

THE ELECTION COMMISSION AND ISSUES OF ELECTORAL REFORMS IN INDIA

**Dissertation Submitted to the Jawaharlal Nehru University in
partial fulfillment of the requirements for the award of the degree of**

MASTER OF PHILOSOPHY



SADANAND BAG

**CENTRE FOR POLITICAL STUDIES,
SCHOOL OF SOCIAL SCIENCES,
JAWAHARLAL NEHRU UNIVERSITY,
NEW DELHI-110067, INDIA
2001.**



CENTRE FOR POLITICAL STUDIES
SCHOOL OF SOCIAL SCIENCES

July 20, 2001

CERTIFICATE

This is to certify that dissertation entitled “ **THE ELECTION COMMISSION AND ISSUES OF ELECTORAL REFORMS IN INDIA**” Submitted by **Sadanand Bag** is partial fulfillment of the requirements for the award of the degree of **MASTER OF PHILOSOPHY**, is his own work and has not been previously submitted for any other degree of this or any other University.

We therefore, recommend that the dissertation may be placed before the examiners for evaluation.

DR. SUDHA PAI

(Chairperson)

(acting ch.)

CHAIRPERSON

Centre for Political Studies
School of Social Science-II
Jawaharlal Nehru University
New Delhi-110067

S.N. JHA

(Supervisor)

****** In loving memory
Of my grand father******

ACKNOWLEDGEMENT

If this piece of work commands any respect, it is due to my supervisor Prof. S. N. Jha. Without his constructive criticisms and suggestions, it would have been very difficult to go through this task. I am particularly thankful to him for giving me adequate freedom to work all through and bestowing a sense of confidence in me that I have rarely experienced.

I am also thankful to the employees of Jawaharlal Nehru Library and Teenmurti Library for their selfless help without which completion of this work was not possible. I would like to thank my family and friends for their good wishes and prayers.

My thanks are due to Sartik Daa, Sricharan Daa, Subrat Daa, Vinod, Deepak, Muna, Reena, Rekha, Golapi, Kamala, Tilu, Nitu, Raj, Ruchi, Suresh, Hemant, Akash, Prabeer, Isani didi, Nagma, Leena, Mani, Shaista, and Luna for their help and encouragement when I needed it most. Besides, Mr. Rajesh deserves special thanks for typing this dissertation. Mistakes, I am sure, will be many, which I will carry to eternity.

*New Delhi
July 20, 2001.*

SADANAND BAG

CONTENTS

		Page
	ACKNOWLEDGEMENTS	i
CHAPTER-I	INTRODUCTION	1-19
CHAPTER-II	STRUCTURE, POWER AND FUNCTIONS OF THE ELECTION COMMISSION	20-56
CHAPTER-III	CONDUCT OF ELECTION	57-83
CHAPTER-IV	ELECTORAL REFORMS IN INDIA	84-101
CHAPTER-V	CONCLUSION	102-107
	BIBLIOGRAPHY	108-118

CHAPTER – I

Chapter – I

Introduction

Free and fair elections, freedom of thought and expression, press and independent judiciary are the three pillars on which the edifice of democracy stands. In modern democracies, an electoral system is a determinant as well as concomitant and it provides the institutional workshop for fashioning and moulding the instrument of power on the anvil of a popular approval.

Elections provide the people with an opportunity to choose between political alternatives and to an extent the policies of political parties. It plays an important part in the policy making process in the democratic polity as the opinion of each elector is crucial in deciding the electoral outcome. Elections create amongst citizen a sense of involvement and participation in public affairs. Although it is through popular elections that the authority of a government, is clothed with legitimacy, it invests the government with the consent of the people and further imparts continuity to it, for it ensures orderly replacement of the government.

