

- Bring out the steps that can be taken to make ECI more powerful to tackle these challenges.
- Conclude accordingly.

Answer:

The Constitution of India under Article 324 provides for an independent and permanent Election Commission of India (ECI). It has the powers of superintendence, direction and control of the preparation of electoral rolls and the conduct of elections to the Parliament, the state legislatures, and the offices of the President and the Vice-President.

Advisory functions of the ECI

- It advises the President and Governor on matters relating to the disqualification of the sitting members of the Parliament and state legislatures respectively. Also such an opinion is binding on the President or the Governor.
- It advises the President whether elections can be held in a state under President's rule in order to extend the period of emergency after one year.
- It also gives it opinion to the higher judiciary on the question of disqualifications and the time period for which it lasts.

Quasi-Judicial functions of the ECI

- It acts as a court for settling disputes related to granting of recognition to political parties and allotment of election symbols to them.
- It has the power to disqualify a candidate who has failed to lodge an account of his election expenses within the time and in the manner prescribed by law.
- The Commission has also the power for removing or reducing the period of such disqualification as also other disqualification under the law.
- It decides on matters related to violations of Model Code of Conduct.
- It appoints officers for inquiring into disputes relating to electoral management.
- It cancels the polls in the events of rigging, booth capturing, violence and other irregularities.

However, in recent times, the ECI has been facing many challenges such as:

- **Conflict between constitutional and legal powers:** The ECI is vested with absolute powers under Article 324, but still has to act according to laws made by Parliament and it cannot transgress the same. For e.g. Despite being the registering authority for political parties under Section 29A of the Representation of the People Act, 1951, it has no power to de-register them even for the gravest of violations.
- **Inadequate capacity:** The ECI has been found dependent on various government departments in terms of office finances, legal expertise, security personnel and other staff.
- **Unable to curb malpractices:** Since the ECI doesn't have necessary powers; it is not able to control criminalization of politics or use of money and muscle power in elections.
- **Upholding its credibility:** ECI's credibility in recent times has been questioned owing to allegations like rampant violation of Model Code of Conduct, debates on working of Electoral Voting Machines, timing of elections and other directions of the commission.

In the backdrop of these challenges, there is a need to relook the powers of the ECI such as:

- Give equal constitutional protection for all three-election commissioners as opposed to just the CEC.
- Institutionalize the convention where the senior most EC should be automatically elevated as CEC in order to instil a feeling of security in the minds of the ECs and that they are insulated from executive interference in the same manner as CEC.
- Reducing the ECI's dependence on DoPT, Law Ministry, and Home Ministry. The ECI should have an independent secretariat for itself and frame its own recruitment rules and shortlist and appoint officers on its own.
- Its expenditures must be charged upon the Consolidated Fund of India similar to other constitutional bodies such as the UPSC.
- All provisions of Model code of conduct should have legal backing.