

As Opposition plans on motion to impeach CEC Gyanesh Kumar, here is what the law says

The 2023 Act pertaining to appointment of EC officials says: "The Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court."

Written by: [Damini Nath](#) 4 min read New Delhi Updated: Mar 11, 2026 08:03 AM IST



Chief Election Commissioner Gyanesh Kumar in Kochi on March 6, 2026. Photo: PTI

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With the Opposition this week working on a motion to impeach **Chief Election Commissioner Gyanesh Kumar** for alleged “biased conduct”, the process that is expected to be followed will be the same as the one for removing a judge.

Here’s what the Opposition is planning — and what the law says.

What is the Opposition’s contention?

Initiated by the Trinamool Congress, the Opposition has drafted the impeachment motion against Kumar and is in the process of collecting the required number of signatures from MPs, sources say. One of the grounds against him, as per the sources, will be his “completely biased conduct”. The Trinamool has accused the Election Commission of targeting **West Bengal** during the Special Intensive Revision (SIR) of electoral rolls, in which it deployed micro-observers to review the decisions taken by the statutory authority only in the state.

What is the process for removal of a CEC?

As per Article 324 (5) of the Constitution, the “Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court.” It also says that Election Commissioners can only be removed on the recommendation of the Chief Election Commissioner.

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The article also states that this process is “subject to provisions of any law made by Parliament” on the matter. Following from that, Parliament passed the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023 in December 2023. Section 11 of the Act

provides for the resignation and removal process. It sticks to the same process as mentioned in the Constitution.

“The Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court,” it says.

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The process for removing a judge of the Supreme Court is as per Article 124 of the Constitution and the Judges (Inquiry) Act, 1968. Article 124 (4) says that a Supreme Court judge can be removed “by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.”

The next clause adds that Parliament may pass a law to regulate the procedure for presenting such an address and investigation and proof of “misbehaviour or incapacity” of a judge.

As per Section 3 of the Judges (Inquiry) Act, a motion for presenting an address to the President for removal of a judge must be signed by at least 100 members in the case of the Lok Sabha or 50 members in the [Rajya Sabha](#). The Speaker of the Lok Sabha or the Chairman of the Council of States or Rajya Sabha can decide to admit or refuse the motion. In the case the motion is accepted, the Speaker or Chairman have to set up a three-member committee to investigate. The members of the committee have to include one judge of the Supreme Court, one Chief Justice of a High Court and a distinguished jurist.

The report of the committee is then to be submitted to the Speaker or Chairman. In case the committee finds the judge guilty of misbehaviour or suffering from incapacity, the motion will be taken up by the House or Houses in which it is pending, the Act says. If passed, the address to remove the judge is sent to the President.