

1. Elections to 13 Rajya Sabha seats on March 31

Prelims Syllabus: Parliament

Mains Syllabus: GS-II Parliament and State Legislatures - Structure, Functioning, conduct of Business, Powers & Privileges and Issues arising out of these.

Why in News?

- The Election Commission recently announced polls to fill 13 Rajya Sabha seats across six states falling vacant in April, including those of Congress veterans AK Antony and Anand Sharma, that are scheduled to be held on March 31.

About the Rajya Sabha Polls:

- A third of MPs in the Rajya Sabha (which is a permanent House and is not subject to dissolution), from each State, retire once in two years and polls are held to fill up the vacancies.
- Only elected members of the State Legislative Assemblies can vote in a Rajya Sabha election.
- The legislators send a batch of new members to the Upper House every two years for a six-year term.
- In addition, **vacancies that arise due to resignation, death or disqualification are filled up through by-polls after which those elected serve out the remainder of their Predecessors' term.**

Composition of Rajya Sabha

- A bloc of MPs belonging to one or more parties can elect a member of their choice if they have the requisite numbers.
- This is to avoid the principle of majority, which would mean that only candidates put up by ruling parties in the respective States will be elected.
- The Delhi and Puducherry Assemblies elect members to the Rajya Sabha to represent the two UTs.

What is the Election Process?

- Polling for a Rajya Sabha election will be held only if the number of candidates exceeds the Number of Vacancies.
- Since the strength of each party in the Assembly is known, it is not difficult to estimate the number of seats a party would win in the Rajya Sabha poll.

- In many states, parties avoid a contest by fielding candidates only in respect to their strength. Where an extra candidate enters the fray, voting becomes necessary.
- Candidates fielded by political parties have to be proposed by at least 10 members of the Assembly or 10% of the party's strength in the House, whichever is less.
- For independents, there should be 10 proposers, all of whom should be members of the Assembly.

Voting Procedure:

- Voting is by single transferable vote, as the election is held on the principle of proportional representation.
- A single transferable vote means electors can vote for any number of candidates in order of their preference.
- A candidate requires a specified number of first preference votes to win. Each first choice vote has a value of 100 in the first round.
- To qualify, a candidate needs one point more than the quotient obtained by dividing the total value of the number of seats for which elections are taking place plus one.
- Example: If there are four seats and 180 MLAs voting, the qualifying number will be $180/5 = 36$ votes or value of 3,600.

Why do not the Rajya Sabha Polls have a Secret Ballot?

- The Rajya Sabha polls have a system of the open ballot, but it is a limited form of openness.
- As a measure to check rampant cross-voting, which was taken to mean that the vote had been purchased by corrupt means.
- There is a system of each party MLA showing his or her marked ballots to the party's authorised agent (called Whip), before they are put into the ballot box.
- Showing a marked ballot to anyone other than one's own party's authorised agent will render the vote invalid.
- Not showing the ballot to the authorised agent will also mean that the vote cannot be counted.
- And independent candidates are barred from showing their ballots to anyone.

Is there any NOTA option in voting?

- The ECI issued two circulars, on January 24, 2014, and November 12, 2015, giving Rajya Sabha members the option to press the NOTA button in the Upper House polls.

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- However, in 2018, the Supreme Court struck down the provision, holding that the ‘none of the above’ option is only for General Elections. It cannot be applied to indirect elections based on Proportional Representation.

Does cross-voting Attract Disqualification?

- The Supreme Court, while declining to interfere with the open ballot system, ruled that not voting for the party candidate will not attract disqualification under the anti-defection law.
- As voters, MLAs retain their freedom to vote for a candidate of their choice.
- However, the Court observed that since the party would know who voted against its own candidate, it is free to take disciplinary action against the legislator concerned.

Can a legislator vote without taking oath as a Member of the Assembly?

- While taking oath as a member is for anyone to function as a legislator, the Supreme Court has ruled that a member can vote in a Rajya Sabha election even before taking oath as a legislator.
- It ruled that voting at the Rajya Sabha polls, being a non-legislative activity, can be performed without taking the oath.
- It also said that a person becomes a member as soon as the list of elected members is notified by the ECI.
- Further, a member can also propose a Candidate before taking the oath.