

# **CONSTITUTIONAL BODIES**

**1. ELECTION COMMISSION**

**2. UNION PUBLIC SERVICE COMMISSION**

**3. SPSC/JPSC**

**4. FINANCE COMMISSION**

**5. COMPTROLLER & AUDITOR GENERAL OF INDIA**

**6. ATTORNEY GENERAL**

**7. ADVOCATE GENERAL**

**8. NATIONAL COMMISSION FOR SCHEDULE CASTES**

**9. NATIONAL COMMISSION FOR SCHEDULE TRIBES**

**10. SPECIAL OFFICER FOR LINGUISTIC MINORITIES**

## **ELECTION COMMISSION: Part XV, 324-329-A**

### **Art 324: Superintendence, direction & control of elections**

- ✓ Parliament
- ✓ State legislatures
- ✓ Office of President of India
- ✓ Vice-President

### **Composition**

**CEC + other commissioners -> President fix from time to time**

**1950 to 1989: Only CEC**

**1989 to 1990: 1+ 2**

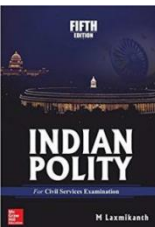
**1990 to 1993: Only CEC**

**From 1993: 1 +2**

**CEC's power, salary & allowances = ECs = Judge of Supreme Court**

**CEC **VS** ECs then decision by majority**

**Term – 6 Yrs /65 whichever is earlier**



## **Provisions for Independence**

- ✓ **CEC Removal - proved misbehaviour or incapacity same as a Supreme Court Judge – a resolution in both houses with special majority**
- ✓ **CEC Service conditions not varied after appointment**
- ✓ **Recommendation of CEC to remove ECs/regional commissioners**

### **Some imperfections**

**Not prescribed the qualifications (legal, educational, administrative or judicial)**

**Not debarred the ECs from further Govt. appointment**

# **Powers & Functions**

- ✓ **Administrative**
- ✓ **Advisory**
- ✓ **Quasi-Judicial**

**Territorial delimitation of constituencies – Act 2002**

**Act as a court for settling disputes – Party recognition,  
Election Symbol**

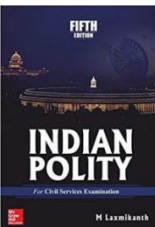
**Code of Conduct during elections**

**Roster for publicity – on TV etc.,**

**Advise President/Governor MPs/MLAs disqualification**

**Possibility of conducting election in President rule state**

**State level Chief electoral Officer – appointed by CEC in  
consultation with state**



**Part XIV**

- **Central Recruiting Agency**

**Composition- determined by President  
Chairman + Others**

**No qualifications for members except one-half 10  
years service under Gov. of India/state**

**Term - 6/65**

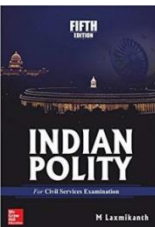
**Acting chairperson possible**

**Removal by President 1. adjudged an insolvent 2.  
engages paid employment outside 3. infirmity of  
mind or body 4. Misbehaviour – interested/ profit in  
contract made by GoI/S - (SC enquiry & its  
binding)**



# Provision for Independence

- ✓ **Security of Tenure**
- ✓ **Service conditions not varied after appointment**
- ✓ **SAP- Consolidated fund of India – NOT subject to vote of Parliament**
- ✓ **Chairperson NOT eligible for further employment in GoI/s – ‘Constitutional Office’ possible**
- ✓ **Member – further only as Chairperson UPSC/SPSC**
- ✓ **Chairperson/ Member – NO 2<sup>nd</sup> term**



## • **Functions**

- **Conducting Exams: AISs[IAS...], CSs[IFS...], UT Public Services**
- **Assistance to states on request by Governor & on President's approval**
- **Consultant in Personnel Management**
  - **Recruiting Methods**
  - **Principles in Making Appointments**
  - **Suitability for appointments, transfers, promotions(UPSC to ratify)**
  - **Disciplinary Matters**
  - **Any claim**
  - **Temporary Appointments exceeding ONE year**
  - **Extension or Re-employment**



- **SC held that irregularity in consultation with UPSC does NOT invalidate the decision of Government**
- **Additional functions conferred by Parliament i.e. extension by Parliament**
- **UPSC Reports → President → Parliament**
  - **Not acceptance [Approval of Cabinet Committee on Appointments required]– Reason**