India, being the largest democracy in the world, the issue of elections and electoral reforms occupy a central place. In the light of the on going political scenario in our country, the proposed research topic assumes academic importance which needs meticulous analysis and sound preparation. In our country although we have a constitutional body named as 'Election Commission' (EC) being vested by the Constitution the power of

superintendence, direction and control of the preparation of electoral rolls for the conduct of all election to the Parliament and to the Legislature of every state and to the elections to the offices of the President, and Vice-President held under the Constitution (Article 324), the exercise of electoral task is an awesome process. It requires a lot of preparation and adequate arrangements for smooth and peaceful elections. Our experiences in this regard, though not disappointed, it is nor satisfactory either. The E.C. is gripped with many inadequacies which need to be addressed with much more seriousness and sensitivity. Without addressing the problems, which the electoral process and the E.C. are confronted with, the future of democracy in India is never going to be smooth. In this context, the framework task would be electoral reforms. Electoral reforms in the present juncture would be of much use to vitalize and consolidate whatever gain achieved from the practice of democracy in the country. There is urgent need to give it a top priority so that the problems do not aggravate and vitiate the genuine electoral process in the country.

The problems relating to an electoral process has wider socio-political implications which cannot be lost sight of. Recently, the issue regarding the E.C. and much needed electoral reforms have drawn lots of attention and has generated debates and discussions in different fora and platforms – both academic and political.

In India, though elections are held periodically, it is not free from ills and anomalies. These ills and anomalies are not new, they have been persisting with greater intensity and consequences. Very little thoughts have been given to probe into the various aspects of these problems where

electoral reforms hold the key to all. The current series of political instability at the centre is largely the reflection of a lack of transparent and effective electoral reforms. Therefore for the current spell of political instability the government in power have to initiate some of the much needed electoral reforms.

The electoral process has been vitiated with criminalization of politics and politicization of crime. This had not been properly addressed by the Goswami Committee of 1990 and Vohra Committee, 1996 specifically pointed out the unholy nexus between the criminal businessmen and the politicians. Electoral Reforms on the line of Goswami Committee Report would have been an effective deterrent against the said affliction. Response to this fact has been lukewarm and kept aside. Further the passionate revelation by one of the former Deputy Election Commissioner, Mr. G.V.G. Krishnamurthy generates concern over the electoral process. Mr. Krishnamurthy who was actively involved in the framing of measures to reform the electoral process, that the 1997 order meant to tackle the problem created by criminals and crooks in their bid to enter legislative bodies, said that almost forty members of parliament and seven hundred members of State Legislative Assemblies facing Criminal charges were members of 11th Lok Sabha. They were able to sneak into the System making use of various loopholes. Even the President of India Mr. K.R. Narayanan while speaking on the eve of the Golden Jubilee Celebration of the Election Commission in New Delhi reminded everyone that there were aberrations in the electoral system that need to be addressed. In particular expressing concern over the unhealthy role of money, muscle

power and the mafia in the elections, he called upon all the political parties to refrain from giving tickets to candidates with criminal background. Pointing out that legislation may not be the only solution to the problem of individuals with criminal antecedents entering the legislatures, the President said, if the organised political Parties who are not obliged to field any one as a candidate, refrain from giving ticket to individuals with criminal background, it would be possible to deal effectively with the problem of criminals in politics.

The other area which needs electoral reform is about funding of election. The present practice allows political parties to gather blackmoney from different sources which again in turn let the ground for money and muscle power. This is not a good sign for any functioning democracy like India. Looking at the magnitude of black money and its large scale use by political parties, the need of state funding of elections is always felt. The recent initiative by the parties was a welcome move. But with the exposure of Tehelka tap with clippings of the politicians taking bribes and saying that as a donation for party funding once again bring to the fore the unholy picture of our electoral system. Therefore, the very fact of state funding of elections should not be blinked away while formulating the electoral reforms.

Electoral reforms is required as a large number of political parties and independent candidates that have been coming up and contesting elections. There is no way of restricting them unless we revamp the whole Constitutional set up. Of late India has been facing serious problems of governance at the centre, as too many political parties, most of them small, local or regional entities, which cannot be expected to have national perspective, sharing

power. Any political party which enjoys the status of a recognised political party in a majority of states is bound to have a national outlook and formulate national policies in contrast to regional parties or Single-State parties. It is not easy to transform the present multi-party system into a two-party system. Proliferation of political parties has been the bane of Indian politics from the beginning. Therefore, it is necessary to bring down their number in the interest of effective governance. Specially political parties and candidates who seek to woo voters by playing along the caste and religion line to win power should be debarred from contesting elections. A stringent electoral reforms would go a long way in checking its further growth, otherwise it would harm the national cause and weaken our national integration.

