
**STATE ELECTION COMMISSIONER (QUALIFICATIONS AND
APPOINTMENT) ACT, 1994**

22 of 1994

[22nd April, 1994]

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An Act to provide for the qualifications for and the appointment of the State Election Commissioner and for matters connected therewith or incidental thereto. WHEREAS it is expedient to provide for the qualifications for the appointment of the State Election Commissioner and for matters connected therewith or incidental thereto; It is hereby enacted in the Forty-fifth year of the Republic of India as follows :-

1. Short title :-

This Act may be called the STATE ELECTION COMMISSIONER (QUALIFICATIONS AND APPOINTMENT) ACT, 1994 .

2. Definitions :-

In this Act, --

(1) "Government" means the Government of Maharashtra ;

(2) "State Election Commissioner" means the State Election Commissioner appointed under Art.243K of the Constitution of India .

3. Qualifications for appointment :-

The State Election Commissioner shall be appointed from amongst persons who are holding or have held a post not lower in rank than that of a Principal Secretary to Government.

4. Salary :-

There shall be paid to the State Election Commissioner a salary of Rs.7,600 per month:

Provided that, a person who is holding a post higher than that of a Principal Secretary under the Government of India or the State Government at the time of his appointment to the office of the State Election Commissioner and is or was drawing a salary of more than Rs.7,600 per month, then his pay at the time of such appointment as State Election Commissioner shall be protected :

Provided further that, if a person who, immediately before the date of assuming office as the State Election Commissioner was in receipt of or, being eligible so to do, had elected to draw, a pension (other than disability or wound pension) in respect of any previous service under the Government of the Union or under the Government of the State, his salary in respect of service as the State Election Commissioner shall be reduced, by the amount of such pension.

5. State Election Commissioner to hold no other office :-

The State Election Commissioner shall not be a member of Parliament or a member of the State Legislature or a member (or Councillor) of any Panchayat or Municipality in the State and shall not hold any office of trust or profit (other than his office as the State Election Commissioner), or be connected with any political party or carry on any business or practice any profession; and accordingly before he enters upon his office, a person appointed as the State Election Commissioner shall, -

(a) if he is a Member of Parliament or of the Legislature of the State or of the Panchayat or the Municipality resign such membership; or

(b) if he holds any office of trust or profit resign from such office; or

(c) if he is connected with any political party sever connection with it; or

(d) if he is carrying on any business sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) if he is practicing any profession suspend practice of such profession.

6. Terms of office :-

(1) The State Election Commissioner shall hold office; for a term not exceeding five years from the date on which he enters upon his office; and he shall not be eligible for re-appointment:

Provided that, the State Commissioner may, at any time, by writing under his hand addressed to the Governor, resign his office.

(2) The State Election Commissioner shall not be removed from office except in the manner specified in the proviso to clause (2) of Art.243K of the Constitution of India .

7. Leave :-

(1) The State Election Commissioner shall be entitled to 30 days earned leave in a calendar year and it shall be credited to his leave account, in advance in two instalments of 15 days each on the first day of January and July of every calendar year.

(2)

(a) The State Election Commissioner shall be entitled half pay leave on medical certificates or on private affairs at the rate of twenty days in respect of each completed year of service and the leave salary for half pay leave shall be equivalent to half of the leave salary admissible during the earned leave.

(b) Leave on half pay can be commuted to full pay leave at the discretion of the State Election Commissioner, provided it is taken on medical grounds and, supported by a medical certificate from the competent medical authority.

(3) The State Election Commissioner shall be entitled to extraordinary leave without pay and allowance upto a maximum period of one hundred and eighty days in one term of office.

(4) On the expiry of his term of office, the State Election

Commissioner shall be entitled to receive cash equivalent of leave salary in respect of the earned leave, standing to his credit.

(5) The State Election Commissioner shall be entitled to receive clearness allowance, as admissible on the leave salary under sub-section (4) at the rates admissible on the date of the relinquishment of the office in the State Election Commission:

Provided that he shall not be entitled for the city compensatory allowance or any other allowance on such leave salary.

(6) The power to grant or refuse leave to the State Election Commissioner and to revoke or curtail leave granted to him, shall vest in the Governor.

8. Pension payable to the State Election Commissioner :-

(1) A person, who immediately before the date of assuming office as the State Election Commissioner was in service of Government of India or the State Government, shall be deemed to have retired from service on the date on which he enters upon office as the State Election Commissioner shall be reckoned as continuing approved service counting for pension in service to which he belonged.

(2) Where the State Election Commissioner demits office (whether in any manner specified in Sub-Section (3) or by resignation), he shall, on such demission, be paid in addition to any other pension if any, he may be drawing, a pension at the rate of rupees seven hundred per annum for each completed year of service or a part thereof and irrespective of the number of years of service in the Commission the maximum amount of pension shall not exceed Rupees three thousand five hundred per annum:

Provided that, no such pension shall be payable to the State Election Commissioner if he has put in less than two years of service with the State Election Commission.

(3) Except where the State Election Commissioner demits office by resignation, he shall be deemed, for the purpose of this Act, to have demitted his office if, and only if, -

(a) he has completed the term of office specified in Section 6 , or

(b) his demission of office is medically certified to be necessitated by ill-health.

9. Right to subscribe to General Provident Fund :-

The State Election Commissioner shall be entitled to subscribe to the General Provident Fund at his option, and in case of his so opting shall be governed by the provisions of the Maharashtra General Provident Fund Rules:

Provided that, if the State Election Commissioner, was a member of an All India Service or was holding a post under the Central or a State Government immediately before the date of assuming office as the State Election Commissioner, he shall be governed by the rules which were applicable to him immediately before the date of assuming office as the State Election Commissioner.

10. Other conditions of service :-

Save as otherwise provided in this Act, the conditions of service relating to the dearness allowance (including on pension), compensatory local allowance and all other allowances including traveling allowance, provision for rent free accommodation, conveyance facilities, medical facilities, and such other conditions of service as are for the time being applicable to a member of the Maharashtra Administrative Tribunal under the relevant rules shall, as far as may be, apply to the State Election Commissioner.