



## NOTA Option in Indian Elections

**For Prelims:** [Representation of the People Act, 1951](#), [NOTA](#), Rule 49-O, [Election Commission of India](#), General Financial Rules, [Supreme Court of India](#), [National and State Parties](#)

**For Mains:** Consequences of 'Getting Elected Unopposed', Representation of the People Act, 1951, Effectiveness of NOTA

[Source: IE](#)

### Why in News?

Recently, the [Lok Sabha](#) elections in Indore, Madhya Pradesh saw a remarkable outcome, with the [NOTA \(None of the Above\)](#) option receiving over 2 lakh votes, making it the highest ever for NOTA in any constituency.

### What is NOTA in Indian Elections?

#### ▪ About:

- It is a **voting option** on the ballots and [Electronic Voting Machines \(EVMs\)](#) that allows voters to indicate **disapproval of all contesting candidates** without choosing any of them.
- NOTA empowers the electors to **express their negative opinions** and a lack of support for the contenders.
- It gives them the **right to reject** while maintaining the secrecy of their decision.

#### ▪ Background:

- In its 170th Report in 1999, the [Law Commission](#) explored the concept of **negative voting alongside a 50%+1 voting system**, but practical challenges led to no final recommendations on the matter.
- In September 2013, the **Supreme Court** directed the [Election Commission of India \(ECI\)](#) to introduce the **NOTA** option as a measure to safeguard the **secrecy of voters' choices**.
  - The **People's Union for Civil Liberties (PUCL)** had approached the Supreme Court in 2004, seeking measures to protect the '**right to secrecy**' of voters.
    - They argued that the **Conduct of Elections Rules, 1961** violated the secrecy aspect as the **Presiding Officer (from the ECI) maintained a record of voters who chose not to vote**, along with their signatures or thumb impressions.

#### ▪ First Use of NOTA:

- NOTA was used for the first time in the **2013 Assembly elections in five states of Chhattisgarh, Mizoram, Rajasthan, Delhi, and Madhya Pradesh** and later in the **2014 General Elections**.
- It was introduced into the electoral process following the **2013 Supreme Court directive in the PUCL vs Union of India Case**.

## What Happens if NOTA Receives the Highest Votes?

- The [Election Commission of India](#) clarified that votes cast as **NOTA are counted, but are considered 'invalid votes'**.
- Even if NOTA votes get the most number of votes in a constituency, the **next candidate with the second-most number of votes is declared the winner**. Therefore, votes made to NOTA do not change the outcome of an election.
- However, the **Supreme Court** is considering a petition seeking guidelines/rules for situations where **NOTA receives the most votes**, including the **possibility of nullifying the election and holding fresh polls**.
  - Some states and union territories, such as **Maharashtra, Haryana, and Puducherry**, have already declared **NOTA as a "Fictional Electoral Candidate"**, where fresh elections are held if NOTA gets the majority of votes.

## What are the Landmark Judgments Related to NOTA?

- **Lily Thomas v. Speaker, Lok Sabha Case, 1993:**
  - The **Supreme Court** held that "Voting is a formal expression of will or opinion by the person entitled to exercise the right on the subject or issue in question" and that **right to vote means right to exercise the right in favour of or against the motion or resolution**.
    - Such a right implies the right to remain neutral as well.
- **People's Union for Civil Liberties & Anr v. Union of India & Anr Case, 2013:**
  - The Supreme Court mandated the provision of a "**None of the Above**" (**NOTA**) button on EVMs to allow voters to **express dissatisfaction with contesting candidates while maintaining secrecy**.
  - The 3-judge Bench of Court held that "**Whether a voter decides to cast his vote or decides not to cast his vote, in both cases, secrecy has to be maintained.**"
    - This decision came to enhance democracy by empowering voters and promoting fair elections.
- **Shailesh Manubhai Parmar v. Election Commission of India Through the Chief Election Commissioner Case, 2018:**
  - The Supreme Court decided that while the NOTA option could be useful in direct elections, it wasn't suitable for Rajya Sabha (Council of States) elections.
  - The court believed that using NOTA in these elections could harm democracy and encourage defection and corruption.
  - Therefore, the court removed the NOTA option from Rajya Sabha elections.

## Similar Initiatives to NOTA in Other Democratic Countries

- **European Countries:** Finland, Spain, Sweden, France, Belgium, Greece **allow their voters to cast votes similar to NOTA**.
- **United States:**
  - While the U.S. **does not have a formal NOTA option on ballots**, some states allow write-in votes, which can serve a similar purpose.
  - Voters can **write "None of the Above" or other names as an expression of dissatisfaction**.
- Other countries such as **Colombia, Ukraine, Brazil, Bangladesh** also allow voters to cast NOTA votes.

