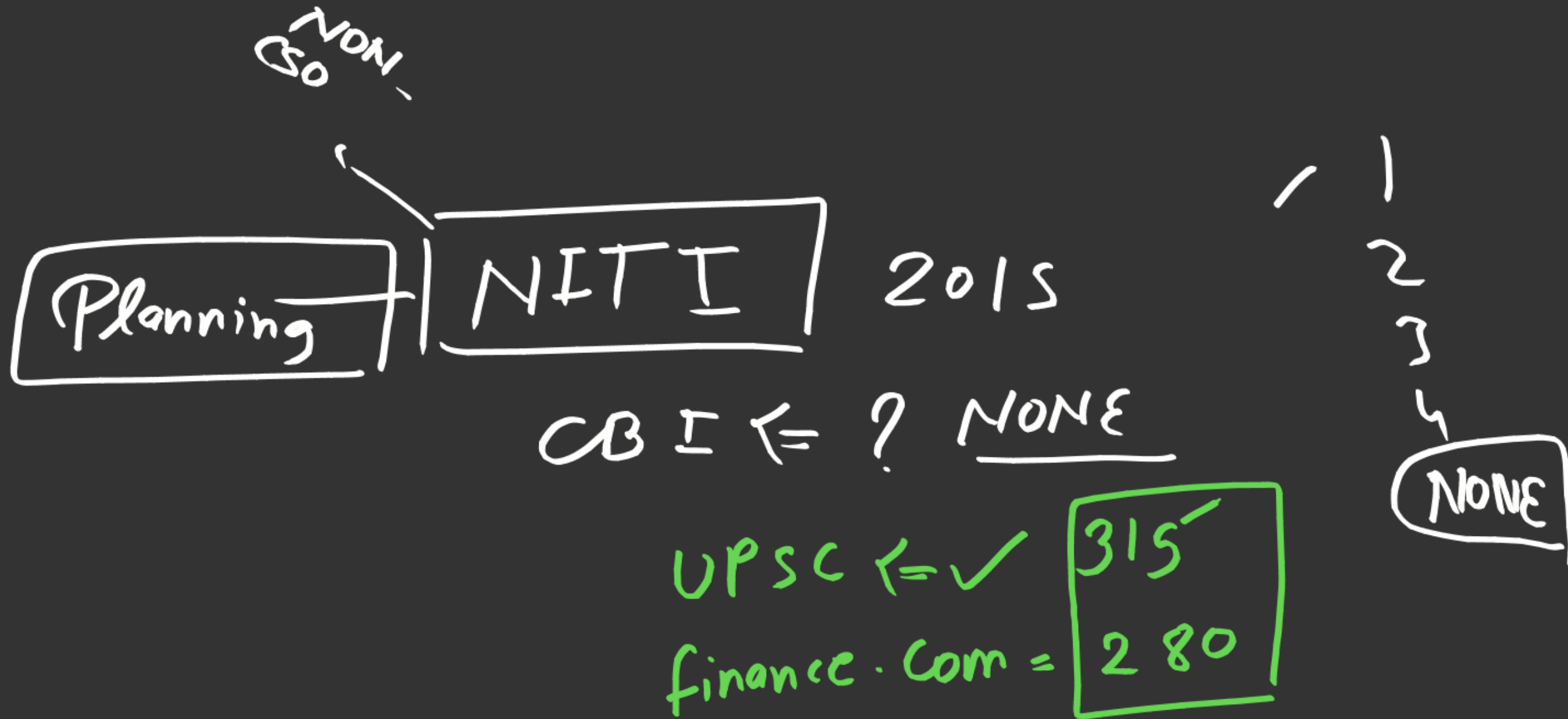


CONSTITUTIONAL BODIES

- 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**

SSC/KGL ✓
UPSC - ✓

Constitution Bodies



76 - Attorney ✓

148 - CAG ✓

165 - Advocate Gen. ✓

280 - Finance ✓

315 - UPSC

324 - EC

338 - N.T.

