



## Demand for Early Elections to Delhi Assembly

**For Prelims:** [Special Provisions for Delhi under Article 239AA](#), [NCT](#), Schedule VII, [Government of National Capital Territory of Delhi \(Amendment\) Act 2021](#).

**For Mains:** Special Provisions for Delhi under Article 239AA, Administration of UTs.

[Source: IE](#)

### Why in News?

Recently, the Delhi **Chief Minister** has called for **early assembly elections** in Delhi, aligning this request with elections in Maharashtra, where a new assembly must be elected before 26th November 2024.

- The current term of the Delhi Assembly is set to conclude on 23th February 2025.

### What are the Rules and Provisions for Holding Elections?

- **Constitutional Framework:**
  - The [Election Commission of India \(ECI\)](#) holds the authority to oversee and conduct elections as per **Article 324** of the Constitution.
    - **Article 324** grants the ECI the power of superintendence, direction, and control of the electoral process, ensuring elections are completed before the term of the existing Assembly ends.
- **Representation of the People Act (RPA Act), 1951:**
  - According to **section 15(2)** of The RPA, 1951, **elections cannot be notified less than 6 months before the end of the Assembly's term** unless the assembly is dissolved prematurely.
  - This provision emphasizes the importance of adhering to the established timeline for electoral processes.
- **Dissolution of the Assembly:**
  - **Role of the Governor:**
    - **Article 174(2)(b)** of the Constitution allows the [Governor](#) to dissolve the Legislative Assembly "**from time to time.**"
    - The Chief Minister and the Council of Ministers can recommend the dissolution of the Assembly before its term expires.
    - Once the Assembly is dissolved, the ECI is mandated to hold elections within six months.
  - **Special Case of Delhi**
    - In Delhi, the **Government of National Capital Territory of Delhi Act, 1991** governs the dissolution of the Assembly.
    - **Section 6(2)(b)** states that the [Lieutenant Governor \(LG\)](#) may dissolve the Assembly, but the **final decision lies with the Centre.**
    - Therefore, even if the Chief Minister recommends dissolution, it is **ultimately**

contingent upon the approval of the LG and the Central Government.

## What Factors Does the ECI Consider Before Deciding the Election Schedule?

- **Term End Date:** The new Assembly must be in place before the current Assembly's term concludes.
- **Logistical Considerations:** The ECI considers weather conditions, availability of security forces, and the need for training election officers.
- **Administrative Inputs:** The ECI conducts visits to gather inputs from local administrative and police machinery.
- **Clubbing Elections:** The ECI aims to combine elections in states where possible to streamline the electoral process.

## What is the Governance Model of Delhi?

- **Constitutional Provisions:**
  - The status of Delhi being a **Union Territory** under **Schedule 1 of the Constitution** but designated as the '**National Capital Territory (NCT)**' under **Article 239AA**.
- **Article 239 AA:**
  - **Article 239 AA** was inserted in the Constitution by **the Constitution (69th Amendment) Act, 1991** to give **Special Status to Delhi** following the recommendations of the **S Balakrishnan Committee** that was set up to look into demands for statehood for Delhi.
  - **Provisions of Article 239 AA:**
    - It says that the NCT of Delhi will have an **Administrator** and a **Legislative Assembly**.
    - Subject to the provisions of the Constitution, the Legislative Assembly "shall have power to make laws for the whole or any part of the NCT with respect to any of the matters in the **State List** or **Concurrent List** in so far as any such matter is applicable to Union territories" **except** on the subject of **police, public order, and land**.
    - Further LG has to **either act on the aid and advice of the Council of Ministers**, or he is **bound to implement the decision taken by the President** on a reference being made by him.
    - It also empowers the LG to **refer a difference of opinion on 'any matter'** with the Council of Ministers **to the President**.
      - Thus, this dual control between LG and the elected government leads to a power tussle.
  - **Article 239AB** (also added by **Constitution (69th Amendment) Act, 1991**) provides that the **President may by order suspend the operation of any provision of Article 239AA** or of all or any of the provisions of any law made in pursuance of that article.

## What is the Election Commission of India?

- **About:**
  - The **Election Commission of India (ECI)** is an **autonomous constitutional authority** responsible for administering **Union and State election processes** in India.
  - It is **not concerned** with the elections to **Panchayats** and **Municipalities** in the states for which there is a separate **State Election Commission**.
- **Constitutional Provisions:**
  - **Part XV (Article 324-329):** It deals with elections and establishes a commission for these matters.
  - **Article 324:** Superintendence, direction and control of elections to be vested in an Election Commission.
  - **Article 325:** No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.

- **Article 326:** Elections to the House of the People and to the Legislative Assemblies of States to be based on adult suffrage.
- **Article 327:** Power of Parliament to make provision with respect to elections to Legislatures.
- **Article 328:** Power of Legislature of a State to make provision with respect to elections to such Legislature.
- **Article 329:** Bar to interference by courts in electoral matters.
- **Appointment & Tenure of Commissioners:**
  - The President appoints CEC and Election Commissioners as per [the CEC and Other ECs \(Appointment, Conditions of Service and Term of Office\) Act, 2023](#).
  - They have a **fixed tenure of 6 years, or up to the age of 65 years**, whichever is earlier.
  - The salary and conditions of service of the CEC and ECs will be equivalent to that of the [Supreme Court Judge](#).

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# 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)

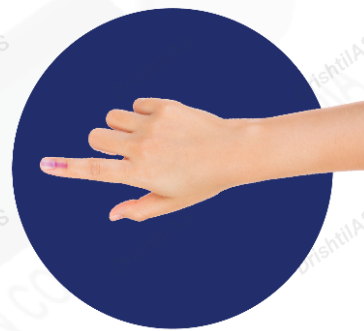


## Constitutional Provisions

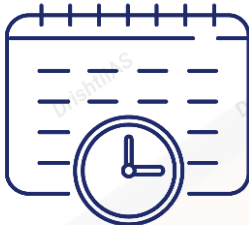
Part XV - Article 324 to 329

## 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 Mains Question**

Examine the role of the Election Commission of India in maintaining the integrity of the electoral process. What are the key challenges the ECI faces in dealing with electoral malpractices, and how can these be addressed?

## **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)**