**An individual ministry/Dept NO power to reject UPSC advice**



## **Limitations (UPSC not consulted)**

- **Reservation for backward**
- **Claims of SCs & STs**
- **Diplomatic appointments**
- **Group C & D**
- **Temporary appointment less than one year**
- **Presidential exclusion, but such to be laid to Parliament for 14 days**

## **Role of UPSC**

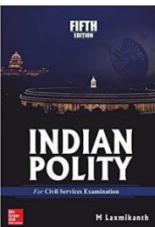
**Watch-dog of merit system in India**

**NOT concerned with classification of services, pay & service conditions, cadre management, training...(DoPT- central personnel agency)**

**Advisory**

**A: Emergence of CVC affects the role of UPSC**

**R: Both are consulted by Gov. on disciplinary matters**



# **SPSC: Art 315 to 323, Part XIV**

**Composition- determined by Governor**

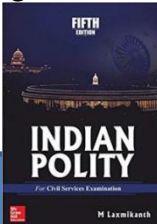
**Chairman + Others**

**No qualifications for members except one-half  
10 years service under Gov. of India/state**

**Term - 6/62**

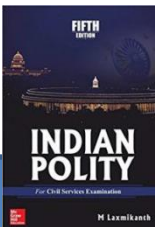
**Acting chairperson possible**

**Removal by President 1. adjudged an insolvent  
2. engages paid employment outside 3. infirmity  
of mind or body 4. Misbehaviour – interested/  
profit in contract made by GoI/S - (SC enquiry  
& its binding)**



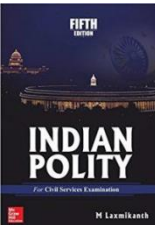
## Provision for Independence

- ✓ **Security of Tenure**
- ✓ **Service conditions not varied after appointment**
- ✓ **SAP- Consolidated fund of state – NOT subject to vote**
- ✓ **Chairperson NOT eligible for further employment in GoI/s – But Member/Chair of UPSC & ‘Constitutional Office’ possible**
- ✓ **Member – further only as Member/Chairperson UPSC & Chairperson of SPSC**
- ✓ **Chairperson/ Member – NO 2<sup>nd</sup> term**



- **Functions**

- **Conducting Exams for state services**
- **Consultant in Personnel Management**
  - **Recruiting Methods**
  - **Principles in Making Appointments**
  - **Suitability for appointments, transfers, promotions(SPSC to ratify)**
  - **Disciplinary Matters**
  - **Any claim**
  - **Any other personnel management**



- **SC held that irregularity in consultation with SPSC does NOT invalidate the decision of Government**
- **Additional functions conferred by state legislature i.e. extension by state legislature like on local authority, corporate body/ public institution**
- **SPSC Reports → Governor → state legislature**

➤ **Not acceptance [Approval of Cabinet Committee on Appointments required]– Reason**

## **Limitations (SPSC not consulted)**

- **Reservation for backward citizens**
- **Claims of SCs & STs**
- **Governor & exclusion, but such to be laid to state legislature for 14 days**

## **Role of SPSC**

**Watch-dog of merit system in state**

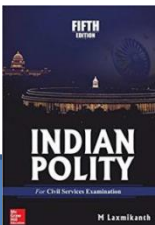
**NOT concerned with classification of services, pay & service conditions, cadre management, training...(DoPT- central personnel agency)**

**Advisory**

**A: Emergence of SVC affects the role of SPSC**

**R: Both are consulted by Gov. on disciplinary matters**

**Consulted by Governor while framing rules for appointment to judicial service**



# **JPSC**

**Can be created by an Act of Parliament on the request of 2 or more states – statutory body**

**Chairman & Members - appointed/removal condition of services by President**

**Term – 6/62**

**JPSC Reports → Governor → state legislature**

**\*\*\*\*\***

**GoI Act 1919 – set up Central Public Service Commission in 1926**

**GoI Act 1935 – Provided for Federal, Provincial & Joint Public Service Commissions**

# **FINANCE COMMISSION – Art 280**

**Quasi-judicial body**

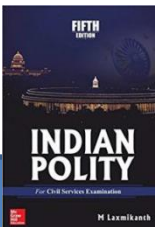
**Every 5<sup>th</sup> year or earlier constituted by President**

## **Composition**

**Constitution authorised parliament to specify qualification**

**Chair [experience in public affairs]+ 4 [high court judge or qualified for that, knowledge of finance & accounts of the Gov. experience in financial matters & admin, knowledge in economics] appointed by President**