22 - 25

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

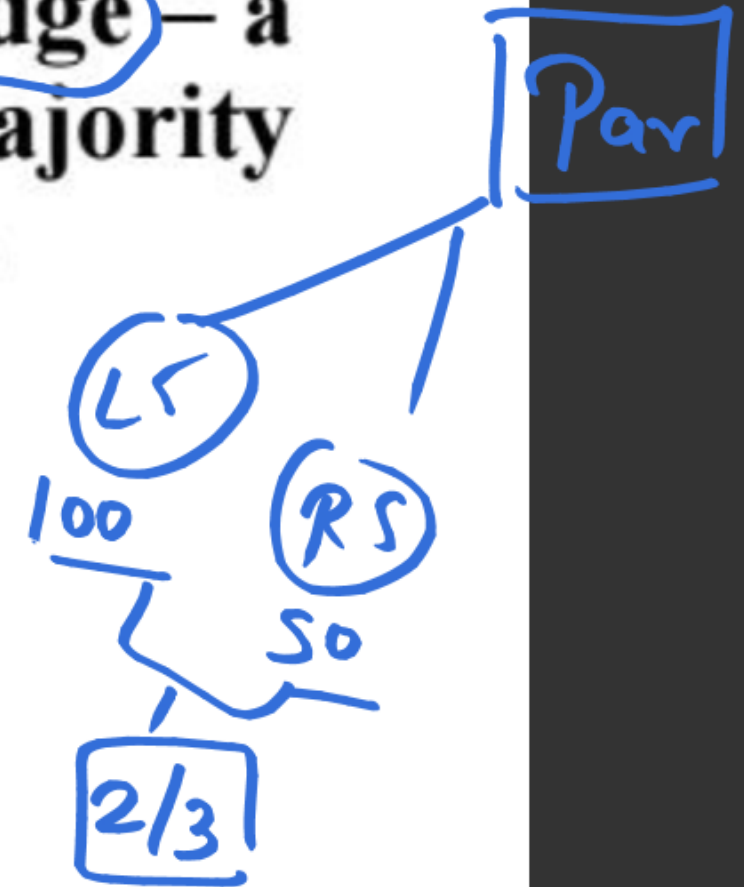
CEC VS ECs then decision by majority

Term - 6 Yrs / 65 whichever is earlier

EC / OS

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

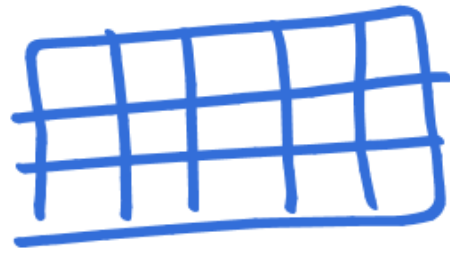


Some imperfections

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

Not debarred the ECs from further Govt. appointment

Powers & Functions



$$\frac{MP-LS}{20} = 20cr$$

- ✓ Administrative
- ✓ Advisory
- ✓ Quasi-Judicial

Territorial delimitation of constituencies – Act 2002

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

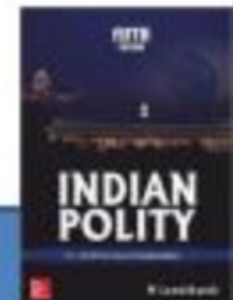
Code of Conduct during elections

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



- **Central Recruiting Agency**

Composition- determined by President

Chairman + Others

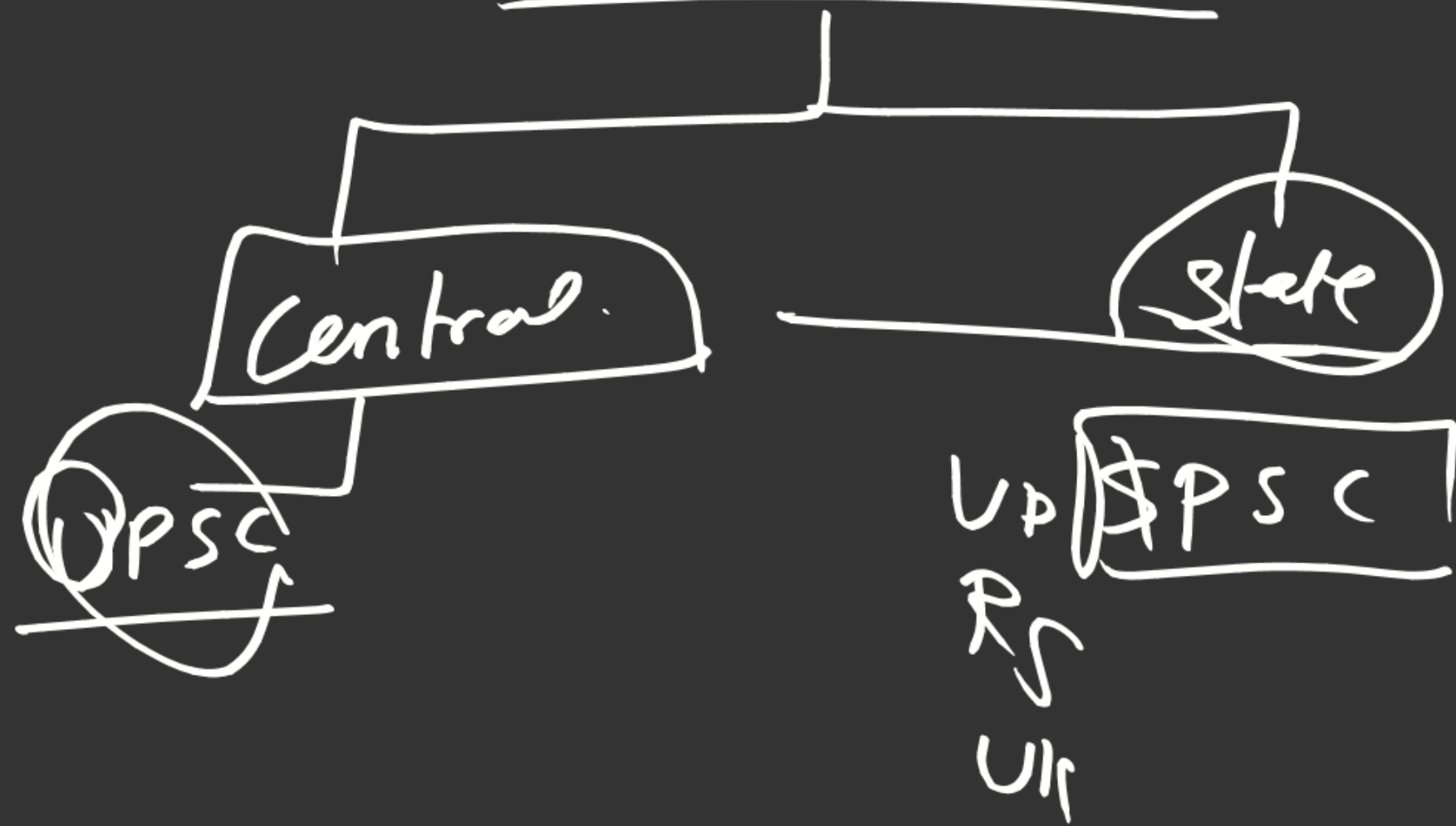
No qualifications for members except one-half 10 years service under Gov. of India/state

