

GLARING OMISSION: THE HINDU EDITORIAL ON THE IMPORT OF EXECUTIVE MAJORITY IN ECI SELECTION PROCESS

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The Union government's proposal to have a three-member selection panel with a majority for the executive for the appointment of members of the Election Commission may not subserve the objective of protecting the poll watchdog's independence. [A Bill introduced in the Rajya Sabha](#) says the committee will consist of the Prime Minister, the Leader of the Opposition and a Union Cabinet Minister. This runs counter to [a recent judgment of a Constitution Bench](#) that envisaged an independent selection committee that included the Chief Justice of India. The judgment was also in line with the recommendations of the Dinesh Goswami Committee in 1990 and the Justice Tarkunde Committee in 1975. It is true that the Court said that its order would hold good only until Parliament made a law as envisaged in the Constitution. However, for the government to retain an executive majority in the selection process amounts to disregarding the spirit of the Court's recommendations. An argument could be made that the CJI's presence in the process could provide pre-emptive legitimacy to appointments and affect judicial scrutiny of errors or infirmity in the selections. Yet, when weighed against the fact that the ECI is a constitutional body that not only conducts elections but also renders a quasi-judicial role, the need for a selection process that embodies insulation from executive preponderance makes sense.

A non-partisan and independent ECI is a sine qua non for the robustness of electoral democracy. The Election Commission of India has played a seminal role in the periodic conduct of elections, which have only seen greater participation from the electorate because of the largely free, fair and convenient nature of the process. Yet, there are misgivings. In the run-up to the 2019 general election, for example, the announcement of elections was delayed for a month between February and March, allowing the government to inaugurate many projects. The Model Code of Conduct was unevenly implemented, with the ruling party receiving favourable treatment by the ECI, leading to dissent by one of the commissioners. The independent V-Dem Institute in Sweden, which compares democracies worldwide, has downgraded India to an "electoral autocracy", citing the loss in autonomy of the ECI. With the next Lok Sabha election just months away, it should have been incumbent on the government to stay true to the Constitution Bench's judgment and retain its recommendations in the Bill. It is for the Opposition now to ensure that the Bill is discussed and modified.

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