**Term – specified by President, eligible for reappointment**





## **Functions- Recommendations to President**

- ✓ **Distribution of net proceeds of taxes between Centre & States, allocation between states**
- ✓ **Grants-in-aid to states – principle**
- ✓ **Measures to augment the consolidated fund of state to supplement the resources of local Gov.**
- ✓ **F.C. Reports → President –[explanatory memorandum]→ Parliament**
- ✓ **Advisory role – NOT binding Gov.**

## **Impact of Planning Commission**

**Rajmanner highlighted the overlapping b/w F.C & P.C – Capital requirements**

**So far 14 Commissions...2015-2020**

# **COMPTROLLER & AUDITOR GENERAL OF INDIA (CAG) Art. 148**

**Most important officer under Constitution**

**- Dr. B.R. Ambedkar**

- ✓ **Head of the Indian Audit & Accounts Department**
- ✓ **Guardian of public purse – Centre and States**
- ✓ **Uphold constitution in the field of financial administration**

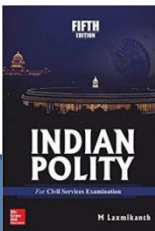
**Appointed by President of India by a warrant under his hand and seal- oath or affirmation**

**Term-6/65**


**Removal like Supreme Court Judge**

# Independence

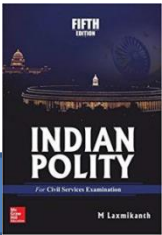
- ✓ **Security of tenure - NOT hold office till the pleasure of President**
- ✓ **Not eligible to hold further office under GoI/State**
- ✓ **Salary & service conditions Parliament**
- ✓ **SAP – consolidated fund of India**
- ✓ **Personnel & administrative powers for CAG prescribed by President after consulting CAG**
- ✓ **NO minister represent/responsible for CAG in Parliament**



## **Duties and Powers [Art 149]**

- **Parliament to prescribe  in relation to accounts of Union, States and any other authority or body**
- **1971 Act, 1976 Act separated accounts from audit in the central Gov.**
- ✓ **Audits Consolidated Fund of India/states/UTs having legislature**
- ✓ **Audits Contingency fund of India/states, Public Account of India/states**
- ✓ **Audits all activities of any departments of Centre & states**
- ✓ **Audits receipts and expenditures of Centre & states, government companies, suspense accounts**

- ✓ **Audits stock accounts with approval/required by President**
- ✓ **Audits any other authority by the request of President/Governor**
- ✓ **Advises President the form in which the accounts of Centre and states shall be kept**
- ✓ **Reports → President → Parliament**
- ✓ **Reports → Governor → state legislature**
- ✓ **Ascertains and certifies the net proceeds of any tax or duty**
- ✓ **Compiles accounts of states**
- ✓ **Guide, Friend & Philosopher to Public Accounts Committee [PAC] of Parliament**



- **CAG submits 3 audit reports on**
- **Appropriation accounts**
- **Finance accounts**
- **Public Undertakings**
- **Reports → President → Parliament → PAC findings → Parliament**

## **Role**

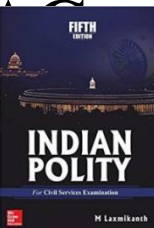
**Agent of parliament, so only responsible to it**

**More freedom to audit of expenditure than other audits**

**Conduct not only regulatory audit [Obligatory] but Propriety audit [Discretionary]**

**Secret service expenditure - CAG to accept certificate from competent authority (limitation for CAG)**

**Only Auditor-General role NOT comptroller i.e NO control over the issue of money - different from UK's CAG their executive draw money with approval of CAG**



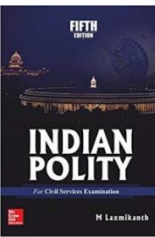
## **CAG & Corporation – Audit relationship limited**

- ✓ **Totally & Directly : DVC, ONGC, AI, IA**
- ✓ **Supplementary - private professional auditors appointed with his consultation : CWC, IFC**
- ✓ **Only private professional auditors – NO CAG: LIC, RBI, SBI, FCI**

## **CAG & Gov. Companies – limited**

- ✓ **private professional auditors appointed by Gov. with his advice – supplementary audit/test audit**
- 1968 an Audit Board [1+2 appointed by CAG] as a part of CAG office – to handle technical aspect of specialised enterprises like Steel, Chemicals...**

- **Appleby's Criticism**
- **Abolition of CAG**
- ✓ **Has a repressive & negative influence**
- ✓ **Do not know about administration**



