

SUNIL ARORA, CHIEF ELECTION COMMISSIONER OF INDIA

Will have special observers for Bengal... for law and order, expenses. If needed, we can act swiftly, ruthlessly

The CEC talks about Bihar elections serving as template for coming polls, wishes law would be brought against defections, calls for "sound legislative framework" for handling social media influence on elections, and reiterates support for simultaneous polls. The session was moderated by Senior Assistant Editor Ritika Chopra

RITIKA CHOPRA: What gave the Election Commission the confidence to hold the Bihar polls in the middle of a pandemic?

Successive commissions have been holding elections under very difficult circumstances, at different points in time. The pandemic was unprecedented. As I said in the press conference while announcing the elections, for us it was a leap of faith and not a leap in the dark. We had done a lot of homework. Our team held a series of virtual meetings with various stakeholders and delegations of political parties... Yes, many people were sceptical, but that happens every time. When the first general election in India took place, (the first Chief Election Commissioner of India) Sukumar Sen wrote in his book, the people were not just sceptical, they were also cynical. Many said publicly that this is the last general election in India... The idea was not to delay the (Bihar) elections. We did our homework and took the plunge...

The first step we took was to reduce the number of voters per polling booth — from 1,500 to 1,000 per booth. That alone meant an enhancement of 33,000 booths, which in turn meant that so many more people had to be deployed for security and other jobs. I must congratulate publicly our officers in Bihar, the Chief Electoral Officer there... In some cases, the officers and district magistrates themselves got Covid-19, and after recovery they were back on election duty... I must also congratulate the voters of Bihar, especially the women, who turned up to vote in a disciplined manner...

For the election, we had to procure 11 lakh, 500 ml bottles of sanitisers... This was done by the government of Bihar and the CEO. About seven crore gloves were procured and arrangements for their safe disposal had to be done. Apart from these, face shields, masks etc were procured.

RITIKA CHOPRA: Are there any lessons from Bihar that you would like to implement in polls in other states?

We will be holding elections in West Bengal, Tamil Nadu, Puducherry, Assam, Kerala... Every major exercise has some lessons. Given the scale of preparations that the Commission has been doing in the past, we will be able to hold these elections successfully. We are also getting some Bihar officers to hold virtual meetings with their counterparts (in election-bound states), so that there can be an exchange of ideas. We have already informally reached out to the health department of Bihar and the state's CEO to have informal discussions with their counterparts in West Bengal, Tamil Nadu to see how the learning of day-to-day operations in Bihar can be utilised in these states.

In West Bengal, we will have to have 28,000 more polling booths. The major lesson would be to ensure that these polling booths are located as near as possible to the main polling station, so that use of resources is optimised, and the deployment of security and staff can be better.

RITIKA CHOPRA: During the Bihar elections, some political parties also raised questions over the delay in the counting process. Did you anticipate that at all? The EC also held several briefings...

When we go for elections, we are prepared for the worst too... Briefing the press more than once (on counting day for Bihar elections) was not a reaction to any situation. It had been thought out before. Our officers thought that the press would be better informed with regular briefings. They synchronised their efforts with CEO, Bihar. I think the last press conference was around midnight. The reaction from the press was also positive about being kept in the loop through the day. The same will now be done in West Bengal too. The Bihar briefings on counting day have virtually become a template for other states.

RITIKA CHOPRA: The RJD had questioned the results. They said a lot of postal ballots were rejected and that they will challenge the results in a few seats in court. Do you see this as a challenge going forward?

Whether it is the RJD or any other party, they have all the right to criticise the Commission, the modalities, the local officials. But our CEO tried his level best and succeeded in explaining... There is a very well laid out procedure in the Constitution which states that you can challenge any election in high court... and if and when any election is challenged, we try and respond and present our own side to the courts.

All I can say is that, lately, which elec-



WHY
SUNIL ARORA

Since taking charge, Sunil Arora has supervised the 2019 general elections and the Bihar polls, the country's first election in a pandemic. The Rajasthan-cadre officer also served as secretary to GoI in two ministries before joining EC

