is an introductory part of the whole body of the thesis. It starts with the meaning and definitions of elections in the democratic countries in the world. It traces the origin of elections during the British rule in India. The chapter focuses on the formation of Election Commission of India under the provisions of Article 324 of the Constitution of India. It also highlights some changes in the administrative set up of the Election Commission of India. It discusses the statement of the problems for which remedial measures are suggested, review of literature on books, articles, reports, etc., which have direct and indirect

link to the topic of the thesis, scope of the study, research questions containing the objectives of the study, methodology of data collection from the primary and secondary sources.

The Second Chapter has dealt with electoral administration - a conceptual study by explaining the meaning, definition and nature of election in a democracy. It also covers classifications, significance, and function of elections, electoral cycle, three models of the elections-independent model, governmental model, and mixed model. This chapter also focuses on the concept and relevance of electoral administration under Global, Indian and Contemporary scenario on various issues and dimensions of electoral administration like- rights of new voters, use of EVM, EPIC, NOTA, etc., are also discussed in this chapter.

The Third Chapter traces with the origin and history of elections from the ancient period to pre- Independence period. It discusses the origin and history of Election Commission of India in the post-independence period by adding Constitutional provisions relating Elections and Election Commission of India. In this chapter, electoral laws and the Representation of the People Acts, of 1950 and 1951 are also discussed.

The Fourth Chapter discusses the original structure, powers and functions of Election Commission of India in a chronological manner. The chapter contains changes in the Commission from time to time from a single member to multi-member Commission and the status of Chief Election Commissioner and other Election Commissioners are also discussed in this chapter.

The Fifth Chapter has dealt with the changing role of the Election Commission starting from the traditional functions to present functions. It also discusses the model code of conduct and several initiatives and the new steps like VVPAT, NOTA, etc., were taken by the Commission in recent years to ensure free and fair elections in the country.

The Sixth Chapter discusses different issues, problems and challenges of Election Commission of India. Some problems relating to infrastructure, finance, personnel, lack of awareness among the citizens and voters, coordination with the Central government and State governments, political pressure, filing of nominations, misuse of money and muscle power, limits on expenditure, funding patterns in the elections, checking of criminalization of politics, electoral fraud, buying of votes, misinformation, misleading or confusing ballot papers, preparing clean electoral rolls, duplication of electoral rolls are discussed in this Chapter. Some of the challenges like increase in population and increase in number of polling stations, difficulty in maintaining accurate voter list, criminals contesting elections, to carry out peaceful elections in sensitive areas, three types of major challenges such as muscle power, misuse of government resources and black money, malpractices during elections, paid media or misuse of media by political parties during elections, management of electoral rolls has been discussed. Some issues on recognition, suspension, allotment and continuation of registration of political parties, Voter-ID (EPIC), videography and digital cameras during elections, election affidavit, NOTA, expenditures in elections, facebook scandal on Indian election, social media and mass media on voter awareness are public perceptions regarding

the overall working of the Election Commission of India will also be discussed in the present Chapter

The Final Chapter is divided into two parts: Part – I and Part – II. The first part of the Chapter contains a brief summary of all the previous chapters. The meaning and definitions of elections in the democratic countries in the world have been discussed. The study has also traced the origin of Election Commission of India from the pre-Independence period. It has an in-depth study on the changing role and functions of the Election Commission of India. It also discusses the various problems and challenges being faced by the Commission. The study reveals that the Election Commission conducted successfully general elections to Parliament and State Legislative Assemblies with facing some problems. The second part of the Chapter contains the major findings and suggestions for the improvement of the Election Commission of India to ensure free and fair elections in the country. Four research questions have been formulated in the study which is attempted and solved with relevant information for the smooth functioning of the Election Commission of India.

7.1 Major findings on the working of the Election Commission of India:

1) Transparency is guaranteed by the Election Commission of India by utilizing of modern information technology. The well- management of the modern technology leads the Election Commission to takes quick decisions and necessary actions in consultations with the election machineries of Central as well as the State levels. The Election Commission has been taken new steps and initiatives by introducing NOTA, VVPAT etc., to ensure free and fair elections.

2) During the last more than six decades of its working, the Election, Commission has achieved itself an important position in the constitutional set up of the country. The prestigious position held by the Election Commission proved that the Commission has been working efficiently, independently and impartially. It has been functioning as the most suitable agency for the removal electoral grievances by rendering help and guidance in all matters pertaining to elections and to ensure free and fair elections in the country.

