

### EC TO GOVT: LIMIT SEATS A PERSON CAN CONTEST TO ONE, BAN OPINION & EXIT POLLS

#### In News:

- Recently, the Election Commission of India asked the Union Law Ministry to consider limiting the seats from which a candidate can contest to just one.

#### Section 33(7) of the Representation of the People Act, 1951:

- Constitution allows the Parliament to make provisions in all matters relating to elections to the Parliament and State Legislatures.
- In accordance, the Parliament has enacted the following laws:
  - Representation of the People Act 1950,
  - Representation of the People Act 1951 and
  - Delimitation Commission Act of 1952.
- Representation of the People Act 1951 deals with the qualifications and disqualifications of people's representatives.
- Section 33(7) of the Representation of People Act, 1951 allows a person to contest election for the same office from two constituencies at the same time.
  - On the other hand, Section 70 bars candidates from representing two constituencies in the Lok Sabha/state.
- Prior to 1996, there was no bar on the number of constituencies one can contest from.
- The provision was then amended and a limit of two seats was set.
- When a candidate contests from two seats, he has to vacate one of the two if he wins both. Following this, by-elections are conducted for the vacant seat.

## Constitutional Validity:

- The constitutional validity of Section 33(7), Representation of People Act, 1951 has been upheld by the Allahabad High Court in **Raja John Bunch v. Union of India**.
- The court observed that **Article 101** of the Constitution does not contain any prohibition or restriction on a person contesting an election or filing a nomination from more than one constituency.
- Article 101 states that “No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other”.
- The court observed that there is nothing inconsistent between Section 33(7) and Article 101.

## Advantages of this provision:

- It is intended to strike a reasonable balance for candidates who wanted to contest in two constituencies and the rights of voters.
- The latent motive behind contesting from more than one constituency is two-fold.
- At times it is because the candidate is not confident about his victory and sometimes, it is done to publicize the extent of one’s influence.
- A seat may fall vacant for a variety of reasons including, amongst them, the disqualifications which are contained in **Article 102** of the Constitution. When a seat falls vacant, it has to be filled up in accordance with law.

## Disadvantages of this provision:

- Burden on Exchequer:
  - This imposes a financial burden on the public exchequer, government manpower and other resources because by-elections have to be held in constituency that has been vacated.

- It leads to wastage of time and is against the spirit of the constitution.
- Power being vested upon the people in power:
  - Effective representation, being essential to a democratic system, the process of popular representation assumes importance.
  - This is undermined by the system of multiple elections.
  - A democratic government is one in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections.
  - Here the supreme power is lost from the hands of people, rested in those who are in power. The valuable vote is entirely lost.
- Brings inequality amongst voters:
  - The multiple-candidature is also discriminatory in nature as it provides a second chance to the voters of a constituency where the seat is vacated.
  - Hence bringing in inequality amongst the voters in India.
  - It is also against the idea of “fair elections”, as the economically weaker candidates, would not have enough to contest from multiple constituencies, and hence the wealthier candidate gets more chances of winning, resulting in an unfair election.
- Vacant constituency goes unrepresented:
  - Because the candidate has to resign from one of the two seats and by-elections are to be held within the maximum period of 6 months (Section 151-A of the Representation of the People Act, 1951), the constituency may go unrepresented for the duration of those six months.
  - This surely does not amount to effective representation and makes a mockery of the democratic process.

## Way Ahead:

- Election Commission's Suggestion:
  - The Election Commission has requested the Supreme Court to amend section 33(7) to restrict politicians to contest elections only from one seat.
  - The commission alternatively suggested that in case the provision is not amended, then there should be an explicit provision making it mandatory for a person, contesting and winning from two seats to bear the cost of by-elections which will be held after he vacates his seat.
- Another idea which is perceived as a possible solution is that in case a candidate wins from both the seats, then instead of conducting by-elections, the candidate securing the second-highest vote should be announced as the winner.
  - This will avoid wastage of hard-earned money of the public and reduce pressure on election machinery.

## News Summary:

- Recently, the Election Commission of India sent key proposals to the Union Law Ministry.
- These proposals include:
  - Linking of Aadhar with Voter IDs,
  - Allowing four qualifying dates for eligible people to register as voters,
  - Banning opinion polls and exit polls,
  - Limiting the seats from which a candidate can contest to just one.
- The EC has also sought powers to deregister political parties, a long-standing demand of the commission, and sought the modification of **Form 24A** to mandate the disclosure of all donations above Rs 2,000 instead of the current limit of Rs 20,000.
- The EC has also recommended a ban on exit polls and opinion polls.