## What are the Arguments in Favour and Against the NOTA Option?

- **Arguments in Favour of NOTA Option:**
  - **Enhances Voters Choice:** The NOTA option empowers voters by giving them the ability to reject all the candidates on the ballot, thereby expressing their dissatisfaction with the

available choices.

- **Increased Political Accountability:** The existence of NOTA forces political parties and candidates to field better, more capable, and more ethical representatives, as they risk losing votes if the voters are dissatisfied.
- **Identifies Voter Dissatisfaction:** The NOTA votes can provide valuable feedback to the Election Commission and political parties about the level of voter dissatisfaction, which can then be addressed.
- **Arguments Against the NOTA Option:**
  - **No Electoral Value:** NOTA votes are merely symbolic and do not affect the outcome of the election. Even if NOTA receives a majority, the candidate with the highest vote share still wins.
  - **Potential for Misuse:** There are concerns that the NOTA option could be misused by voters to express protest votes against the system, rather than a genuine rejection of the available candidates.
  - **Caste Bias:** In some cases, high NOTA votes in reserved constituencies suggest a bias against candidates from certain castes, potentially undermining the purpose of NOTA.
  - **Undermines Representative Democracy:** NOTA option undermines the principles of representative democracy, as it does not provide a clear mandate for the winning candidate.

## Way Forward

- **Re-elections:** If NOTA receives the highest number of votes, a **fresh election** should be held in that constituency with a new candidate.
  - For instance, in 2018, the **Maharashtra State Election Commission (SEC)** issued an order stating that if NOTA received the highest number of valid votes, a new election would take place.
- **Barring Candidates:** Candidates securing fewer votes than NOTA would be **barred from contesting** in the re-election.
  - In a similar line, the **SEC of Haryana treated NOTA as a 'fictional candidate'** in municipal polls.
  - The **candidates with fewer votes than NOTA** would be **disqualified from participating in the re-election.**
- **Cost on Candidates:** Political parties that **lose to NOTA** should bear the **cost of re-election.** During re-elections, the NOTA button may be disabled to prevent a series of repeated elections.
- **Awareness:** While NOTA provides a voice of dissent, efforts to raise voter awareness are crucial to prevent its misuse.

# Election Commission of India (ECI)

## About

- **Autonomous Constitutional Authority** - Administers Union/state election
  - LS, RS, State LA, the offices of the President and VP
- Estd - **25<sup>th</sup> Jan 1950** (National Voters' Day)



## Constitutional Provisions

Part XV - Article 324 to 329

## Structure

- 1 Chief Election Commissioner and 2 Election Commissioners **appointed by President**
- **Tenure- 6 years, or up to the age of 65 years**, whichever is earlier
- Retiring ECs – **eligible for further appointment by the govt.**
- **Removal of CEC-** Resolution on the **ground of proven misbehaviour or incapacity**, with majority of 2/3rd members present and voting, supported by more than 50% of the total strength of the house



## Major Roles and Responsibilities



- Determining Electoral Constituencies
- Preparing/Revising electoral rolls
- Notifying the schedules and dates of elections
- **Registering political parties and granting them the status of national or state parties**
- Issuing the Model Code of Conduct (MCC) for political parties
- Advising the President on **matters concerning the disqualification of MPs**

## Challenges

- Truncated Tenure of CEC
- Executive Influence in Appointments
- Dependence on Centre for Finance
- Lack of Independent Staff



**Drishti IAS**

## Conclusion

The NOTA option in Indian elections has raised important questions about voter choice, the accountability of political parties, and the integrity of the electoral process. It provides voters a way to go to the polls and withhold their approval from any candidate without boycotting the election entirely. It aims to make votes of protest formally countable. It signals the degree of popular dissatisfaction with the field of candidates to political parties.

### **Drishti Mains Question:**

Discuss the effectiveness and challenges of the NOTA (None of the Above) option in Indian elections. Analyse its impact on the electoral process and suggest measures to strengthen this institutional mechanism.

## UPSC Civil Services Examination, Previous Year Questions (PYQs)

### **Prelims**

#### **Q. Consider the following statements: (2017)**

1. The Election Commission of India is a five-member body.
2. The Union Ministry of Home Affairs decides the election schedule for the conduct of both general elections and bye-elections.
3. Election Commission resolves the disputes relating to splits/mergers of recognised political parties.

#### **Which of the statements given above is/are correct?**

- (a) 1 and 2 only
- (b) 2 only
- (c) 2 and 3 only
- (d) 3 only

**Ans: (d)**

### **Mains**

**Q.** Discuss the role of the Election Commission of India in the light of the evolution of the Model Code of Conduct. **(2022)**

**Q.** To enhance the quality of democracy in India the Election Commission of India has proposed electoral reforms in 2016. What are the suggested reforms and how far are they significant to make democracy successful? **(2017)**