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# In a first, selection process for next Chief Election Commissioner casts wider net

As per new law, panel of five to be sent to committee of PM, Leader of Opposition in Lok Sabha, Minister

Written by Damini Nath

New Delhi | Updated: January 11, 2025 08:19 IST



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Current CEC Rajiv Kumar demits office on February 18. The Election Commission comprises the CEC and two election commissioners – Gyanesh Kumar and Sukhbir Singh Sandhu at present. (Express Archives)

TRADITIONALLY, the successor to the Chief Election Commissioner (CEC) has been the next senior most Election Commissioner. For the first time, as per the Chief

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**Election Commissioner And Other Election Commissioners (Appointment, Conditions of Service And Term of Office) Act, 2023, the net can be cast wider.**

Current CEC Rajiv Kumar demits office on February 18. The Election Commission comprises the CEC and two election commissioners — Gyanesh Kumar and Sukhbir Singh Sandhu at present.

Gyanesh Kumar could still be in contention but **according to Sections 6 and 7 of the Act, the Ministry of Law will set up a Search Committee chaired by the Law Minister to prepare a panel of five names for the Selection Committee.**

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**The Selection Committee, comprising the Prime Minister, a Cabinet minister and the Leader of the Opposition** in the Lok Sabha, can select from this panel or consider “any other person” from outside.

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Section 6 of the Act specifies this process for the appointment of the Chief Election Commissioner and other Election Commissioners.

Even as Gyanesh Kumar remains a potential candidate for the top post, the Act gives the **selection committee** the option of considering names from outside the

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Election Commission.

This comes against the backdrop of the EC facing the heat from the Opposition parties over a range of issues – from the purity of electoral rolls to the efficacy of EVMs. On Tuesday, Kumar rebutted the allegations calling them “irresponsible.”

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When asked about the panel, a Law Ministry official said that the process is yet to begin.

Said a senior EC official: “The change means that outsiders (other than the two serving Election Commissioners) may have an opportunity to head the Commission.”

On the implications of this change, former CEC O P Rawat said, “It opens the option of correcting a decision of a previous dispensation if, after an election, the government changes. It can also make the system vulnerable to erosion of credibility of the Commission.”

The Law Ministry spokesperson and Secretary Rajiv Mani were not available for comment.

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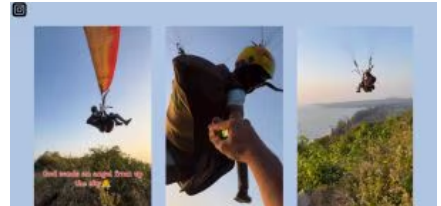
As per Section 5 of the Chief Election Commissioner And Other Election Commissioners (Appointment, Conditions of Service And Term of Office) Act, 2023, the candidates for the post would be current or former Secretary-level officers.

Section 6 states, “A Search Committee headed by the Minister of Law and Justice and comprising two other members not below the rank of Secretary to the Government of India, shall prepare a panel of five persons for consideration of the Selection Committee, for appointment as the Chief Election Commissioner and other Election Commissioners.”



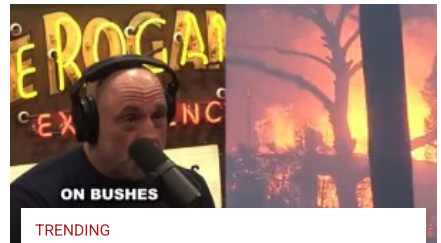
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This Act was brought after an intervention from the Supreme Court, following a clutch of petitions filed between 2015 and 2022 challenging the Centre's exclusive powers in picking the Election Commissioners.

The court had noted that the Constitution's founders never intended to give the Executive exclusive appointment powers.

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#### Break from tradition?

When the Election Commission is under scrutiny, the new law gives the Government the space to break from tradition. With the Leader of Opposition on the panel, a debate over who is next is not ruled out.

Concerned about the "devastating effect" of leaving appointments solely to the Executive, the court established a new process.

In March 2023, the Court ruled that the appointment of the CEC and ECs would be done by the President on the advice of a committee comprising the Prime Minister, the Leader of the Opposition and the Chief Justice of India. This arrangement was to prevail until the Parliament enacted a law for the appointments.

The Union government eventually brought a law in December 2023, which made it mandatory to appoint the CEC and ECs by way of a shortlist panel and a selection committee. However, the Chief Justice of India was dropped as a member of the Selection Committee.

The two ECs Kumar and Sandhu have been appointed as per this new provision.

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Damini Nath is an Assistant Editor with the national bureau of The Indian Express. She covers the housing and urban affairs and Election Commission beats. She has ... [Read More](#)



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