Term - 6/65

Acting chairperson possible

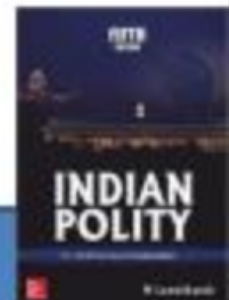
✓ Removal by President 1. adjudged an insolvent 2. engages paid employment outside 3. infirmity of mind or body 4. Misbehaviour – interested/ profit in contract made by GoI/S - (SC enquiry & its binding)

Public Services



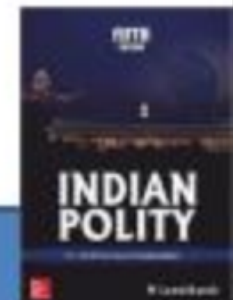
Provision for Independence

- ✓ **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 2nd term**



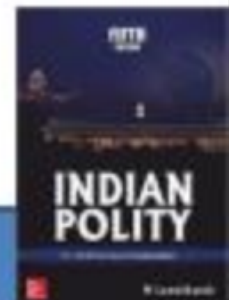
- **Functions**

- **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

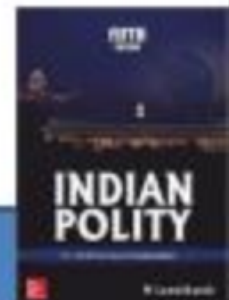
Watch-dog of merit system in India

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)**

* 1922 at allahabad

Father of Civil Services "Lord Cornwallis"

⇒ Charter Act - 1853 = The Provision came ✓

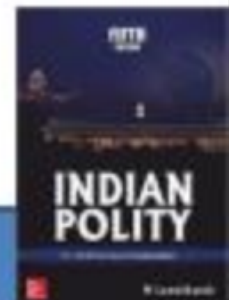
= 1862 - Satyendra Nath Tagore 1st Civil servant.

= 1926 - Public Service Com. was set up.

