

**RAJYA SABHA**

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**\* SUPPLEMENT**

**TO**

**SYNOPSIS OF DEBATE**

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**(Proceedings other than Questions and Answers)**

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**Tuesday, December 12, 2023/ 21 Agrahayana, 1945 (Saka)**

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**GOVERNMENT BILL**

**#The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023- Contd.**

**#Amendment for Reference of the Bill to a Select Committee of the Rajya Sabha- Contd.**

**SHRI R. GIRIRAJAN:** Whenever the hon. Supreme Court intervenes to save the democracy, this Union Government shows its strength through this House and destroys the wishes and views of the Supreme Court. Now the Union Government wants to make EC like a puppet. The Bill seeks to exclude the Chief Justice of India from panel to select the Chief Election Commissioner. This Bill poses a risk to the independence and authority of the Election Commission. The proposed legislation undermines a crucial role of the Election Commission which it plays in upholding the democratic principles of our country. I strongly oppose this Bill.

**SHRI KANAKAMEDALA RAVINDRA KUMAR:** This Bill pertains to appointment, service conditions and term of the Chief Election Commissioner of India and the other Election Commissioners. This Bill provides Search Committee and a Selection Committee. The function of the Search Committee is to form a panel of eligible candidates to the post of the Chief Election Commissioner and other Election Commissioners. The Selection Committee will recommend to the President the name of the person to be appointed as the Chief Election Commissioner. Accordingly, they will be appointed by the Government. Clause 8 has to be amended. Secondly, there is no mention with regard to appointing authority of the Selection Committee members. Conducting of elections in a free and fair manner is most important.

**DR. DINESH SHARMA:** This Bill is transparent and fair, and it will keep the democratic traditions intact under the protection of the Constitution. In the previous arrangement, a temporary Selection Committee was constituted under Article 324 of the Constitution, consisting of the Prime Minister, the Leader of Opposition and the Chief Justice of the Supreme Court, and this was a temporary arrangement made by the Hon'ble Supreme Court until a law is made in this regard. This Bill has been brought by completing the fair process of democratic traditions and incorporating all kinds of provisions. Today's Bill is completely just and maintains democratic traditions and I fully support it.

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**\*This Synopsis is not an authoritative record of the proceedings of the Rajya Sabha.**

**# Discussed together.**

**SHRI BINOY VISWAM:** The Election Commission should be free from the Executive interference and control. But the Government wants to bring it under the control of the Executive. They are trying to sabotage the Parliamentary democracy. Free and fair elections are not important for them.

**SHRIMATI MAHUA MAJI:** The biggest shock that our country will face once this bill is passed is that India, which has a population of 140 crores, is respected in the world as the largest democracy and for the largest fair and neutral electoral process, the sanctity of the democracy of this country would come under doubt. On behalf of my party, I strongly oppose this Bill. This is unethical, unconstitutional and neglect and disrespect to Baba Saheb Ambedkar and the members of the Constituent Assembly. After all, why does the Government want to exclude the Chief Justice of India from this committee? According to the Bill, the Government also wants to fix his salary in such a way that he looks like a government officer. Currently he gets a salary equal to that of a Supreme Court judge, whereas in the new Bill, the Government wants to keep him equal to the Cabinet Secretary. Change of power is a universal truth. We should not forget that this is not the era of kings. This is the era of public opinion. Our country will tolerate everything but will not tolerate attack on democracy.

**SHRI AJIT KUMAR BHUYAN:** Democracy and fundamental rights are the soul of the Indian Constitution, and the Election Commission has been a very strong instrument to instill the confidence among people that their democratic rights will be safe by getting elected representatives in a free and fair election process. In 1991, one-member Election Commission was converted into three-members Commission to avoid monopoly of one individual, and that amendment was supported by all political parties. But now this Amendment Bill has no consensus. When the Election Commission is independent, only then democracy will flourish. The removal of the Chief Justice of India from the selection process will certainly create a strong doubt in the minds of the people of the Opposition that the incumbent Government has malice intent. My suggestion is that the Prime Minister and leaders of two major opposition parties should be made part of the selection process. A Selection Committee consisting of two members from the Government and a third member from the Opposition cannot be fair and unbiased. The proposed Bill is nothing but a majority bullet to the soul of the Constitution.

**MS. KAVITA PATIDAR:** The people of this country respect those who are dedicated to serving the nation and take decisions in the national interest without any discrimination and the recent election results in the three States are a direct example of this. The Election Commission of India provides the backbone to the representative democracy in India. It is the guardian of electoral integrity. This Bill provides uniformity in the provisions of appointment, qualifications, tenure and removal of the Chief Election Commissioner and other Election Commissioners. Some members of the opposition have said that this Bill is against the decision of the Supreme Court. I would like to tell them that this Bill has been brought in accordance with the decision of the Supreme Court regarding the appointment of the Election Commissioners. The Court had asked for the Chief Election Commissioner and Election Commissioners to be appointed through a committee until Parliament passes a law. The present Bill merely follows the directions given by the Court in the judgment, as the final authority to make laws rests with Parliament. The Bill aims to address various aspects such as appointment process, qualifications, Search and Selection committees.

**DR. M. THAMBIDURAI:** I fail to understand why the Bill could not have come in the last 71 years. I don't understand what the necessity is. In the past 71 years, the Election Commission has conducted elections fairly, otherwise, we would not have come

here. Therefore, we cannot blame the Election Commission and bring such a Bill. The Election Commission still functions independently. The Government is not interfering. Hence, I don't think there is any necessity for this kind of a Bill.