Another area which needs electoral reforms is that the present electoral system does not follow a candidate to win elections with the largest number of votes polled, rather candidate with slender margin of votes gets elected which falls far too short of the majority of votes polled during the election. This system does not make the victory of the candidate wholly representative. So it would be better to introduce proportional representation where candidates with highest number of votes polled be elected.

Electoral reforms to arrest the opportunistic defection has never been properly dealt with. Though the anti-defection law in this regard exists, it suffers from inherent weakness and limitation. A transparent and stringent anti-defection law should be in offing. This type of law is necessary to keep the loyalty and commitment of the concerned candidates in tact.

Besides this, growing corruption, criminalization and intimidation have gravely perverted the democratic process. Increasing violence at the polls, booth capturing and rigging is promoting the loss of public faith in participatory democracy. The malhandling of election staff, free use of guns by armed goondas and murders are becoming common features of the electoral system. There are also areas like rotation of seats of SC and ST reserved seats, separate staff for conducting election etc. need to be brought under the electoral reforms. Attempts should also be made to amend the Representation of People's Act to make it more effective and result oriented. The remaining two evils, namely the misuse of public media and administrative machinery is availed principally by the party in power.

This brings to the fore the need for a wide range of electoral reforms and an electoral code to be followed by political parties and candidates at the time of elections.

The need for electoral reforms perhaps started being felt during the late 1960s in the country. This was due to the difficulties which came to the fore in the working of the system since Independence and in the backdrop of the uninterrupted sway of a single party at successive polls in the country.

Numerous attempts have been made for electoral reforms. A Parliamentary Committee to suggest amendments to election law from all angles was constituted for the first time in 1970. But with the dissolution of Lok Sabha in December 1970, the life of this committee also came to an end. In August 1974, Lok Nayak Jaya Prakash Narayan appointed a Committee consisting of six members headed by V.N. Tarkunde, a former Judge of the

Supreme Court to study and report on the scheme of electoral reforms. The Committee suggested changes in the procedure of appointment of the Chief Election Commissioner and also recommended a three members Election Commission. It had also pleaded for a reduction in the voting age from 21 to 18 and T.V. and radio should be placed under an independent corporation.

Another Committee on electoral reforms was constituted, on the basis of the decision taken in a meeting of all the representatives of all political parties held in January 1990, under the Chairmanship of Dinesh Goswami, the then Law Minister and Justice. This Committee suggested the need for an amendment to the anti-defection law, changes in voting system, rotation of reserved seats for SCs and STs, Photo Identity Card should be made multi purpose cards for all voters, no candidates should be allowed to contest an election from more than two constituencies. etc.

Some other Committees like Jeevan Reddy Committee, Indrajeet Gupta Committee, Jagannath Rao Committee and Justice Krishna Aiyar Committee also suggested certain electoral reforms.

However, the reports of all these committees on electoral reforms largely remained as a paper and pen exercise and have not led to changes in the electoral system. With the conclusion of every general elections, new problems raise their heads and old problems are aggravated.

T.N. Seshan, former Chief Election Commissioner ushered into an era of optimism for free and fair electoral system. His initiative for issuing identity cards to voters was a landmark event. But other most urgent areas did not find enough attention. For this lack of attention he maintains that the main

problem with electoral reforms in the Indian context is the deep-rooted apathy of the Executive as well as a lack of public awareness to the imperative need to arm the Election Commission to deal with corruption that has crept into the electoral process.

Keeping all this in mind, now the need is to evaluate, assess and deliberate the present electoral loopholes and devise adequate mechanism and electoral reforms, so that democracy can work as a fulfilling instrument of common men. While the E.C. has effectively rendered its constitutional obligations, some anomalies still stand in the way of making it a transparent and responsible body. Its functioning of the years have seen both positive and negative side of its role. Certain powers which require to be entrusted in the E.C. are still outside the domain of the E.C., that some times acts as barriers to its constitutional status. Therefore, there is every possible need to address some of the grey areas of the E.C. India is a vast country with maximum number of electorates, this very fact makes it amply clear that simply delegating some powers and remaining rest with the President is against the norms of the E.C. In the forth-coming period an attempt should be made to do away with inherent drawbacks which can help to place E.C. in a proper perspective.

