

1. How does the Representation of People's Act regulate campaign financing and expenditure during elections? Examine.

Approach

Candidates can start the answer by giving idea of RPA Acts and its provisions related to expenditures and funding-finance write points on candidate and party level.

Introduction

The Constitution empowers Parliament to make provisions for elections to the Parliament and State Legislatures. In order to exercise this power, the Parliament enacted laws such as the RPA Act 1950 and RPA Act 1951.

Body

Expenditure by candidate:

- Under Section 77 of the Representation of the People Act (RPA), 1951, every candidate shall keep a separate and correct account of all expenditure incurred between the date on which they have been nominated and the date of declaration of the result.
- All candidates are required to submit their expenditure statement to the ECI within 30 days of the completion of the elections.
- An incorrect account or expenditure beyond the cap can lead to disqualification of the candidate by the ECI for up to three years, under Section 10A of RPA, 1951.
- Recently, the expenditure limit for candidates for Lok Sabha constituencies was increased from Rs 54 lakh-Rs 70 lakh (depending on states) to Rs 70 lakh-Rs 95 lakh, by the Election Commission of India (ECI).

Election funding-finance:

- As of now, the sources and uses of party funds are opaque not just to the public and the regulators but also to party members.
- Much of this comes as secret contributions from profit seekers wanting unjustifiable preferences in purchase and construction contracts, or appointments and postings, or policy changes designed to aid them vis-a-vis some competitor.
- Political parties registered under Section 29A of the Representation of the People Act, 1951 which secured at least 1% of votes polled in the last General Election to the Lok Sabha or the State Legislative Assembly are eligible to receive Electoral Bonds.
- However, all registered political parties have to submit a statement of their election expenditure to the ECI within 90 days of the completion of the elections.

- It is mandatory for the political parties to submit to the ECI a list of donations they received above Rs. 2,000. Political parties cannot receive more than Rs 2000 as cash donations.
- Now, political parties are eligible to accept contributions from foreign companies defined under the Foreign Contribution (Regulation) Act, 2010.

Concerns Regarding Expenditure and financing of the elections:

- False Disclosures: Even after the provision of the declaration of expenditure in the RPA act, candidates do not disclose all expenditure and provide wrong and incomplete information.
- Contradicting to its Basic Idea: The central criticism of the electoral bonds scheme is that it does the exact opposite of what it was meant to do: bring transparency to election funding.
- Compromising Right to Know: The Supreme Court of India has long held that the “right to know”, especially in the context of elections, is an integral part of the right to freedom of expression (Article 19) under the Indian Constitution.
- The RPAs lack clear provisions and guidelines on the matters related to the misuse of official machinery that gives an unfair advantage to the ruling party at the time of elections and leads to the misuse of public funds for furthering the prospects of candidates of a particular party.

Conclusion

The RPA, 1951 provides for the expenditure monitoring mechanism which ensures the accountability and transparency of the candidate and party but it needs to be more agile to reduce role of money and misuse of money power for election benefits.

2. How does the Election Commission of India discharge its constitutional mandate to conduct free and fair elections in the country? What challenges does it face? Analyse.

Approach

Candidates can start the answer by writing on role of ECI and its constitutional mandate. Also highlight how it ensure the free and fair election also mention challenges faced by ECI.

Introduction

The holding of free and fair elections is the sine-qua-non of democracy. To ensure the conduct of elections in free, fair and in an impartial manner, the constitution-makers incorporated Part XV (Articles.324-329) in the constitution and empowered Parliament to make laws to regulate the electoral process.

Body

Ensuring free and fair elections in India:

- Election Commission ensure free and fair election by enforcing and maintaining a model code of conduct before elections and punishes any candidate or party that violates it.
- The Commission had gone to the extent of disciplining the political parties with a threat of de-recognising if the parties failed in maintaining inner-party democracy.
- It upholds the values enshrined in the Constitution viz, equality, equity, impartiality, independence; and rule of law in superintendence, direction, and control over the electoral governance.
- It conducts elections with the highest standard of credibility, freeness, fairness, transparency, integrity, accountability, autonomy and professionalism.
- It ensures participation of all eligible citizens in the electoral process in an inclusive voter-centric and voter-friendly environment.
- The Commission approaches the government well in advance to obtain the names of senior officers for the purpose of appointment as observers before any election.
- Commission via SVEEP, ECI engages more and more voters in the electoral process and ensure their ethical and inducement-free participation in voting.

