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Q2

"Recent amendments to the Right to information Act will have profound impact on the autonomy and independence of the Information Commission". Discuss.

UPSC Civil Services Mains 2020 · GS II · 10 marks · Indian Constitution

Indian Constitution - historical underpinnings, evolution, features, amendments, significant provisions and basic structure.

Core demand of the question

- "Recent amendments to the Right to Information Act will have profound impact on the autonomy and independence of the **Information Commission**." Discuss
- Honour the official stem. Centre the **RTI (Amendment) Act, 2019**, on tenure and service conditions of **Information Commissioners**
- Keep the discussion within a 10-mark length

Revision summary

The 2005 Act gave CIC and ICs a five-year term and CEC-equivalent salary as a tenure-and-status guarantee.

The **RTI (Amendment) Act, 2019**, left term and pay to Central Government rules and dropped the no-disadvantage clause.

State Commissioners' conditions also sit with the Centre, which federalises control over a State appellate.

Appointment collegium was not the main target; security of tenure after **appointment** was.

Autonomy suffers when the executive that is a frequent respondent also writes the Commissioner's service rules.

Introduction

The Right to Information Act, 2005, made the Central and **State Information Commissions** the appellate spine of a statutory right. The **RTI (Amendment) Act, 2019**, shifted tenure, salary, and status of Commissioners from the parent Act to Central rules. That is a profound design change for autonomy, even if the Commission still exists on paper.

Body**What the 2005 Act had locked**

- The **Chief Information Commissioner** and **Information Commissioners** held office for five years or until sixty-five, with salary aligned to the **Chief Election Commissioner** and **Election Commissioners**.
- Status parity with a constitutional election body was the political signal that the Commission was not a departmental tribunal.

- Conditions of service could not be varied to the incumbent's disadvantage after **appointment**, which is a classic independence clause.

What the 2019 amendment did

- Term of office is now such as the Central Government may prescribe; five years is no longer in the Act.
- Salaries, allowances, and other conditions of CIC, ICs, and **State Commissioners** are likewise as prescribed by the Centre.
- The disadvantage-variation shield and CEC-equivalent rank were removed from the statute, so the Union can rewrite the package by rule.

Impact on autonomy and independence

- A Commissioner whose term and pay sit in executive rules has a weaker incentive to pass orders that embarrass the same executive that writes those rules.
- **State Information Commissions**, already uneven in **vacancies and pendency**, now look to Delhi for service conditions, which cuts a federal nerve in a State-level transparency body.
- Anjali Bhardwaj and other transparency campaigns argued that the amendment subordinates the Commission to the Department of Personnel; the Union argued flexibility and that **RTI Commissions** are statutory, not constitutional, bodies.
- Independence is not only **appointment** (the Prime Minister-Leader of Opposition-Cabinet Minister collegium remains). It is also security of tenure after **appointment**; 2019 hit the second pillar.
- **Recommendation:** restore statutory tenure and a salary peg in the Act, and fill vacancies, or the 2005 right will be enforced by a timid appellate.

Flow diagram

RTI Act 2005 -> Five-year term CEC rank
Five-year term CEC rank -> Independent Commission
2019 amendment -> Central rules on term and pay
Central rules on term and pay -> Weaker autonomy

Conclusion

The 2019 amendments leave the RTI right intact as text but move the Commission's term and pay into Central rules. That is a profound impact on autonomy because independence after **appointment** is what lets a Commissioner order disclosure against the government of the day. A statutory commission that lives on executive patronage is an appellate in name.

Facts & figures

RTI Act, 2005

Created CIC and SICs as second appeals and complaint forums for a statutory information right.

RTI (Amendment) Act, 2019

Shifted tenure and salaries of Central and **State Information Commissioners** to Central prescription.

CEC analogy

Original 2005 salary peg to the **Chief Election Commissioner**, meant as a status of independence.

Appointment committee

Prime Minister, Leader of Opposition and a Union Cabinet Minister; unchanged as the appointment forum.

Vacancies and pendency

Pre-existing practical weakness that the amendment does not cure and that compounds dependence.

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