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The Constitutional Status of State Election Commissions: Autonomy, Accountability and the Conduct of Local Elections in India

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The constitutional establishment of State Election Commissions (SECs) under Articles 243K and 243ZA of the Constitution of India marked an important step towards securing the independence of local electoral processes. Entrusted with the superintendence, direction and control of elections to Panchayats and Municipalities, SECs are intended to function as autonomous constitutional authorities at the grassroots level. However, the exercise of this constitutional mandate continues to raise questions concerning the actual extent of their institutional autonomy, their dependence on State Governments, and the mechanisms through which their functioning may be held accountable. The constitutional framework provides SECs with a distinct electoral mandate, yet issues relating to appointment, tenure, financial and administrative dependence, delimitation, reservation and the conduct of elections often create tensions between constitutional independence and State-level control. This article examines the constitutional status of State Election Commissions in India, focusing on the relationship between autonomy and accountability in the conduct of local elections. It analyses the constitutional provisions governing SECs and the judicial approach towards their powers and independence, while examining the institutional challenges that affect their effective functioning. The research explores the constitutional provisions related to SECs and the judiciary's interpretation regarding their powers and autonomy while considering the functional problems that hinder the effective operations of SECs. The author concludes that mere constitutional recognition may not guarantee true autonomy and argues for an enhanced institutional setup to protect SECs' independence and ensure transparency and accountability. Hence, the paper attempts to analyse constitutional arrangements regarding SECs and propose ways of making such arrangements more efficient.

Keywords: *local elections, constitutional autonomy, electoral independence, accountability, panchayats, municipalities.*

INTRODUCTION

The process of elections in India has been largely conceptualised through the Election Commission of India, which is assigned the responsibility of overseeing elections to the Parliament as well as state legislatures. However, the notion of local self-governance that has been recognised through the 73rd and 74th Constitutional Amendments has also facilitated a new system for elections at the level of Panchayati Raj Institutions and municipalities through the establishment of State Election Commissions as independent constitutional bodies responsible for conducting elections at the grassroots level. Henceforth, the constitutional status of State Election Commissions is of significant relevance to the federal and democratic framework of India.

As per Articles 243K and 243ZA of the Constitution, State Election Commissions have been assigned the task of conducting elections to Panchayati Raj Institutions and municipalities, respectively. While Article 243K specifically deals with the elections of Panchayati Raj Institutions, Article 243ZA makes it clear that the State Election Commissions are tasked with the responsibility of overseeing elections in municipalities too. The constitutional arrangement aims to create a system for local elections to be conducted in a free and fair manner on a regular basis. This differentiation is paramount. Elections to Parliament and State Legislatures are held by the Election Commission of India, while State Election Commissions have been assigned the charge of elections of local bodies by the Constitution. The fact that separate constitutional bodies have been established to address local elections is indicative of the importance that local self-Government has had in the constitutional framework and strives towards making local electoral systems independent of the political executive of the State. [1]

Nevertheless, although the creation of State Election Commissions is constitutionally recognised, this does not mean that the autonomy of State Election Commissions is fully established. The way in which their constitutional functions are carried out can be seen in terms of their appointment and tenure of the State Election Commissioners, reliance on

[1] Constitution of India 1950, arts 243K(1)–(4) and 243Z(1)–(2)

SNAP, delimitation of a number of constituencies, availability of resources and staff, and the connection between SECs and State Governments. The basis for the dilemma is an important constitutional issue. It may be asked: if State Election Commissions are responsible for the independent conduct of local elections, then to what extent can the autonomy of these Commissions be undermined by the State Governments and other authorities, and what measures can be used to provide for accountability of these institutions without violating their constitutional independence?

This is not a question only from a practical point of view. This is also a question of constitutional independence, institutional accountability, democratic decentralisation and the soundness of local elections. The question of independence and accountability cannot be overstated, as an electoral body should have adequate independence in order to conduct elections properly, but should also be governed by appropriate constitutional and legal regulations. In this regard, the issue under examination is the constitutional nature of State Election Commissions in India, their independence, accountability and roles in local elections. The constitutional framework governing SECs and their functioning is examined, while also looking at the nature of SECs and the relationship between SECs' independence and the control by the States over these Commissions.

RESEARCH PROBLEM

The key issue arises from the increasing discrepancy between the constitutional autonomy of the State Election Commissions and their actual operation.