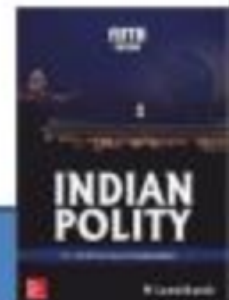
1937 - All India Federal Service Com. Later
Renamed UPSC. ✓

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 2nd term**

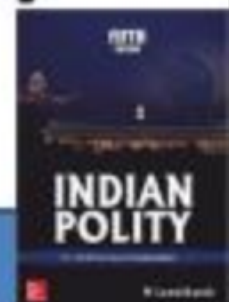


- **Functions**
- **Conducting Exams for state services**
- **Consultant in Personnel Management**
 - **Recruiting Methods**
 - **Principles in Making Appointments**
 - **Suitability for appointments, transfers, promotions(SPSC to ratify)**
 - **Disciplinary Matters**
 - **Any claim**
 - **Any other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

~~X~~ = **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

16th

Quasi-judicial body

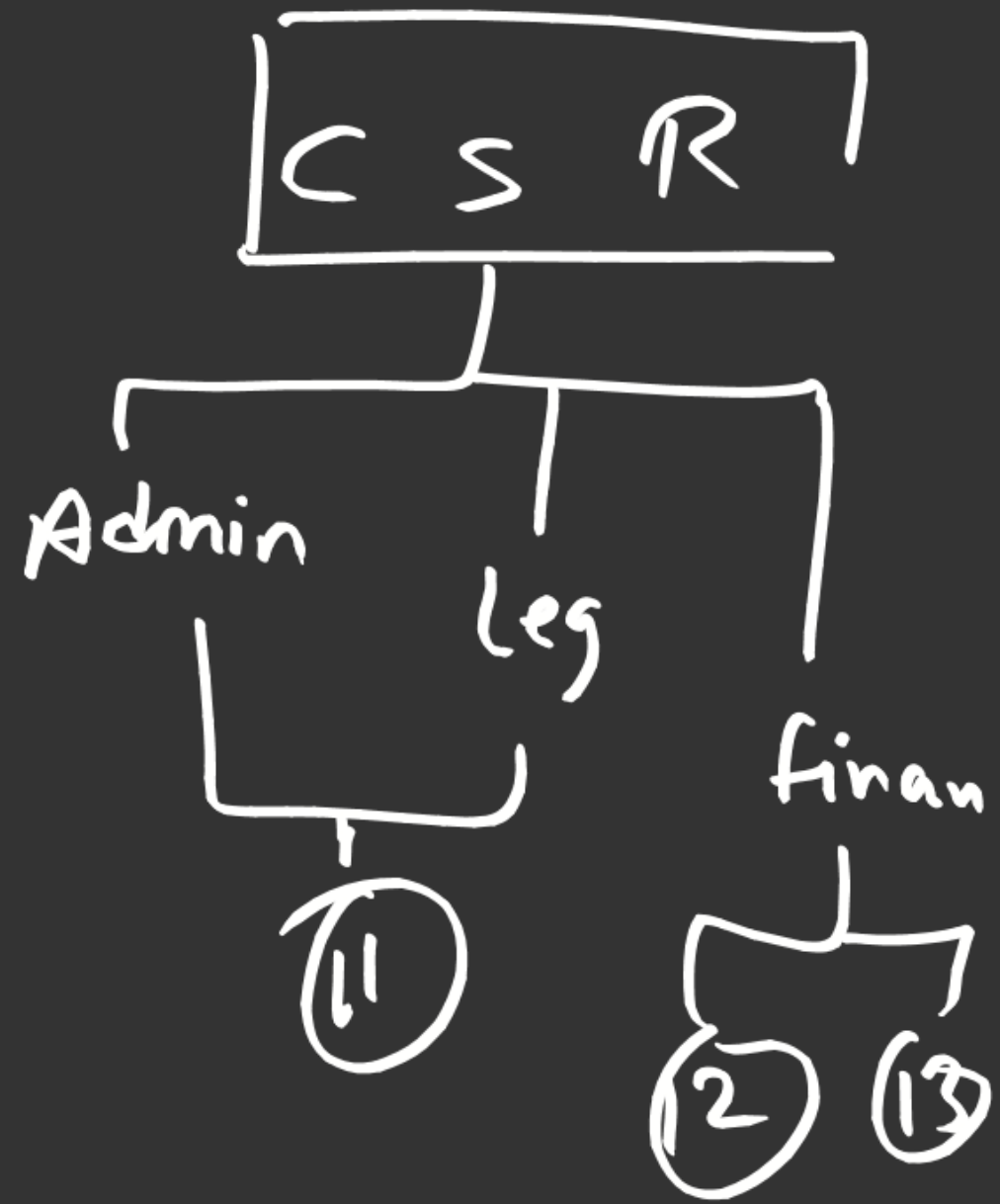
Every 5th year or earlier constituted by President

