

4. Model Code of Conduct

Prelims Level: Election & Electoral Returns

Mains Level: GS-II Salient features of the Representation of People's Act.

Why in News?

- The Election Commission of India (ECI) recently removed few leaders from the party's list of star campaigners as they violated the Model Code of Conduct (MCC).

Who are Star Campaigners?

- A **recognised political party can have 40** star campaigners and an unrecognised (but registered) political party can have 20.
- The list of star campaigners has to be communicated to the Chief Electoral Officer and Election Commission **within a week from the date of notification of an election.**
- The expenditure incurred on campaigning by such notified star campaigners is **exempt from being added to the election expenditure of a candidate.**
- However, this only applies when a star campaigner limits himself/herself to a general campaign for the political party she represents.

About MCC:

- The MCC is a set of **guidelines issued by the Election Commission (EC)** to regulate political parties and candidates prior to elections. Basically, the code spells out the **do's and don'ts for elections.**
- This is in keeping with **Article 324 of the Constitution**, which mandates EC to conduct free and fair elections to the Parliament and State Legislatures.
- It is **not statutory** but Political Parties, Candidates and Polling Agents are expected to observe the norms, on matters ranging from the content of election manifestos, speeches and processions, to general conduct etc.
- The code **comes into force on the announcement of the poll schedule** and remains operational till the process is concluded.
- The EC has devised several mechanisms to take note of the violation of the code, which include joint task forces of enforcement agencies and Flying Squads.
- The latest is the introduction of the **cVIGIL** mobile app through which audio-visual evidence of malpractice[[s can be reported.

What is cVIGIL App?

- The cVIGIL App provides time-stamped, evidence-based proof of the Model Code of Conduct / Expenditure Violation, having live photo/video with auto location data.
- Any citizen can lodge a complaint through the Mobile App. Flying Squads will then investigate the matter and the Returning Officer takes the decision.
- The status of cVIGIL can be shared with the cVIGIL complainant within a specified time limit.
- The identity of the complainant will be kept confidential and will be provided with Unique ID to track and receive the follow up updates on the mobile.
- The app also has inbuilt features to prevent its misuse. It will be **active only in States Where Elections have been Announced.**

Constitutional Validity of MCC:

- Though **MCC does not have any statutory backing**, the Code has come to acquire teeth in the past decade because of its strict enforcement by the EC.
- Certain provisions of the MCC may be enforced through invoking corresponding provisions in other statutes such as the Indian Penal Code, 1860, Code of Criminal Procedure, 1973 and Representation of the People Act, 1951.
- For Example; Inciting hatred through political speeches, Appealing to caste and community feelings of voters, Intimidating or bribing voters and distributing liquor or holding public meetings in the 48 hours preceding the close of polling, are all such offences for which candidates can be tried under the Indian Penal Code or the Representation of the People Act 1951.
- In 2013, the Standing Committee on Personnel, Public Grievances, Law and Justice, recommended making the model code of conduct legally binding.
- The committee observed in a report on electoral reforms that most provisions of the code are already enforceable through corresponding provisions in other statutes. It recommended that the MCC be made a part of the Representation of the People Act, 1951.

Concern Regarding its Validity:

- The EC argues against making it legally binding.
- According to it, elections must be completed within a relatively short time or close to 45 days, and judicial proceedings typically take longer, therefore it is not feasible to make it enforceable by law.