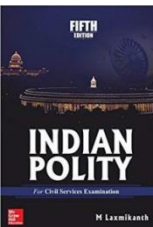


## **ATTORNEY GENERAL ART 76**

- ❖ Highest Law officer in India
- ❖ Appointed by President
- ❖ Supreme court judge qualification i.e.
  - ✓ 5 Yrs Judge of H.Court [or]
  - ✓ 10 Yrs Advocate in H.Court
  - ✓ An eminent jurist in the opinion of President
- ❖ Term NOT fixed, NOT procedure for removal - pleasure of President
- ❖ Conventionally resigns with Gov.
- ❖ President determine remuneration

## **• ADVOCATE GENERAL ART 165**

- ❖ Highest Law officer in state
- ❖ Appointed by Governor
- ❖ H. court judge qualification i.e.
  - ✓ 10 Yrs Judicial Office
  - ✓ 10 Yrs Advocate in H.Court
- ❖ Term NOT fixed, NOT procedure for removal - pleasure of Governor
- ❖ Conventionally resigns with Gov.
- ❖ Governor determine remuneration



## **ATTORNEY GENERAL**

### **Duties & Functions**

**Legal advice to GoI referred by President**

**Legal duties Assigned by President- appear on behalf of GoI in all cases in S. Court, represent GoI in S.Court for Presidential reference, appear in any H.Court when required by GoI**

### **Rights**

**Right of audience in all courts-with out vote : right to speak and take part in both houses/joint sitting, right to part of parliament committee where named as member-enjoys privileges & immunities of MP**

## **ADVOCATE GENERAL**

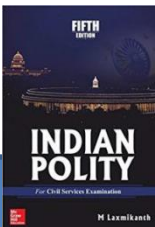
### **Duties & Functions**

**Legal advice to Gov. of a state referred by Governor**

**Legal duties Assigned by Governor**

### **Rights inside State**

**Right of audience in all courts-with out vote : right to speak and take part in both houses/joint sitting, right to part of legislature committee where named as member-enjoys privileges & immunities of MLA**



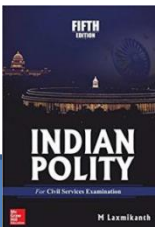
# **ATTORNEY GENERAL**

## **Limitations**

- **Should not advice or hold a brief against Gol**
- **Should not defend accused persons in criminal prosecution without permission of Gol**
- **Should not accept appointment in any company/corporation without permission of Gol**
- ✓ **NOT a full-time counsul**
- ✓ **NOT a government servant**
- ✓ **NOT debarred from private practice**

## **Solicitor General**

**To Assist ATTORNEY GENERAL**  
**NOT mentioned in Art 76 of constitution**

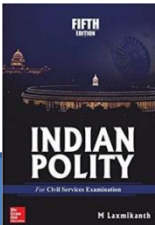


## **NATIONAL COMMISSION FOR SCs**

- **Art.338, Part XVI**
- **Evolution:  
Constitutional Special  
Officer to non-statutory  
commission to  
Constitutional Body  
(65<sup>th</sup> A. Act)**
- **89<sup>th</sup> A. Act 2003 –  
NCSCs & NCST**
- **Came in 2004**
- **Chair+ Vice Chair + 3  
Members**
- **Appointed by President  
[warrant under hand &  
seal]**
- **Service & Tenure  
determined by  
President [3 years]**

## **NATIONAL COMMISSION FOR STs**

- **Art.338 –A, Part XVI, 89<sup>th</sup>  
A. Act**
- **Evolution: Constitutional  
Special Officer to non-  
statutory commission to  
Constitutional Body (65<sup>th</sup>  
A. Act)**
- **89<sup>th</sup> A. Act 2003 – NCSCs  
& NCST**
- **Came in 2004**
- **Chair+ Vice Chair + 3  
Members**
- **Appointed by President  
[warrant under hand &  
seal]**
- **Service & Tenure  
determined by President**
- **Note: 1999 Ministry of  
Tribal Affairs**



- The Chairperson has been given the rank of Union Cabinet Minister, and the Vice-Chairperson that of a Minister of State and other Members have the ranks of a Secretary to the Government of India.