**SHRI DEEPAK PRAKASH:** I rise to speak in support of this Bill. This Bill has been brought in Amritkaal. It has been brought in pursuance of the decision of the Supreme Court in the case of Anoop Baranwal versus Union of India. The process of appointment prescribed in the Bill is completely transparent and democratic. In the past, there was neither a search committee nor a selection committee.

**SHRI G. K. VASAN:** In a modern democracy, the mammoth onus of conducting elections is on the Chief Election Commissioner. Therefore, it is necessary that we review the functioning of the electoral system, streamline the procedures and also provide adequate resources for the smooth conduct of elections from time to time. Today, a law is being enacted with a lot of riders like Selection Committee and Search Committee to get the confidence of voters so that free and fair elections can take place in the country. I am sure that the hon'ble Minister will address the concerns of hon. Members.

**SHRI AJAY PRATAP SINGH:** The opposition argues that in the selection committee proposed to be made under the Bill for the appointment of the Commission, the majority is with the ruling party. But it is not necessary to take every decision only by votes. The objective of the provisions of the Bill is that the Leader of the Opposition and the ruling party should discuss among themselves and reach a good decision. The meaning of democracy is to discuss and draw conclusions after discussion and do something for the betterment of this country.

**SHRIMATI PRIYANKA CHATURVEDI:** The job of the Election Commission is not only to conduct free and fair elections, prepare voter lists and include the names of adult citizens in the voter lists, but also to give decisions regarding disputes or splits in political parties. It is also the responsibility of the Election Commission. I just want to say that if decisions regarding the Election Commission are taken by 2:1, then they will not be fair at all. Apart from this, in Section 8 of the Bill, the Prime Minister has been given the right that he may not accept the recommendations of the Search Committee or Selection Committee. The Prime Minister's decision alone will also be valid. This makes the whole matter one versus none, which is not fair. Baba Saheb Ambedkar had said that the Election Commission should be kept away from the interference of the Government. The decision of the Supreme Court was also given in the same spirit. Keeping this spirit intact, it is the responsibility of the government to ensure that the Election Commission is completely impartial and independent.

**SHRIMATI VANDANA CHAVAN:** The test of credibility of the Election Commission is not only in their efficiency and the fairness of elections, but also in the neutrality where it has to show that it does not bow down to the ruling party. The Government should explain the reasons of not including the Chief Justice of India in the Selection Committee in spite of a specific directive in the Supreme Court ruling. Also, with so much executive control with the Election Commission, it will become a 'yes man' of the present dispensation. Clause 6 says that the Search Committee is supposed to submit names of five Members on the panel. The reasons for limiting the numbers to five is not clear. That too, after submitting the five names, it is up to the Selection Committee whether they want to accept any name out of panel or just shun it totally. With general elections around the corner in 2024, the sudden introduction of the Bill, that too bypassing the order of the Supreme Court, makes the move suspect. This Bill in its present form does not do justice to the expectations of the people and the democracy as a whole.

**THE MINISTER OF STATE OF THE MINISTRY OF LAW AND JUSTICE; THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS; AND THE MINISTER OF STATE IN THE MINISTRY OF CULTURE (SHRI ARJUN RAM MEGHWAL), replying to the debate, said:** The Act which was enacted in 1991 was titled 'The Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991'. When someone filed a PIL, they said that you have not even made an Act regarding the appointment. The framers of the Constitution had said in Article 324(2) that a law would be made by the Parliament regarding the process of its appointment. When there was a shortcoming in 1991, then the Supreme Court asked to make a law. They made a stop-gap arrangement until a law was made. Article 324 has also been written by the makers of the Constitution, in which they have said that the Parliament will make a law for the Chief Election Commissioner. Article 50 was also created by the makers of the Constitution, the purpose of which is 'separation of powers'. The Judiciary shall not interfere with the functioning of the Executive and the Executive shall not interfere with the functioning of the Judiciary. We have brought this Bill to replace the 1991 Act. There was no provision for appointment in it, so we have added the provision for appointment in it. We have brought this Bill as per the direction of the Supreme Court on March 2, 2023. The Chief Election Commissioner can be removed in the same manner and on the same basis as a Judge of the Hon'ble Supreme Court. Regarding the removal of the Election Commissioner, there is a provision in Clause 5 under Article 324 of the Constitution that the Election Commissioner can be removed on the recommendation of the Chief Election Commissioner. The working system of the Election Commission is fair, it will remain fair and the government is also committed to keeping it fair.

Through an Amendment, under Clause 6 of this Bill, the Search Committee will now be chaired by the Ministry of Law and Justice instead of the Cabinet Secretary. Now, a provision has been made for the Election Commissioner with a salary equal to that of a Supreme Court judge. Under clause 15, the service conditions have been prescribed by way of an Amendment. Also, Clause 15A has been added so that the Election Commissioner and the Chief Election Commissioner can discharge their functions unhindered and independently. Due to continuously conducted successful elections, the credibility of the Election Commission has also increased. After reading this Bill, you will know that the Election Commissioner will be appointed as per the prescribed eligibility conditions only. The voting arrangements are made in the country according to each geographical situation and challenge. The most important thing about this Bill is that all the Amendments that have been made are in complete accordance with the instructions of the Hon'ble Supreme Court and are based on the principle of separation of powers. Therefore, I request that this Bill be passed unanimously.

*The amendments moved by Dr. John Brittas and Dr. V. Sivadasan for reference of the Bill to a Select Committee were negated.*

*The motion for consideration of the Bill was adopted.*

*Clauses etc., as amended, were adopted.*

*The Bill was passed.*

**P. C. MODY,**  
*Secretary-General.*

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