3) One of the achievements made by the Election Commission is that it has been able to reduce the poll schedule to the minimum. While the first General Elections held in 1951-52 took more than three months to complete the polling process and the last General Elections was held in 9 phases from 7 April to 12 May 2014 to complete the polling process. The poll schedule has been reduced from three months to one month due to the efficiency of the staff and the introduction of new facilities for voters. The Election Commission has done by making arrangements for an ever-increasing electorate and commendable work by conducting so far 16 General elections to the Lok Sabha and the State Assemblies.

4) Another admirable achievement on the part of the election Commission is the introduction of EVM, EPIC, NOTA VVPAT and Computerized Electoral Rolls. These new systems have immensely helped in improving the efficiency of the Election Commission. The old system of dropping the ballot paper in the ballot box has been replaced by the new system of voting machine - Electronic Voting Machines (EVM) and Voter Verifiable Paper Audit Trail (VVPAT). The Indian electoral system has been improving with the introduction of Electronic Voting Machines by the Election Commission of India in 1999. In a vast and populated country like India, we have experienced many things for using voting machines. While the old system (paper ballot system) is time consuming, long time voting, long time counting, fear of booth-capturing and fear of rigging and the new system (Electronic Voting Machines) is time saving, less time voting, less time counting, but fear of tampering and counter tampering charges with the introduction of VVPAT.

5) The Election Commission decides the dates of elections in Consultation with political parties, government, media and other stakeholders. Moreover, the Commission also has the final authority of making any rules and orders as and when necessary.

6) The Chief Election Commissioner has the special authority that bars the removal of the other Election Commissioners from their office without his recommendation.

7) Under the supervision and direction of the Election Commission, the State Election Commissions do the work of reservation of seats in Panchayat and Municipal for the members of Scheduled Castes, Scheduled Tribes and Other Backward Classes unless otherwise provided under the law. Reservations are made for women in each of above categories. Reservations are done as prescribed under law on rotational and quota basis and detailed guidelines are provided for rosters.

8) All the elections in India from the House of the people (Lok Sabha) to State Assemblies have been conducted on time as per schedule. Moreover, the Commission's authority to call for either of the elections at any time is the great exercise of democracy.

9) The process of voter registration is also found to be an easy one. Once the voters drop application for registration, an Electors Photo Identity Card (EPIC)number is given to every one of them which is the permanent identification out of which the detailed information can be seen at any time. Moreover, voter registration can be done from anywhere and the update is continuously verified by the server at the center which reduces the duplications.

10) It has been found that, the powers of the Election Commission has been increasing from the time of Mr. T.N Seshan, the former Chief Election Commissioner regarding the transfer and posting of Election officials and the implementation of Model Code of Conduct during election campaign for the political parties, candidates, ruling parties either at the Centre or in the States to ensure free, fair and impartial elections in the country.

11) The study has revealed that there is a good coordination between the Election Commission and the Chief Electoral Officers of the different States to ensure free, fair and impartial in the general elections to Parliament and the State Legislatures.

7.2 Suggestions on the smooth functioning of the Election Commission of India:

1) In addition to the existing rules, regulations and electoral laws, we need a separate Election Commission Act which is to be passed by the Parliament for the smooth functioning of the Commission. So we need Election Commission Act to legislate the obligations and powers and functions of the Election Commission through a separate legislation.

2) We need to re-constitute of the Election Commission into three tiers such as (1) Central Election Commission (2) State Election Commission and (3) District Election Commission to conduct elections in free, fair and impartial manner in a vast country like India. The Central Election Commission will be headed by the Chief Election Commissioner. The State Election Commission will be headed by the Chief Electoral Officer of the respective State. The District Election Commission will be headed by the District Election Officer. So, we need to have three Election Commissions at the Central, State as well as the District levels for the smooth conducting of elections in India.

3) The postal voting is entitled to vote by post in a Parliamentary or Assembly Constituencies. This is a limited form of voting exercised by a voter who is on election duty. This right will create a meaningful impact in making the electoral process more inclusive if accessed by any voter. It will save times of waiting at the polling booth and it can reduce the expenditures for conducting elections.