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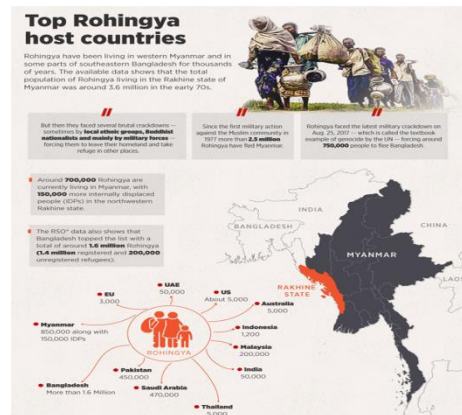
- It said that there should be some restriction on conducting and disseminating the results of opinion polls right from the day of the first notification of an election till the completion of the election in all its phases.

## ROHINGYA TO MARK 5 YEARS IN BANGLADESH REFUGEE CAMPS

### In News:

- It has been five years since the mass exodus of over 730,000 Rohingya Muslims from Myanmar's Rakhine State as a result of a military crackdown in 2017.
- According to the United Nations High Commission for Refugees (UNHCR), over 3 lakh Rohingya Muslims have fled Myanmar since then, with maximum taking refuge in Bangladesh.

### Rohingya issue:



### About Rohingya people:

The Rohingya people are a stateless Indo-Aryan ethnic group who predominantly follow Islam and reside in Rakhine State, Myanmar.

Before the Rohingya genocide in 2017, an estimated 1.4 million Rohingya lived in Myanmar. However, the Myanmar government only recognised about 40,000 Rohingyas as citizens. The rest were dubbed "illegal Bengalis" or Bangladeshi immigrants.

- Beginning with the early 1990s, the Rohingya left Rakhine in multiple waves to escape the violent campaigns launched by the military.
- **Rohingyas as refugees in India:**

- According to the UNHCR, **a refugee is a person** living in another country following persecution in his/her own on the grounds of "race, religion, nationality, membership of a particular social group or political opinion."
- According to the UNHCR, about 1,68,000 Rohingyas had fled Myanmar since 2012, when clashes with Buddhists erupted in the trouble-torn Arakan region.
- According to the Indian government's estimate, **over 40,000** of those Rohingyas, who fled Myanmar, have entered India illegally.
- **The Constitution of India** only defines who is a citizen of India and the subsequent laws also do not deal with refugees.
- In legal terms, a person living in India can be either a citizen or a foreigner defined under **the Foreigners Act, 1946**.
- India has also **not been a signatory of the 1951 UN Convention** or the 1967 Protocol - both relating to the Status of Refugees and included in the UNHCR statute.
- **Issues with Rohingyas in India:**
  - According to the Indian government, many Rohingyas **have acquired documents meant for Indian citizens** (like Aadhaar, PAN and Voter-ID).
  - This raises the **concern of naturalisation of illegal migrants** by fraudulent means.
  - Given the socio-economic complexities of Indian society and politics, identifying and monitoring Rohingyas will be difficult.
  - Since intelligence agencies have warned that terrorist organisations are looking to exploit the vulnerability of Rohingyas, this could **jeopardise India's national security**.
  - Till now the successive governments have **dealt with refugee questions on a case-by-case basis**. India hosts the biggest number of refugees in the entire South Asia but it **does not have a refugee specific law**.
  - In 2015, a Private Member's Bill titled the Asylum Bill was introduced in the Lok Sabha.

- The Bill seeks to provide for the establishment of a legal framework to deal with the refugee problem.
  - But the Bill has not yet been taken up for consideration.
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## NEW NORMS FOR SENTENCE REMISSION

### In News:

- The Union Home Ministry has issued a set of guidelines to the States and the UTs on the grant of special remission to prisoners.
- These guidelines have been issued to commemorate the 75th year of Independence.

### Remission

- Remission is the complete ending of a sentence at a reduced point.
- Remission is distinct from both furlough and parole in that it is a reduction in sentence as opposed to a break from prison life.