Electoral Reforms is also a central point of discussion: Even after five decades of mass electoral politics we are still far away to bring certain necessary changes in our electoral system. Many hindrances have crept into the system, without its removal the accumulated problems of electoral reforms would snowball into a bigger threat in future.

The areas which need a special attention have already been discussed. Now what is required is a seriousness and political will on the part of the political parties to arrive at a consensus to purge the electoral system. Upon it depend the more genuine democratic exercise in future. Some amount of political understanding and the will to introduce a system which can truly embody the democratic spirit is needed at this crucial phase of our national politics. We are already into the 21st century, this genuine task of reforming the electoral system occupies central place without further delay. 20th century particularly the last part of 20th century only witnessed fiasco, failure or deliberate obstruction in the attempt to go for an effective electoral system.

Review of Literature

Though the subject matter has a popular appeal, but it has no significant and revealing literature, very limited work is found in this area. Jhinta has studied corrupt practices and its implications in the eyes of law of judiciary.¹ Here he comes out with this finding that lack of proper mechanism and stringent electoral laws make conducive way for the corrupt practices during the elections.

Bhagat in her book has made penetrating and painstaking research on this problem of electoral reforms in India.² She is of the opinion that something

¹ Hans Raj Jhinta, *Corrupt Practices in Elections: A Study under the Representation of the People Act, 1951*, New Deep & Deep Publications, 1996.

² Anjana Kaw Bhagat, *Elections and Electoral Reforms in India*, New Delhi, Vikas Publishing House, 1996.

has gone wrong with the electoral system in India being confirmed by the spate of writings that have in recent years pointed to several distortions like blatant instances of violence and booth capturing, rigging, money power, misuse of government machinery, etc. Therefore she thinks it is urgently necessary to take a careful, systematic and impartial stock of the situation and come up with certain well thought out recommendations like – the Election Commission should be wholly independent, objective and non-partisan, to see the extent to which the electoral system adopted represent fairly the will of the people, the government should maintain an accurate and up-to-date record of all eligible voters to check omission of names of voters in rolls; effective model code of conduct besides suitable punishments for, corrupt practices, misuse of government machinery, booth capturing; introduction of electronic voting machines; the state should be responsible for financing the candidates election expenses. Also she points out that, the first essential precondition is uplifting the tone and standard of public morality and honesty.

Similar theme and findings are also found in the work of Gehlot ³. He is of the view that irrespective of the reforms and measures taken by the Parliament and the Election Commission for ensuring free and fair elections in our country, the question of electoral reforms has largely engaged the attention of political parties and leaders, as the factors such as ignorance and superstition among the voters, poverty, lack of proper communication and multifarious religious and social structures based on caste and community,

³ N.S. Gehlot, *Elections and Electoral Administration in India*, New Delhi, Deep and Deep Publications, 1992.

have practically overshadowed institutional structures provided for under the Election Law and have weakened the administrative as well as the procedural devices, posing multi-faceted challenges and problems to the working of the election machinery. This has made it difficult for the honest and capable persons to contest the elections and enter the legislatures on their own.

Bhambhri⁴ opined that – the electoral process has been corrupted because political parties, groups and leaders are spending millions of rupees to win an election by buying and bringing voters and their local influential public opinion makers. Not only this, if the power of money proves insufficient to win over the electoral support of the voters, professional criminals are openly employed by political leaders to terrorise the unobliging section of the society. This growing criminalisation of politics in India has not only delegitimised all democratic institutions of governance its impact has been felt at every level of public life. If criminals or leaders supported by criminals occupy seats of power in State Assemblies, Lok Sabha or Council of Ministers, it creates a political culture of illegality and respect for criminality in society. Further he asserts that, for winning an election, all democratic parties have not only taken recourse to illegality, they have made compromises with religious fundamentalists and the consequence of this politics of compromises has been growing communal divisions in the country.

⁴ C.P. Bhambhri, *The Indian State: 1947-98*, New Delhi, Sipra Publication, 1998.