## **FUNCTIONS of NCSCs**

- **Investigate, Monitor & evaluate – legal safeguards**
- **Inquire into specific complaint related to deprivation of rights**
- **Participate, advise, evaluate planning process in Union/State**
- **Recommendations for protection, welfare & socio-economic development in Union/State**
- **Annually or at such other times, report → President**
- **Other functions President may specify**

## **FUNCTIONS of NCSTs**

- **Investigate, Monitor & evaluate – legal safeguards**
- **Inquire into specific complaint related to deprivation of rights**
- **Participate, advise, evaluate planning process in Union/State**
- **Recommendations for protection, welfare & socio-economic development in Union/State**
- **Annually or at such other times, report → President**
- **Other functions President may specify**

## **Report of the Commission**

**President places all such reports along with a memorandum (action taken + non-acceptance) in parliament**

**President also forward any report pertaining to state to Governor.**

**Governor places all such reports along with a memorandum (action taken + non-acceptance) in legislature**

## **Report of the Commission**

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**Governor places all such reports along with a memorandum (action taken + non-acceptance) in legislature**

## **POWERS OF THE COMMISSION**

- **Power to regulate its own procedure**
- **Powers of a Civil Court**
- ✓ **Summoning & enforcing attendance of any person from any part of India & examining him on oath**
- ✓ **Requiring the discovery and production of any document**
- ✓ **Receiving evidence on affidavits**
- ✓ **Requisitioning any public record from any court or office**
- ✓ **Issuing summons for the examination of witnesses & documents**
- ✓ **Other matter determined by president**

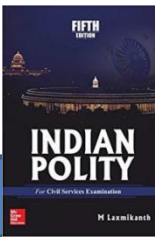
## **POWERS OF THE COMMISSION**

- **Power to regulate its own procedure**
- **Powers of a Civil Court**
- ✓ **Summoning & enforcing attendance of any person from any part of India & examining him on oath**
- ✓ **Requiring the discovery and production of any document**
- ✓ **Receiving evidence on affidavits**
- ✓ **Requisitioning any public record from any court or office**
- ✓ **Issuing summons for the examination of witnesses & documents**
- ✓ **Other matter determined by president**



# **Other functions of NCSTs**

- **In 2005 President specified**
- **Ownership measures related to minor forest produce**
- **Safeguard measures related to Mineral, Water resources as per law**
- **Livelihood strategies measures**
- **Preventive measures for alienation from land & rehabilitation measures for affected**
- **Elicit cooperation for protecting forests & social afforestation**
- **Ensuring implementation of PESA Act, 1996**
- **Reducing & eliminating shifting cultivation**



**The safeguards provided to Scheduled Castes are grouped in the following broad heads**

Social Safeguards - Article 17, 23, 24 and 25 (2) (b)

Economic Safeguards - Article 23, 24 and 46

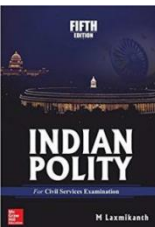
Educational & Cultural Safeguards - Article 15 (4)

Political Safeguards - Article 243, 330 and 332

Service Safeguards - Articles 16(4), 16(4A) and 335

# **SPECIAL OFFICER FOR LINGUISTIC MINORITIES – Commissioner for Linguistic Minorities**

- **Originally NOT**
- **State Reorganization Commission recommended**
- **7<sup>th</sup> A. Act of 1956, Art. 350-B, Part XVII**
- **Appointed by President**
- **Report → President → parliament & concerned state governments**
- **Report interval as President may direct**
- **Constitution does NOT specify qualification, tenure, salaries & allowances, service conditions, and procedure for removal**
- **Created in 1957**
- **HQs – Allahabad, 3 Regional Offices Belgaum, Chennai, Kolkata**
- **Under Minority Affairs Ministry**
- 



## **Role**

**Looking grievances of  
(individuals/organisation/state or UT Gov.)  
non-implementation of constitutional &  
nationally agreed scheme**

**Publicize constitutional safeguards**

## **Function**

**Investigate safeguards**

**Monitor safeguards – questionnaires, visits,  
conferences, seminars, meetings, review  
mechanism etc.,**

## **Objectives**

**Equal opportunities to linguistic minorities**

**National integration**

**Safeguards awareness**

**Safeguards implementation by states/UTs**

- Safeguards types
- (1) [Those provided in the Constitution](#)

## **Constitutional Provisions**

[Article 29](#)

[Article 30](#)

[Article 347](#)

[Article 350](#)

[Article 350A](#)

(2) [Those arrived at by consensus by Central and State Governments through series of meetings](#)

- Instruction through minority languages at the Secondary stage of education

(3) [The Combined Scheme](#)

- 1 + 2