4) The Election Commission should allow postal voting for Non-resident Indians (NRIs). To achieve this aim, Registration centre should be established by the Election Commission in some countries where the Indian Citizens lived. The Election Commission should start a pilot project in some countries where the Indian migrant is too high. The Election Commission will designate Indian Foreign Service (IFS) Officers as Observers to save time and expenditures. Awareness campaign for migrant workers should be organized by the Election Commission to be given paid leave to cast in their home Constituencies.

5) Proxy voting is an alternative voting method which was introduced in September 2003 for a registered voter who is unable to vote on the Election Day. Under this voting method a voter can nominate another person to cast a vote on his/her behalf and this measure will be helpful particularly to the soldiers in remote parts of the country.

6) Compulsory voting means all the registered voters should cast a vote in the elections and penalty will be imposed to voters those who fails to cast a vote without a valid reasons. Belgium has been the first country to introduced compulsory voting in 1892. Many countries have considered imposing this voting mandatory but only few countries provide for this mandatory voting. In India, Gujarat is the first State in the country to make compulsory voting in the elections to local bodies by passing

the Bill of Gujarat Local Authorities Laws (Amendment) on 19th Dec. 2009. In view of the present electoral system in India regarding the percentage of voter turnout in the general elections to Parliament and State Legislatures and elections to Local bodies, this compulsory voting system should be introduced to increase the percentage of voter turnout.

7.3 Suggestions on electoral system in free and fair manner:

The following suggestions should be taken into consideration for making electoral system free and fair manner:

1) To conduct free and fair elections in a vast country is not an easy task for the Election Commission. The success and failure of the election machinery depends upon the efficiency of the election officials and the sincerity of the voters while exercising their political rights. To stop the unfair practices, the Election Commission should have a separate and independent election department to improve its neutrality and independence. In order to conduct elections free and fair manner, the Election Commission should not be placed under the control of the political executive and parliament.

2) To ensure free, fair and impartial elections in India, persons with criminal charges and corrupt practices should not be allowed to contest at the elections. The election funds should be given to the candidates only through political parties to minimize political corruption. Besides, the mass media should also play an effective role by providing facts and figures and to inculcate the minds of the voters in a right way to ensure free and fair elections and safeguard of democracy.

3) Every voter should exercise his/her right to vote freely to any candidate without any fear within the law. The secrecy of voter should be maintained by the voters without influenced by anyone. But, voting behavior is deeply influenced by Money power. So, we have to exercises our political rights freely without fear and favour to elect our representatives to form a stable government. So, we need proper machinery with fully equipped to fight with any inconsequentiality.

7.4 Suggestions on Aspects of electioneering and Electoral Machinery:

1) All political parties should be given equal chances to use Television and Radio for their election propaganda before the elections. There should be an agreement between political parties with the media on the allocation of broadcasting time for election purposes. With the advancement of science and technology, the aspects of electioneering should be extended to use social media like Whatsapp, Facebook etc., to update election process to ensure free and fair elections in India.

2) Free conveyance of voters by the candidates from his/her residence to polling station should be treated as corrupt practices. Laws relating to corrupt practices should be revised and made more effective for future. The law relating to the corrupt practice of providing free conveyance to voters to and from polling stations should be revised and made effective. The enforcement of the model code of conduct should be strictly regulated or prohibited other than public transport vehicle plying on a regular schedule.

3) There should be a good relationship between the Election Commission with the Central government with its administrative machinery at the State level to ensure free, fair and impartial manner in conducting general elections. The successful

working of the Election Commission depends upon the effectiveness of the election machineries at the central as well as the State levels.

7.5 Suggestions on Electoral Rolls:

1) For the preparations of accurate electoral rolls and proper maintenance of a particular Parliamentary and Assembly Constituencies, the Election Commission should delegates its power from the Central to the Village levels. Every village adult citizen should also participate for the accurate voter lists by informing relevant information to be deleted from the voters list due to expire of the voters from that particular area or constituency.

2) The Election Commission should prepare common electoral rolls to be used in all the elections such as for the General elections to Parliament and State Legislatures and also for the elections to the Local bodies to reduce the expenditures for the preparations of electoral rolls across the country.

3) The applications for the inclusion of names in the electoral rolls should not be entertained after notifying the last date for making nominations.

7.6 Suggestions on Election programme:

1) In order to reduce the heavy expenses incurred by the Government as well as the Election Commission with its election machineries of all levels, the General elections to Parliament and State Legislative Assemblies should be conducted simultaneously. It is desirable that the polling date should also be the same date for Parliamentary and Assembly Constituencies as far as possible.