Challenges:

- Misuse of Government Machinery: Misuse of official machinery: The issue of advertisements at the cost of government and public exchequer highlighting their achievements, disbursements out of the discretionary funds at the disposal of the ministers, use of government vehicles for canvassing etc.
- Distorting Informed Decision Making of Voters: Unregulated populism that offers and distributes 'irrational freebies' during election campaigns causes voters to be biased, especially the unprivileged, since freebies can sway them and affect the informed decision-making process for choosing their representatives.
- Lack of Independent Staff: Since ECI does not have its own staff, it relies on those of the Central and State Governments whenever elections are held.
- Politicisation of social media: social media reflects public opinion, that is a currency of democracy. But one of the most common criticisms of social media is that it creates echo chambers where people only see viewpoints they agree with.
- No Statutory Backing for Enforcing Model Code of Conduct (MCC): As far as enforcing Model Code of Conduct (MCC) and other election-related decisions are concerned, there is no clarity regarding the powers of Election Commission of India (ECI) to enforce them on ground.
- Phenomenon of fake news and misinformation – an important aspect of the role that social media are likely to play in the elections is the phenomenon of fake news and misinformation. The social rupture caused by such campaigns, including heightened insecurity for marginalised sections of society, is phenomenal.

- Use of bots and unfair means to trend on social media – The immediacy of the engagement, with deep penetration through the device of posts going viral, sometimes, allegedly, owing to the deployment of bots, creates challenge in conducting free and fair election.

Conclusion

The powers of the EC are enormous and all-encompassing which even exceed the powers of the executive in all election-related issues during the course of the election period. Thereby giving it effective tools in dispensing free and fair elections, only thing that lacks is will and integrity on the part of responsible officials.

Q-3-How are appointments to constitutional bodies such as Union Public Service Commission and the State public service commission made, and what is the role of the government in this process ? Explain.

Approach -

In this question candidates need to write about how the appointments are made at bodies such as Upsc, and State public service commission and what is role of government in this process.

Introduction -

Under the Constitution, the President has power to make numerous constitutional appointments. But in reality he exercises this power on the proposal of the Cabinet. Cabinet decides who is to be appointed and at what place.

Body -

Appointment and Eligibility of members-

- Article 316 of the Indian Constitution provides for provisions regarding the appointment of the chairman and the members of the U.P.S.C. and S.P.S.C.
- The Chairman and other members of Union Public Service Commission and State Public Service Commissions are appointed by the President of India and the Governor of the State respectively.
- Although no specific qualification is mentioned in the Constitution, but it mandates that 50% of the members of U.P.S.C. should be the ones who have held government office for at least 10 years.
- The President of India and The Governor of State are empowered by the Constitution of India to determine the conditions of service of the Chairman and other members of the Union Public Service Commission and the State Public Service Commission respectively, at the time of their appointment.

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- The person to be appointed as the members of the Union Public Service Commission and State Public Service Commissions should not hold any office of profit under the central or the state government.
- The composition of the Union Public Service Commission and State Public Service Commissions.
- The U.P.S.C. and S.P.S.C. both consist of a Chairman and other members.
- The Commissions consist of 9 to 11 members including the chairman (though the number is not defined anywhere, and it changes from time to time and decided by the president in case of U.P.S.C. and by the Governor in case of S.P.S.C.).
- The current sanctioned strength of the Commissions is 11 (i.e., one Chairman and ten members).

Appointment of chairman and acting chairman-

- In case, the office of the Chairman becomes vacant, the President shall appoint another member of the Commission as the acting chairman to perform the functions of the chairman in his/her absence.
- The governor can also appoint one of the members of the S.P.S.C. as an acting chairman if any of the following conditions prevail:
 - The office of the chairman of the commission becomes vacant;
 - The chairman of the commission, due to absence or for any other reason, is unable to perform the duties of his office.
 - The acting chairman will perform the functions of the chairman until the chairman returns to its office.

Composition of Union Public Service Commission-

- Appointment of Members: The Chairman and other members of the UPSC are appointed by the President of India.
- Term of Office: Any member of the UPSC shall hold office for a term of six years or till the age of 65 years, whichever is earlier.
- Reappointment: Any person who has once held the office as a member of a Public Service Commission is ineligible for reappointment to that office.
- Resignation: A member of the Union Public Service Commission may resign from his/her office by submitting the written resignation to the President of India.
- Removal/Suspension of Members: The Chairman or any other member of UPSC shall only be removed from his/her office by order of the President of India.
- The President can suspend the Chairman or any other member from his/her office in respect of whom a reference has been made to the Supreme Court.
- Conditions for Removal: The Chairman or any other member of UPSC may be removed if he/she is adjudged an insolvent.
- engages during his/her term of office in any paid employment outside the duties of his/her office is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.
- Regulating the Conditions of Service: In the case of the UPSC, the President of India shall:
 - Determine the number of members of the Commission and their conditions of service.
 - Make provisions with respect to the number of members of the staff of the Commission and their conditions of service.

- **Restriction of Power:** The conditions of service of a member of UPSC shall not be amended after his/her appointment that may lead to his/her disadvantage.
- **Power to Extend Functions:** The Legislature of a State may provide for the exercise of additional functions by the UPSC or the SPSC as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution.

Government role in this process -

- In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor of the State may by regulations determine the number of members of the Commission and their conditions of service.
- Make provision with respect to the number of members of the staff of the Commission and their conditions of service:
- Provided that the conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage after his appointment.

Conclusion-

The Public Service Commissions form a basic structure that ensures and protects the meritorious nature of the Indian civil services. However, there could be some changes and reforms to modify these commissions to work more efficiently.