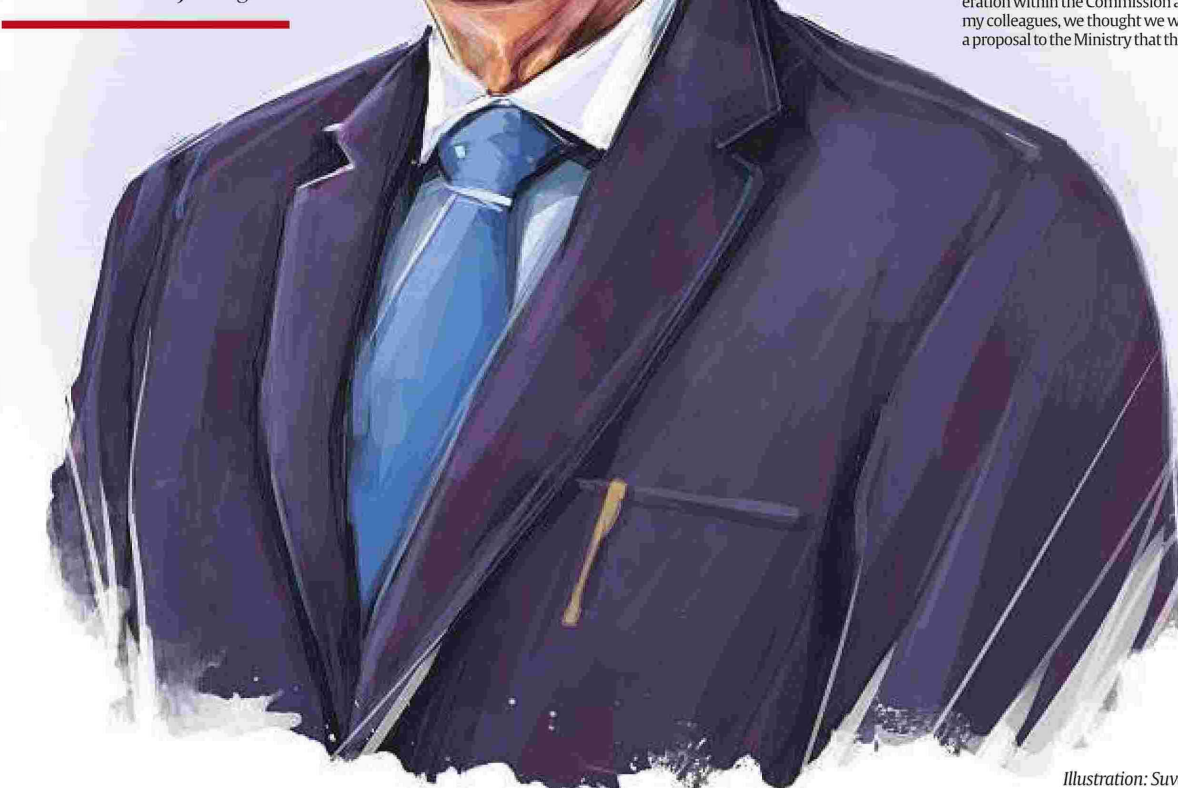


Illustration: Suvajit Dey

tion has not been challenged? In the run-up to the Lok Sabha elections, we met representatives of political parties 123 times. We met the delegations from the BJP 20 times, Congress delegations 28 times... Requests from political parties are most important. There have been challenges, there has been criticism, and there will be criticism in the coming elections also, and we respond to it as best as possible. I can assure that the Commission shall keep trying to ensure free, fair, robust, ethical, and now, safe elections. Still, if someone goes to court, we will respond to it. Our record of convincing the Supreme Court and high courts is good.

SANTANU CHOWDHURY: West Bengal has a history of political violence during polls. What is the EC doing to prevent it in the coming elections?

So far, one major delegation has come to us. They had two-three demands. They wanted (early deployment of) security forces and the (early enforcement of) Model Code of Conduct, (because they believed) the local forces are compromised, and that the local staff is also compromised. Now, these are our instruments, we can't doubt all the instruments. There can be an odd black sheep here or there in many states, in some more than others. We would not like to change any officer for the sake of it. However, during the Lok Sabha elections, we changed one chief secretary, one additional DG, five police commissioners, and DG (Intelligence) of one state. In the case of DG (Intelligence), the matter was challenged in the high court. It was said that since the DG (Intelligence) is not DGP, and doesn't supervise the elections on a day-to-day basis, the Commission has no right to make the change. We were able to convince the court that we have inputs to show that the conduct of the person was

not fair. Eventually, the court did not accept the petition, and the person was changed.

We have also started appointing special observers, over and above the normal observers, especially on the law and order and expenditure side. In Bihar, we put two special observers for expenditure... This time also we will be well-prepared, so that when required we come down on these elements swiftly and ruthlessly.

LEENA MISRA: Before the Rajya Sabha elections in 2017 and 2019, we saw a lot of MLAs quitting their parties, and within six months they got re-elected on another party's ticket. Can the EC put a stop to this?

The Supreme Court has laid down very clear norms on defection. But when it comes to quitting a party and re-joining another party, there is no legal or constitutional mechanism to stop it. It is more for parties to take a call on such matters. Once they have taken a call, the EC will be happy to assist them, if such assistance is sought.

(Barring MLAs from contesting immediately on another party's ticket) is only possible if there are widespread electoral reforms, and if we are able to forge a consensus with political parties. Again, it is not for us to move such a thing. But yes, as a citizen I think this (defection) should be avoided and parties must take the lead.

P VAIDYANATHAN IYER: An issue which came up during your tenure was the objections within the Commission to certain decisions taken by the EC. The Commission decided to not make these public. But, when there is no consensus, in the larger interest of transparency, doesn't it make sense for the EC to put out in public domain what each member says on issues?

