

AS INTRODUCED IN THE RAJYA SABHA  
ON 4TH DECEMBER, 2009

**Bill No. XXXVI of 2009**

THE CONSTITUTION (AMENDMENT) BILL, 2009

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BILL

*further to amend the Constitution of India*

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2009.

Short title and  
commencement.

(2) It shall come into force at once.

**2.** In Article 324 of the Constitution, in clause (5) for the existing provisos, the following provisos shall be substituted, namely:—

Amendment  
of article  
324.

“Provided that no Election Commissioner shall be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of any Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.”

## STATEMENT OF OBJECTS AND REASONS

The Founding Fathers of our Constitution have given us a parliamentary system of democracy. As fair and free elections are the bedrock of democracy, provision has been made for an Election Commission which has been vested with superintendence direction and control of elections. The Commission at present is a multi-member body, whereas the Chief Election Commissioner can be removed from office in like manner and on like grounds as a Judge of the Supreme Court and that his conditions of service cannot be varied to his disadvantage after appointment, no such protection has been given to other Election Commissioner. On the contrary, an Election Commissioner can be removed from service on the recommendation of the Chief Election Commissioner. In other words, the status of other Election Commissioners is inferior and subordinate to the Chief Election Commissioner. That means all the Election Commissioners do not have equal rights and status. This situation does not appear to be just and reasonable.

Recently, a controversy on this issue arose when the Chief Election Commissioner recommended the removal of one of his colleagues. The recommendation was not accepted by the President.

In view of this position, it is necessary and appropriate that the status of all the Election Commissioners in the matter of removal from service and the protection of the service conditions after appointment should be equal as in the case of the Judges of the Supreme Court. Accordingly, the relevant provisions of article 324 are required to be suitably amended.

Hence this Bill.

RAJEEV CHANDRASEKHAR

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

324.(1) \*\*\* \*\*

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that 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 and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

Superintendence, direction and control of elections to be vested in an Election Commission.

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RAJYA SABHA

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*(Shri Rajeev Chandrasekhar, M.P.)*