State Election Commissions have the capability to ensure local elections are autonomous, periodic and constitutionally responsible. They perform the function of monitoring, leading and controlling elections to Panchayats and Municipalities and can contribute significantly to establishing democratic decentralisation. However, State Election Commissions may also face institutional restrictions in terms of administrative dependence, budgetary limitations and state authorities' interference or control.

Specific issues regarding the State Election Commissioners' appointment and term could influence the institutions' independence. The delay in local elections can weaken democratic representation. The reliance on State Governments for the staff, funding, and administrative machinery can lead to further issues regarding the exercise of constitutional powers. The lack

of uniform safeguards among the States can create discrepancies in the functioning and autonomy of State Election Commissions. Thus, the matter for research is whether the existing constitutional framework ensures that the autonomy of State Election Commissions is still protected and sufficiently accountable in conducting local elections.

RESEARCH QUESTIONS

1. How does the constitutional framework establish the status, powers and functions of State Election Commissions in India?
2. What is the existing legal and institutional framework governing the autonomy and accountability of State Election Commissions?
3. What constitutional and institutional issues arise in relation to the independence of State Election Commissions and the conduct of local elections?
4. Does the existing constitutional framework adequately ensure the autonomy of State Election Commissions while maintaining appropriate mechanisms of accountability?

RESEARCH OBJECTIVES

1. To examine the constitutional status of State Election Commissions.
2. To analyse their autonomy and accountability.
3. To identify challenges in conducting local elections.
4. To examine the balance between independence and accountability.
5. To suggest measures to strengthen SECs.

HYPOTHESIS

The author assumes that State Election Commissions can reinforce the impartiality and credibility of local elections in India. Nonetheless, if they are implemented without proper safeguards in terms of institutional independence, financial autonomy, administrative assistance, and accountability, their constitutional role may be undermined, which in turn may hamper the effectiveness in conducting local elections.

CONSTITUTIONAL ESTABLISHMENT OF STATE ELECTION COMMISSIONS

The amendments introduced by the 73rd and 74th amendments in the Indian Constitution have led to recognition of the local self-government, which in turn has created a separate

framework for elections of Panchayats and Municipalities. The establishment of the State Election Commission (SEC) as a constitutional authority for preparation of electoral rolls and conduct of local elections was the key feature of the framework. The superintendence, direction and control of the elections to Panchayats has been entrusted to the State Election Commission as per Article 243K, while Article 243ZA extends the same constitutional provision to elections to the Municipalities.

The framework provided by the Constitution is significant as it means that the conduct of local elections is not left completely to the ordinary administrative machinery of the State Government. It puts the elections in the hands of a specially designated constitutional authority. The Governor appoints the State Election Commissioner, and Article 243K protects him from removal except in the manner and on the grounds similar to those of a Judge of the High Court. The constitutional provisions regarding the State Election Commissioner were introduced to ensure the independence of this figure. This has been recognised by Article 243K(3), according to which the SEC can get administrative help from the State Government as well, but it states that the Governor must provide all the necessary staff when the State Election Commission requests it.[2]

This brings us to an important distinction of a constitutional kind. While the State Government can deliver the necessary administrative apparatus for the elections, the constitutional responsibility for overseeing and controlling the electoral process belongs to the State Election Commission. Therefore, in theory, administrative support cannot be treated as administrative control over the electoral process.

THE SCOPE OF SEC'S ELECTORAL POWERS

The constitutional provisions regarding the State Election Commissioner were introduced to ensure the independence of this figure. This has been recognised by Article 243K(3), according to which the SEC can get administrative help from the State Government as well, but it states that the Governor must provide all the necessary staff when the State Election Commission requests it. This brings us to an important distinction of a constitutional kind. While the State Government can deliver the necessary administrative apparatus for the elections, the constitutional responsibility for overseeing and controlling the electoral process

[2] *Anoop Baranwal v Union of India* (2023) 6 SCC 1

belongs to the State Election Commission. Therefore, in theory, administrative support cannot be treated as administrative control over the electoral process. The Court went on to conclude that State Election Commissions should operate separately from the respective State Governments with respect to issues relating to their mandate under the Constitution concerning elections. It has also stressed that the State agencies are obliged to offer the needed assistance and cooperation to the SEC for conducting elections properly.

This view affirms and gives constitutional meaning to the independence of the SECs. It also suggests that their independence is not just a matter of preference but a measure aimed at achieving their constitutional mandate concerning elections. Thus, when the respective State Government does not offer the necessary support, the court in Kishansing Tomar pointed out the right of the SEC to approach the High Court first and subsequently the Supreme Court.