This controversy was a non-starter... I would like to give you one example, because I don't want to get into individual issues. The UPSC (Union Public Service Commission) is a multi-member commission. We have three people, they have

about 8-10 people. When this controversy was going on, an ex-UPSC chairman met me in some other context, and said that it is very strange because hundreds of cases come to the UPSC for disciplinary proceedings against government officials, seeking their view. Now, one or two members say no, the punishment imposed by X ministry should be enhanced, some say it should be dropped, and the rest say it should be kept as it is. The normal procedure then, to the best of my knowledge, is that there is a meeting convened by the chairman and a consensus is built, and when the letter goes out, it only mentions the decision. It doesn't mention who said what. (Former election commissioner Ashok Lavasa had objected to the clean chit given to Prime Minister Narendra Modi and former BJP president Amit Shah on charges of violating the Model Code of Conduct during the 2019 Lok Sabha election campaign).

...Throughout the controversy, I remained silent... It doesn't mean weakness or a desire to conceal something... In such less time, in a day or two, a view has to be taken, it is an administrative thing, it is not a quasi-judicial matter. I don't think it should have been put on the website and I don't think it needs to be shared.

P VAIDYANATHAN IYER: But recording of dissent, like in this case of Mr Lavasa, does it not strengthen the EC eventually?

My colleague has already joined the ADB (Asian Development Bank). I would not like to comment on individual issues. He wanted to say what he wanted to say, he said it. I gave only one statement on the record. I said that yes, commissioners are not expected to be clones or templates of each other and they are not. But having said that, we have to make a distinction

between quasi-judicial proceedings and other proceedings.

SHUBHAJIT ROY: We have reported that the EC held a meeting with the Ministry of External Affairs to permit NRIs to cast their votes from overseas through postal ballots. What are some of the challenges of doing it? Also, for now, Gulf countries are not part of the proposed pilot...

... Whenever we go abroad, the only question that the ECI faces is that when I live in Seattle, why should I travel to Jalandhar or Hoshiarpur or Andhra to cast my vote. Even when I went to Washington, when the present foreign secretary was the ambassador there, this was the only question discussed. So, after a great deal of deliberation within the Commission and with my colleagues, we thought we will move a proposal to the Ministry that this can be

forms broke some clause... The organisations all got together and voluntarily submitted a code of ethics which they would observe during the elections, and they have been observing it. We are concerned, but we are very clear that we would probably want a system, like in Germany or the UK... They have a very sound legislative framework to deal with the subject. We would also not be averse to having a sound legislative framework in India because the complications in India are far too many.

We do not have any legal authority (to assist in vaccine drive). But given our experience, if someone reaches out for a national cause, we will take a call

KRISHN KAUSHIK: In 2018, except for the BJP, all major parties had asked for a limit on party expenditure during elections. How big of a concern is the influence of big money on elections? Also, what are your views on electoral bonds?

We have already given our views on electoral bonds in the Supreme Court and we stand by that. The Commission as a body has told the Supreme Court that it (electoral bonds)... should be less opaque and more transparent.

On the issue of expenditure, we had some specific requirements for the pandemic. So, we enhanced the limits because of the pandemic. We have appointed a committee under Harish Kumar (former IRS officer and DG-Investigation) to look into various aspects of electoral funding. That committee has already met twice. The Commission also had one interaction with the committee and we had given them a term of reference... I'm sure when their report comes, we will ensure that the recommendations are implemented.

HARIKISHAN SHARMA: Do you think it is possible to hold simultaneous elections in post-Covid times?

The Article 83 (2) of the Constitution provides that the House of the people unless sooner dissolved shall continue for five years from the date appointed for the first meeting. And, no longer an expression of a set period of five years shall operate as a dissolution of the House. Similar provisions are there for state Assemblies. This kind of disjointedness between the life of the people's House and state Assemblies started happening sometime in early 1970s due to various reasons. And now it has become a norm. For example, we have just finished Bihar elections. And Lok Sabha elections in normal course will happen in 2024. So, the system has to align the life of Lok Sabha with the life of state Assemblies. For that, across the board amendments would be required in the provisions of Articles 83, 85, 172 and 56 of the Constitution. Now that is the job of the legislature. What the Prime Minister said (about simultaneous polls) is a very desirable goal... The Law Commission has also supported it. Big amendments can take place only on the floor of Parliament.

RITIKA CHOPRA: Given the EC's experience in conducting large-scale exercises, has the government reached out to the Commission for any kind of assistance in vaccinating the population against Covid-19?

It is a devastating pandemic for the entire world. And India is no exception. So the pandemic requires exceptional and extraordinary responses... Currently, we do not have any legal authority (to assist in the administration of the vaccine). To conduct elections, we are empowered under Article 324. But having said that, given the experience and expertise we have, if someone reaches out to us for a national cause, we will take a call.

RITIKA CHOPRA: You have spent a considerable time in the Commission now. Are there any reforms that you think are required in the EC?

... Many times, we have seen that our officers, especially the Chief Electoral Officers, become vulnerable because of their honest and independent conduct during an election. Immediately after elections, such officers are victimised or harassed. There have been instances in which the Commission has authorised me to take up the matter with the chief minister concerned. At the same time, many officers who we had to change (during an election) because of their biased or partial conduct get rewarded when the same party returns to power... We would like to go to the government and say that at least for one year after a state or Central election is over, no (election) officer should be penalised under different alibis, only because he or she was very objective and implemented the law of the land faithfully.