### Constitutional Provisions

- Both the President and the Governor have been vested with sovereign power of pardon by the Constitution.
- Under Article 72, the President can grant pardons, reprieves, respites or remissions of punishment or suspend, remit or commute the sentence of any person.
- This can be done for any person convicted of any offence in all cases where:
  - the punishment or sentence is by a court-martial, in all cases where the punishment or
  - sentence is for an offence under any law relating to the Union government's executive power, and in all cases of death sentences.

- Under Article 161, a Governor can grant pardons, reprieves, respites or remissions of punishment, or suspend, remit or commute the sentence.
- This can be done for anyone convicted under any law on a matter which comes under the State's executive power.

### **Statutory power of remission**

- The Code of Criminal Procedure (CrPC) provides for remission of prison sentences, which means the whole or a part of the sentence may be cancelled.
- Under Section 432, the 'appropriate government' may suspend or remit a sentence, in whole or in part, with or without conditions.
- Under Section 433, any sentence may be commuted to a lesser one by the appropriate government.
- This power is available to State governments so that they may order the release of prisoners before they complete their prison terms.

### **Statutory power of remission Vs. Constitutional power of remission**

- The power of remission under the CrPC is different from the constitutional power enjoyed by the President and the Governor.
- Under the CrPC, the government acts by itself.
- Under Article 72 and Article 161, the respective governments advise the President/Governor to suspend, remit or commute sentences.
- Despite the fact that it is ultimately the decision of the government in either case, the Supreme Court has made it clear that the two are different sources of power.



- In **Maru Ram etc. vs Union of India (1980)**, the SC said: Section 432 and Section 433 of the CrPC are not a manifestation of Articles 72 and 161 of the Constitution but a separate, though similar, power.

## The Right to Remission

- The Remission system has been defined under the Prison Act, 1894 to be a set of rules formulated for the time being in force regulating the award of marks to, and the consequent shortening of sentence of, prisoners in Jail.
- It was observed in the **Kehar Singh vs. Union of India (1989)** case that Courts cannot deny to a prisoner the benefit to be considered for remission of sentence.
  - By denying, the prisoner would have to live in the prison till his/her last breath without there being a ray of hope to be free again.
  - This would not just be against the principles of reformation but will also push the convict into a dark hole without there being a semblance of light at the end of the tunnel.
- The Supreme Court also in the case of **State of Haryana vs. Mahender Singh (2007)** observed that:
  - even though no convict has a fundamental right of remission, but the State in exercise of its executive power of remission must consider each individual case keeping in view the relevant factors.
  - Further, the Court was also of the view that a right to be considered for remission must be held to be legal one.
    - This is by keeping in view the constitutional safeguards for a convict covered under Articles 20 and 21 of the Constitution.

## News Summary

- To commemorate the 75th year of Independence, MHA issued a set of guidelines to the States and the Union Territories on the grant of special remission to prisoners.

## Key Highlights

- **Special remission would be granted**
  - As part of the Azadi Ka Amrit Mahotsav celebrations, the special remission would be granted to a certain category of prisoners.
  - These prisoners would be released in three phases — August 15, 2022, January 26, 2023 and August 15, 2023.
- **Prisoners to qualify for premature release under the scheme**
  - The prisoners who would qualify for premature release under the scheme are:
    - women and transgender convicts of ages 50 and above and male convicts of 60 and above
    - These convicts must have completed 50% of their total sentence period without counting the period of general remission earned.
- **Other eligible prisoners**
  - physically challenged or disabled convicts with 70% disability and more who have completed 50% of their total sentence period,
  - terminally ill convicted prisoners who have completed two-thirds (66%) of their total sentence and
  - poor or indigent prisoners who have completed their sentence but are still in jail due to non-payment of fine imposed on them by waiving off the fine.
- **Other categories of prisoners eligible for the remission**
  - Persons who committed an offence at a young age (18-21) and with no other criminal involvement or case against them and who have completed 50% of their sentence period would also be eligible.
- **Prisoners excluded from the scheme**
  - Persons convicted with death sentence or where death sentence has been commuted to life imprisonment or

- persons convicted for an offence for which punishment of death has been specified as one of the punishments.
  - Persons convicted with sentence of life imprisonment, convicts involved in terrorist activities or
  - Persons convicted under:
    - Terrorist and Disruptive (Prevention) Act, 1985,
    - Prevention of Terrorist Act, 2002,
    - Unlawful Activities (Prevention) Act, 1967,
    - Explosives Act, 1908,
    - National Security Act, 1982,
    - Official Secrets Act, 1923, and Anti-Hijacking Act, 2016.
  - **Committee to examine the cases of eligible persons**
    - The States and the UTs were told to constitute a State-level screening committee to examine the cases of eligible persons.
    - This committee would comprise the Home Secretary, Law Secretary, Director or Inspector-General of Prisons.
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## MITHALI RAJ

**Veteran Indian women's cricketer Mithali Raj announced her retirement from all forms of international cricket, bringing an end to a glorious 23-year career.**



### About:

She finishes her career having set and broken plenty of records, both as batter and captain.