2) In consultation with the Central and State Governments, the Election Commission should prepare carefully the election timetable and under the Negotiable Instruments Act, only the notified holidays should be regarded as public holidays.

3) After the last date for filing nominations is over, the scrutiny of nominations should be taken up on the following day. So that, the time for the withdrawal of nominations should be reduced by two days and the minimum period for the election campaign should be reduced to 15 days.

7.7 Suggestions on poll:

1) Under Section 126 Clause (1) of the Representation of the People Act, 1951, Public meetings should not be organized in any polling area during the period of 48 hours ending with the hour fixed for the conclusion of poll. After the conclusion of the poll, there is no need to prohibit of organizing public meetings, so, this Act relating to prohibition order after polling should be amended accordingly.

2) A polling officials who are on election duty within their constituency should be allowed to vote personally the nearest polling station, if not at the particular polling station where they are entitled to vote.

3) The Conduct of Election Rules, 1961 provides that a blind or infirm voter is allowed to take companion to accompany him or her to cast the vote. But, some presiding officer does not allow blind or infirm voters to take with inside their companion of their choice. This is a violation of the Conduct of Election Rules, 1961. So that, a blind or infirm voters may exercise their voting rights without violating the secrecy of voters.

7.7 Suggestions on Election Expenses and petitions:

1) The existing law relating to election expenses, such as limiting the period of accounting between the date of calling the election and the date of declaration of the result and not requiring the inclusion of expenditure incurred by political parties are the two main defects and it should be removed by amending the law.

2) There should be legal provisions to prohibit election expenses being incurred by any persons other than the candidate or his election agent. If and when required by the candidate, he or she may authorized any person incurs election expenses. He or she should furnish a detailed return of those expenses to be included in the audited statements. So, it is require to be spelt out the legal provisions in a greater detail to make effective. In view of the present legal provisions relating to election expenses, the Election Commission should take necessary steps for checking the election expenses.

3) To reduce the election expenses, display of large-sized banners, posters, processions and demonstrations should be prohibited. The use of loudspeakers should be prohibited on streets and highways for election propaganda.

4) The election petition should be presented directly to the nearest High Court of the State to take quick decision on election disputes. The Article 324 Clause 1 of the Indian Constitution relating appointment of election tribunals for the decision of doubts and disputes arising out or in connection with elections to Parliament and to the Legislatures of States, simultaneously with the amendment of the election law providing for the trial of election petitions directly by the High Court should be amended accordingly.

7.9 Suggestions on to make democracy sound and healthy:

The following suggestions are offered to make the democracy sound and healthy and to redress the problems faced by the Election Commission of India.

1) To ensure free and fair elections and to make the democracy sound and healthy, the existing procedure for the appointment of the Chief Election Commissioner (CEC) that senior civil services who has close and close friend of the Prime Minister and Home Minister needs to be changed. There should be a searching committee consisting of the Chief Justice of India (CJI), Prime Minister of India (PM) and Leader of the opposition party in the Parliament. In consultation with the searching committee, the Chief Election Commissioner should be appointed and other Election Commissioners should also be appointed by the President in consultation with the searching committee and the CEC. After completion of his or her term of office, the CEC should not be eligible for any office of profit as mandatory.

2) At present, the Election Commission cannot update and prepare accurate electoral rolls without the assistance of the Central and State governments. The Election Commission cannot completely performs functions of its own, it plays an effective role under the compassion of the Central and State governments. Therefore, the Election Commission should have its own staff at the Headquarters as well as the State level to regulate their services.

3) The Election Commission should be given more administrative and financial powers in order to perform better its duties and responsibilities and should be treated as a separate department for the smooth functioning in preparing electoral rolls and conducting elections.

So, the Election Commission of India has been playing an active role in conducting general elections to Parliament and State Legislatures by introducing new facilities and methods to ensure free, fair and impartial elections in the country. As an autonomous constitutional body, the Election Commission has been working successfully under the Constitution of India.

The present study to till date is the most comprehensive and all-inclusive research work on the working of the Election Commission of India. But due to the constraints of time, resources and other contributing factors, a lot of relevant aspects might have been ignored by the researcher. These issues including a case study of different elections and working of the electoral machinery can be taken up in future.