

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019



Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

ANOOP BARANWAL V. UNION OF INDIA – REINFORCING ELECTORAL INDEPENDENCE

AUTHORED BY - YANA SHIPHA TOPNO, NUSRL.

INTRODUCTION

The landmark case of *Anoop Baranwal v. Union of India*¹, decided by the Constitutional Bench of the Supreme Court on 2 March 2023, raised significant constitutional questions about the independence and neutrality of the Election Commission of India (ECI). The case specifically dealt with the absence of a law under Article 324(2) of the Constitution regarding the appointment procedure for the Chief Election Commissioner (CEC) and other Election Commissioners (ECs). The Court, stepping in to fill this legislative void, laid down interim guidelines for such appointments. The decision in this case, marks a transformative moment in Indian constitutional law. The Supreme Court, for the first time, intervened in the appointment process of the Chief Election Commissioner (CEC) and Election Commissioners (ECs), directing that a neutral and balanced selection committee be constituted. The judgment reaffirms the Court's role as a constitutional guardian and addresses long-standing concerns over executive dominance in institutional appointments. This case is monumental in terms of reinforcing democratic accountability and institutional independence, making it one of the most significant judgments concerning electoral governance in independent India.

FACTS OF THE CASE

The petitioner, Anoop Baranwal, filed a Public Interest Litigation under Article 32 of the Constitution, challenging the practice of appointing CECs and ECs solely by the President acting on the aid and advice of the Council of Ministers. The core grievance was that the appointments were being made solely by the President on the aid and advice of the Council of Ministers, giving complete control to the Executive and thereby compromising the independence of the ECI. He argued that the absence of a law under Article 324(2) of the Constitution allowed the Executive unchecked power, compromising the independence of the Election Commission of India (ECI). The petitioner prayed for a transparent, independent, and bipartisan appointment mechanism, pending legislation by Parliament. The Supreme Court

¹ Anoop Baranwal v. Union of India, 2023 SCC OnLine SC 216.

referred the matter to a Constitution Bench due to the gravity of constitutional questions involved.

Relevant Provision: Article 324(2) of the Constitution of India

"The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time-to-time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President."

This article empowers the President to appoint Election Commissioners but makes such appointment "subject to any law made by Parliament". However, no such law has been enacted since the adoption of the Constitution, leading to the executive monopolizing this power for over 70 years.

LEGAL ISSUES RAISED

- I. **Whether the absence of a statutory framework for the appointment of Election Commissioners violates constitutional principles, particularly Article 324(2)?**
- II. Whether exclusive executive control over such appointments violates the doctrine of separation of powers.
- III. **Whether judicial intervention is warranted in the absence of a parliamentary law under Article 324(2) of the Constitution?**
- IV. Whether institutional independence of the ECI is an essential part of the Constitution's basic structure.

JUDICIAL REASONING:

The Supreme Court unanimously held that until a law is enacted by Parliament under Article 324(2) of the Constitution, appointments to the posts of Chief Election Commissioner and other Election Commissioners shall be made by the President on the recommendation of a three-member committee comprising the Prime Minister, the Leader of the Opposition in the Lok Sabha (or the leader of the largest opposition party), and the Chief Justice of India.

This interim arrangement was made binding and shall remain in effect until such time that Parliament enacts a law to provide a permanent mechanism, as contemplated under Article

324(2). The Court interpreted Article 324(2)'s phrase "subject to the provisions of any law made by Parliament" as encapsulating both an expectation and obligation on Parliament to enact a law. Parliament's ongoing failure to pass a law, as required by Article 324(2), couldn't be used as a reason to let the executive continue exercising unchecked control. The Supreme Court made it clear that allowing the executive alone to make such appointments goes against the constitutional requirement of ensuring free and fair elections. The way things currently work lacks proper checks and balances. The Court also reaffirmed that holding free and fair elections is part of the Constitution's basic structure, and maintaining the independence of the Election Commission is essential to uphold that principle.

Since Parliament hadn't enacted the necessary law, the Court said it was justified in stepping in—relying on earlier decisions like the *Vineet Narain* case, where the judiciary had similarly laid down temporary measures to protect constitutional values. Referring to the Doctrine of Separation of Powers, the Court clarified that its action didn't amount to overstepping into the legislative domain. Instead, it was simply filling a constitutional gap until Parliament fulfills its role. The Court also made it clear that its directions would only apply from now on, meaning that any past appointments made under the old process would remain valid. It specifically noted that it was not ordering Parliament to make a law, but rather fulfilling its own constitutional responsibility under Article 32—to protect democratic principles and preserve the neutrality of the Election Commission through a temporary arrangement.

The Court justified its intervention by pointing to the legislative vacuum under Article 324(2) that had persisted for over seven decades. It emphasized that constitutional silence does not justify executive monopoly and that judicial duty demands filling such voids where necessary to protect foundational democratic values. The Court relied on precedents such as *Vineet Narain v. Union of India* and *Prakash Singh v. Union of India* to affirm its power to issue interim guidelines in the absence of statutory regulations. It also referenced the Constituent Assembly Debates to underscore the intent of the framers in maintaining the neutrality of the ECI. Importantly, the judgment limited its directions to the interim period, respecting the domain of the legislature.