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



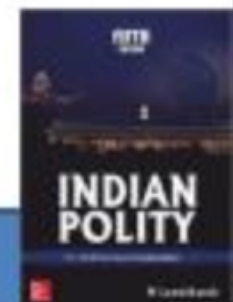
Functions- Recommendations to President

- ✓ **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

Rajmannar 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 = Part - 5

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**

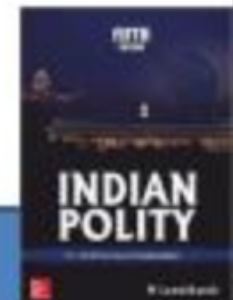
Appointed by President of India by a warrant under his hand and seal- oath or affirmation

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)**

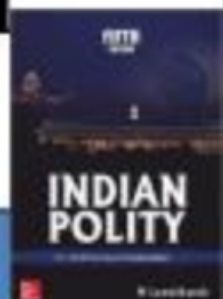
**Only Auditor-General role NOT comptroller i.e NO
control over the issue of money - different from UK's CA
their executive draw money with approval of CAG**

CAG & Corporation – Audit relationship limited

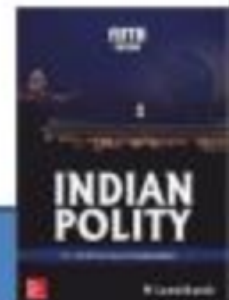
- ✓ **Totally & Directly : DVC, ONGC, AI, IA**
- ✓ **Supplementary - private professional auditors appointed with his consultation : CWC, IFC**
- ✓ **Only private professional auditors – NO CAG: LIC, RBI, SBI, FCI**

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

P-5 — ART 76 Union

- ❖ 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

State ART 165 — P-6

- ❖ 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

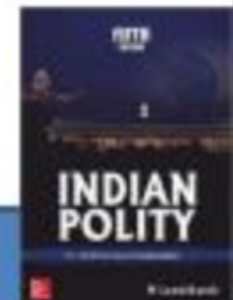
Limitations

- Should not advice or hold a brief against GoI
- Should not defend accused persons in criminal prosecution without permission of GoI
- Should not accept appointment in any company/corporation without permission of GoI
- ✓ 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

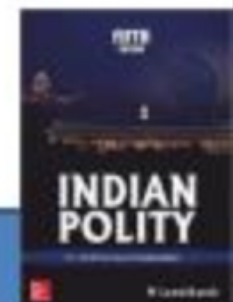


NATIONAL COMMISSION FOR SCs

- **Art.338, Part XVI**
- **Evolution: Constitutional Special Officer to non-statutory commission to Constitutional Body (65th A. Act)**
- **89th 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, 89th A. Act**
- **Evolution: Constitutional Special Officer to non-statutory commission to Constitutional Body (65th A. Act)**
- **89th 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

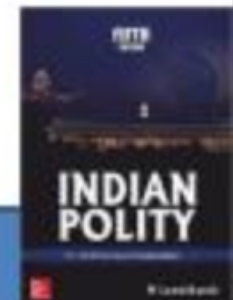
President places all such reports along with a memorandum (action taken + non-acceptance) in parliament

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

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



POWERS OF THE COMMISSION

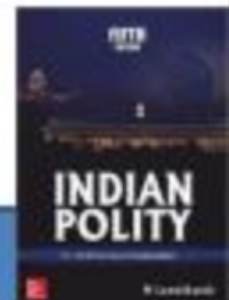
- **Power to regulate its own procedure**
- **Powers of a Civil Court**
- ✓ **Summoning & enforcing attendance of any person from any part of India & examining him on oath**
- ✓ **Requiring the discovery and production of any document**
- ✓ **Receiving evidence on affidavits**
- ✓ **Requisitioning any 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

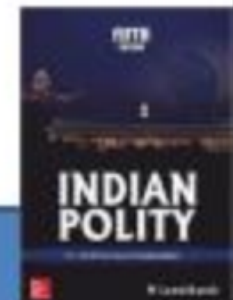
Educational & Cultural Safeguards - Article 15 (4)

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**
- **7th 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

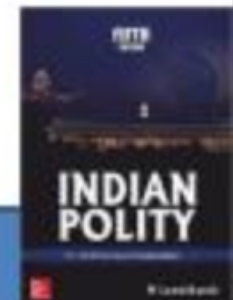
**Looking grievances of
(individuals/organisation/state or UT Gov.)
non-implementation of constitutional &
nationally agreed scheme
Publicize constitutional safeguards**

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