The autonomy of the SEC is not absolute, however. There is an exception in Article 243K(4) dealing with the issue of the right of State Legislatures to legislate on any matter relating to or incidental to elections to Panchayats, as well as Article 243ZA(2), which provides an equivalent power concerning elections to municipalities.

CONSTITUTIONAL AUTONOMY AND THE CONDUCT OF TIMELY ELECTIONS

The independence of State Election Commissions is associated with the necessity of holding local elections on a regular basis in accordance with the Constitution. Article 243U states that a Municipality usually lasts for five years, and elections must be held in order to form a new Municipality before the end of the term. As for Panchayats, there are also similar constitutional requirements stated in Article 243E. The Supreme Court in Kishansing Tomar paid special attention to the constitutional objective of ensuring that regular local elections are held within the periods prescribed by the Constitution. The Court pointed out that the introduction of the constitutional amendments concerning local bodies became necessary because there were cases when elections to local bodies were not held on time, while nominated or superseded bodies operated for a long period.

Consequently, the mission of the SEC goes far beyond the idea of holding elections on a certain day. The SEC must also perform its constitutional functions, which imply holding elections in accordance with the principles stated in the Constitution. This emphasises the

importance of institutional autonomy. If an authority in charge of running elections cannot oversee the democratic process by itself due to external bureaucratic limitations, the constitutional aim of Articles 243K and 243ZA can lose its justification. Meanwhile, the constitutional arrangement does not eliminate the State Government from the election process. State governments keep taking part in staffing and administration, while State Legislatures have the power to formulate laws concerning elections at the local level. This leaves the problem of a clear distinction between the support provided for one side of the electoral process and the control over the electoral authority.[3]

ACCOUNTABILITY ALONGSIDE AUTONOMY

It is important to note that independence does not mean that the State Election Commission is free from legal or constitutional accountability. The SEC is still an agency with considerable public powers, and its decisions can have major consequences for various candidates, parties and voters. Thus, independence must come with transparency, legality and procedural accountability.

This is also confirmed by the Constitution, which acknowledges this interplay. Thus, although Article 243K grants protection to the State Election Commissioner with respect to removal, it also makes it clear that the Commissioner's legal arrangements and tenure will be governed by the Constitution and relevant statutes. Likewise, Articles 243K(4) and 243ZA(2) give a legislative role to State Legislatures with respect to local elections. Hence, when it comes to the Constitution, the most reasonable approach is not to treat independence and accountability as mutually exclusive concepts. Rather, accountability should be used to ensure that electoral authority is exercised in compliance with constitutional and statutory provisions. In other words, accountability mechanisms should not interfere with executive power.

The Supreme Court has also emphasised that the constitutional requirement of timely local elections cannot be indefinitely postponed. In *Suresh Mahajan v State of Madhya Pradesh*, the Court held that the constitutional mandate under Articles 243E and 243U to conduct local-body elections within the prescribed period is inviolable and that ongoing delimitation or

[3] *The State of Goa and Anr v Fouziya Imtiaz Shaikh and Anr* (2021) 8 SCC 401

ward-formation exercises cannot be used as a ground for failing to notify the election programme in time.[4]

INSTITUTIONAL INDEPENDENCE AND THE FEDERAL STRUCTURE

It is important to note that independence does not mean that the State Election Commission is free from legal or constitutional accountability. The SEC is still an agency with considerable public powers, and its decisions can have major consequences for various candidates, parties and voters. Thus, independence must come with transparency, legality and procedural accountability. This is also confirmed by the Constitution, which acknowledges this interplay. Thus, although Article 243K grants protection to the State Election Commissioner with respect to removal, it also makes it clear that the Commissioner's legal arrangements and tenure will be governed by the Constitution and relevant statutes. Likewise, Articles 243K(4) and 243ZA(2) give a legislative role to State Legislatures with respect to local elections.

Hence, when it comes to the Constitution, the most reasonable approach is not to treat independence and accountability as mutually exclusive concepts. Rather, accountability should be used to ensure that electoral authority is exercised in compliance with constitutional and statutory provisions. In other words, accountability mechanisms should not interfere with executive power. The state election commissions' constitutional framework must also be understood in light of the federal structure of India. Local government is recognised in the Constitution as a separate area of democratic empowerment, but the execution of local elections involves cooperation between State Governments and constitutional institutions. Thus, the Constitution establishes a connection under which the SEC exercises its electoral powers while the state government provides the necessary form of administration for those powers to operate. In this regard, Article 243K requires that, when necessary, the SEC can request staff from the Governor for adequate functioning.