- In July 2021, Mithali Raj became the leading run-getter in women's internationals, going past England's Charlotte Edwards (10,273 runs).
- At 7805 runs in 232 matches, Raj is the highest run-scorer in women's ODIs.
- She is the only player in the top seven with an average of over 50.
- Her tally of 2364 runs in women's T20Is is the highest for India.
- Raj is one of only two players to have played more than 200 ODIs (the other being longtime teammate Jhulan Goswami). Raj has played the most ODIs – 232.
- Raj has 71 fifty-plus scores in ODIs and 17 fifty-plus scores in T20Is. Her combined tally of 88 fifty-plus scores is the most by any player in women's international cricket.
- She is the only Indian woman to score a double century in Tests.
- Having debuted at the age of 16 in 1999, Raj has also had the longest international career in women's cricket. It spanned for over 23 years.
- Mithali Raj has 89 wins out of 155 as captain – the most by any player in women's ODIs. Her 155 matches as captain is also the highest in women's ODIs.

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## 16th PRESIDENTIAL ELECTION (INDIA)

**Election Commission of India has announced the schedule of election for the 16th Presidential Election.**

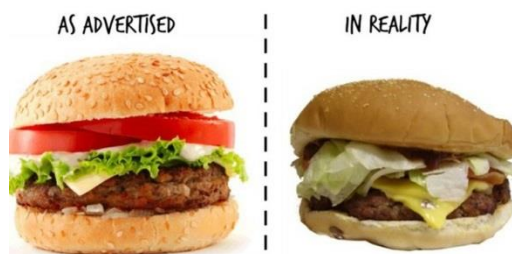
### About:

- The term of office of Shri Ram Nath Kovind, President of India, is ending on 24th July, 2022.
- As per Article 62 of the Constitution of India, an election to fill the vacancy caused by the expiration of the term of office of the outgoing President is required to be completed before the expiration of the term.

- Article 324 of the Constitution read with the Presidential and Vice-Presidential Elections Act, 1952, and the Presidential and Vice – Presidential Elections Rules, 1974 vests the superintendence, direction and control of the conduct of election to the office of the President of India in the Election Commission of India.
- As per the Article 54 of the Constitution of India, the President is elected by the members of the Electoral College consisting of:
  - elected members of both Houses of Parliament, and
  - elected members of the Legislative Assemblies of all States including National Capital Territory of Delhi and the Union Territory of Puducherry
- Nominated members of Rajya Sabha, Lok Sabha and the Assemblies, and members of state Legislative Councils, are not part of the electoral college.
- Article 55 (3) of the Constitution provides that the election shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.
- The votes are weighted, their value determined by the population of each state as per Census 1971.

## MISLEADING ADVERTISEMENTS

The Central Consumer Protection authority (CCPA) under the Department of Consumer Affairs has notified ‘Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022’.



### About:

The guidelines seek to ensure that consumers are not being fooled with unsubstantiated claims,

exaggerated promises, misinformation and false claims.

- Such advertisements violates various rights of consumers such as right to be informed, right to choose and right to be safeguarded against potentially unsafe products and services.
  - In exercise of the powers conferred by section 18 of the Consumer Protection Act, 2019, to CCPA, the Guidelines were notified. Misleading advertisement has already been defined under section 2(28) of the Consumer Protection Act, 2019.
  - The present guidelines define “bait advertisement”, “surrogate advertisement” and clearly provides what constitutes as “free claim advertisements”.
  - CCPA can impose penalty of upto 10 lakh rupees on manufacturers, advertisers and endorsers for any misleading advertisements. For subsequent contraventions, CCPA may impose a penalty of upto 50 lakh rupees.
  - The Authority can prohibit the endorser of a misleading advertisement from making any endorsement for upto 1 year and for subsequent contravention, prohibition can extend upto 3 years.
-