This judgment is significant for several reasons:

- It created a constitutionally sound interim framework for appointments to the ECI, enhancing institutional autonomy.

- It reaffirmed that free and fair elections are part of the Constitution's basic structure and thus require a neutral and independent electoral body.
- It marked a rare but necessary judicial intervention in the realm of democratic institutional design.
- The judgment serves as a constitutional reminder to Parliament about its long-pending obligation to legislate under Article 324(2).
- It potentially sets a precedent for reforming appointments to other constitutional and statutory bodies.

CRITICAL ANALYSIS:

The judgment is both timely and necessary. In a political climate where institutional independence is often under scrutiny, insulating the ECI from executive overreach is crucial. The Court's use of a balanced collegium model respects constitutional norms while responding to political realities. By not prescribing detailed eligibility or appointment procedures, the Court wisely refrained from overstepping into legislative functions, maintaining fidelity to the separation of powers.

The judgment in *Anoop Baranwal v. Union of India* stands out not only for its legal soundness but also for its political wisdom and constitutional necessity. At a time when the credibility of electoral processes is under constant scrutiny, the independence of the Election Commission is critical to the very survival of democratic institutions. By introducing a collegium-style system to oversee appointments, the Court effectively put a much-needed check on executive discretion—tackling both the perceived and actual risk of institutional bias.

What's particularly notable is the Court's pragmatism. It consciously limited the scope of its directions to an interim period, making it clear that the framework would apply only until Parliament enacts a law. In doing so, the Court upheld the authority of the Legislature while also safeguarding the Constitution during a period of legislative inaction. Crucially, the judgment refrained from overstepping into the domain of lawmaking—it didn't prescribe specific qualifications or detailed appointment procedures. Instead, it respected Parliament's role to fill in those details through proper legislation. This carefully crafted balance reflects mature constitutional reasoning and shows an awareness of the larger political and institutional context in which the Court was operating.

The Supreme Court's approach also embodies a deep commitment to constitutional morality, sensitivity to democratic norms, and institutional foresight. The verdict addresses the urgent concern of concentrated executive control over appointments to the ECI and, in doing so, restores a sense of public trust in how such vital institutions are governed. By exercising its powers under Article 32 and relying on precedents such as *Vineet Narain* and *Prakash Singh*, the Court showed how judicial review can be applied with restraint but still remain effective.

This ruling offers a powerful model of judicial intervention—used not to dominate or replace the Legislature, but to uphold democracy in its truest form. It's a rare example of the Court stepping in only because it had to, not because it wanted to. In strengthening the independence of the Election Commission, the judgment reinforces the broader framework of electoral democracy in India. Moreover, the Court's decision doesn't stop at the ECI—it sets a thoughtful precedent for how appointments to other constitutional and statutory bodies might be handled when Parliament fails to act. The composition of the appointment committee combining executive, opposition, and judicial participation exemplifies a balanced constitutional response to a politically sensitive issue, thus avoiding both overreach and abdication.

Doctrine of separation of powers is a basic feature of the Constitution as upheld in *Indira Nehru Gandhi v. Raj Narain*.² Applying it to ECI appointments ensures checks and balances over a crucial constitutional authority. Therefore, judicial scrutiny over its appointment process acts as a necessary check on executive overreach. In landmark cases such as *Vineet Narain v. Union of India*³ and *Prakash Singh v. Union of India*⁴, the Supreme Court exercised its constitutional authority to issue interim directions in areas where legislative or executive inaction threatened public accountability and institutional independence. This judgment aligns with that constitutional tradition by filling a void in the absence of legislation under Article 324(2).⁵

Importantly, the Court did not overstep into the legislative domain. Instead, it provided a temporary and constitutionally balanced solution until Parliament enacts a law under Article 324(2). The Court grounded its reasoning in the basic structure doctrine, declaring that free and fair elections are an inviolable feature of the Constitution. An independent ECI is not a

² *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1.

³ *Vineet Narain v. Union of India* (1998) 1 SCC 226.

⁴ *Prakash Singh v. Union of India* (2006) 8 SCC 1.

⁵ *Anoop Baranwal v. Union of India*, at ¶ 197–198.

procedural formality it is a structural necessity.⁶ Thus, ensuring its autonomy through a neutral appointment process was not only desirable but constitutionally imperative.

However, the ruling also exposes the chronic inaction of Parliament in operationalizing Article 324(2), a lacuna that should have been addressed decades ago. The judgment, while pragmatic, is ultimately a stop-gap measure. Its real success will depend on whether Parliament enacts a robust law ensuring the long-term independence of the ECI.

CONCLUSION:

Anoop Baranwal v. Union of India is a landmark decision that strengthens India's electoral democracy by prioritizing transparency and constitutional integrity in institutional appointments. It is a constitutional milestone that reaffirms the judiciary's role as the guardian of electoral integrity. By mandating a balanced, transparent appointment process for Election Commissioners, the Supreme Court has reinforced the institutional independence of the Election Commission — a cornerstone of India's democracy. Though the Court's directions are interim, their doctrinal clarity and democratic sensitivity provide a lasting foundation for reform. The ruling is not only a corrective to executive overreach but also a constitutional prompt for the legislature to fulfill its long-neglected duty under Article 324(2).

⁶ Id. at ¶ 238.