The ruling by the Supreme Court in the case of Kishansing Tomar v Municipal Corporation of Ahmedabad is very significant in establishing this connection. The Court stated that the powers of the SEC concerning conducting elections can be equated to the powers of the

[4] *Suresh Mahajan v State of Madhya Pradesh and Anr* (2022) INSC 551

Election Commission of India, with respect to their constitutional areas of operation.[5] Furthermore, the Supreme Court also stressed the fact that the SECs must operate independently from the state government concerning the exercise of their electoral powers, while at the same time, the state authorities must ensure their assistance and cooperation. Thus, it follows that the key task of administrative cooperation is to avoid becoming a tool that the authorities can use to manipulate the constitutional electoral authority. Rather, an efficient institutional structure should allow State Governments to provide the necessary resources for conducting elections without transferring the power to make decisions regarding the actual conduct of elections to the SEC. Thus, it is crucial to achieve this equilibrium between institutional independence, administrative assistance and accountability in determining the constitutional role of the SEC in India.

CONCLUSION

State Election Commissions play an indispensable role in India's Constitution of true democratic decentralisation. Articles 243K and 243ZA of the Constitution of India set up the SECs as constitutional bodies responsible for the administration, direction, and regulation of elections to Panchayati Raj institutions. Their establishment indicates constitutional recognition of the fact that local self-governance necessitates an independent body for conducting elections and ensuring continuity of locally elected bodies.

However, the research shows that constitutional recognition does not ensure institutional independence. Issues of support, funding, appointment and tenure, and interaction with the State Government influence the actual performance of their constitutional obligations. The Supreme Court brought to attention the importance of the independent functioning of SECs and timely elections. The Supreme Court, in Kishansing Tomar v Municipal Corporation of the City of Ahmedabad and in Suresh Mahajan v State of Madhya Pradesh case, reiterated the constitutional position that the elections to local bodies cannot be unnecessarily delayed based on administrative or delimitation processes. At the same time, however, autonomy should not be seen as meaning the absence of accountability. It is necessary for the State Election Commissions to make use of their authority at all times in accordance with the Constitution and other laws of the country, while it is the duty of the State Governments and

[5] Constitution of India 1950, arts 243E and 243U; *Kishan Singh Tomar v Municipal Corporation of the City of Ahmedabad and Ors* (2006) 8 SCC 352

other authorities to cooperate with them in administrative matters related to the conduct of elections. Thus, the constitutional framework suggests that State Election Commissions have to be independent enough to perform their functions without being interfered with while at the same time being subject to the prevailing legal and constitutional framework that governs them.

Based on the findings of this study, it is obvious that in order to strengthen State Election Commissions, it is necessary to provide not only a clear institutional framework and guarantees of their independence but also sufficient support from the administrative and financial standpoint. Establishing better mechanisms guiding the process of appointment, term, resources and work with State authorities could help minimise institutional dependencies without losing accountability. In conclusion, the efficiency of State Election Commissions relies not simply on their formal constitutional position, but, more than anything else, on the existence of institutional conditions sufficient for them to act independently, effectively and responsibly in the execution of their constitutional mandates. Hence, it is crucial to emphasise the necessity of strengthening such a framework in order to ensure constitutional decentralisation is reflected effectively in the form of electoral autonomy.

Another issue is the need for greater uniformity in terms of the institutional structure pertaining to State Election Commissions across States. In spite of the fact that the Constitution lays down a common constitutional mandate, variations in State laws and administrative structures can impede the effective functioning of SECs. Strengthening minimum institutional safeguards in the areas of appointments, duration, funding, staffing and administrative support can help ensure that constitutional autonomy is less dependent on arrangements made at the State level. Such safeguards will also guarantee a greater degree of uniformity in local election institutions while allowing different States to maintain necessary flexibility.

By realising the relationship between State Election Commissions and State governments as a case of constitutional cooperation, not administrative subordination, one would see how State Governments practically become the agents for providing necessary personnel and resources for conducting local elections. Such assistance from the side of State Governments

must be regarded as a means of improving the autonomy of State Election Commissions rather than limiting it.