Dr. Reddi and Dr. Sundar Ram⁵ discuss very comprehensively the importance of the electoral system in democratic form of governments. It also highlights the evil influence of money power which has brought the whole electoral system to public ridicule and has eroded public faith in the system. It brings out that the law in this regard is clearly inadequate to counter the ingenuity of a candidate in circumventing its provisions successfully and with impunity. It also forcefully argue that there is an imperative need to prevent the wide spread complaint regarding the misuse of official machinery at the time of elections”.

Prof V. Venkata Rao⁶ opines that no candidate should be permitted to contest more than one seat at a time. He also believes that the amount of security deposit should be increased to Rs. 1,000/- and no distinction should be made between candidates belonging to the scheduled castes and the scheduled tribes and other in regard to deposit. He goes on to add that 'any candidate who does not poll 25 per cent of the votes polled must forfeit his deposit'.

Dr. M.P. Dube⁷ states that growing corruption, criminalizaion, and intimidation have gravely perverted the democratic process of our country. He argues that the intrusion of religion and caste into politics has played havoc

⁵ Dr. Agrala Easwara Reddy and Dr. D. Sundar Ram, "Democracy and Indian Electoral system: Need for Reforms", Dr. Agarala Easwara Reddy and Dr. D. Sundar Ram, ed., *Electoral Reforms in India*, New Delhi, Uppal Publishing House, 1992.

⁶ V. Venkata Rao, "The Reforms of the Electoral System", Dr. Agarala Easwara Reddy and Dr. D. Sundar Ram, ed., *Electoral Reforms in India*, New Delhi, Uppal Publishing House, 1992.

⁷ Dr. M.P. Dube, "Electoral Reforms in India", Dr. Agerala Easwara Reddy and Dr. D. Sunder Ram, ed., *Electoral Reforms in India*, New Delhi, Uppal Publishing House, 1992.

with the politics. He concludes that in order make elections free and fair a code of conduct must be formulated for the political parties.

Dr. T. Tirupati Rao⁸ discusses the Electoral Reforms and Democracy in India and observes that the influence of money and corrupt practices on the eve of elections have deep rooted links to the entire socio-political and economic spheres of the society. He makes a number of useful suggestions like – introduction of electronic voting machine, issuing of identity cards to all voters, to provide as many polling stations as possible, to impose severe punishment to those involving in impersonation, rigging and booth capturing etc., to control the misuse of power during the time of the elections.

Advani,⁹ opined that in India the electoral process is afflicted by four M'S, namely – money – power, ministerial-power, media-power, and Muscle-Power. He therefore asserted that correct and upto date electoral rolls are a must for any fair and free elections. He concluded that the West German system of elections which combines the List System with the first-past the post-system, and so is described as the Mixed System, would be best suited in the Indian context.

Dandavate¹⁰ also admitted that four M'S, namely money power, muscle-power, media-power and machinery-power have greatly perverted our electoral system. He suggested that there is no need of any new committee to

⁸ Dr. T. Tirupati Rao, "Electoral Reforms and Democracy in India", Dr. Agarala Easwara Reddy and Dr. D. Sundar Ram, ed., *Electoral Reforms in India*, New Delhi, Uppal Publishing House, 1992.

⁹ L.K. Advani, "The Unkept Promise", New Delhi, *Institute of Constitutional and Parliamentary Studies*, 1969.

¹⁰ Madhu Dandavate, "Quick Reforms Essential", *Seminar of Electoral Reforms in India*, Chandigarh, Panchanad Institute, 1987.

formulate the scheme of electoral reforms, since already available are the reports of the committees on defection, report on proposed amendments to election Laws, recommendation of the Tarkunde Committee set up by Late Lok Nayak Jayaprakash Narayan and suggestions made by former Chief Election Commissioner Shri S.L. Shakti. What is needed is not further study or scrutiny of proposals for electoral reforms but expeditious implementation of the reforms recommended.

Yadav¹¹ discusses in depth the evils of money power, misuse of governmental machinery, etc. and observes that the electoral process cannot be cleansed or perfected merely by a comprehensive legislation, as there are aspects of politics which cannot be dictated by law such as political culture, etc. Therefore she maintains that enlightened citizens who are prepared to uphold political norms and punish those who transgress them can be an effective instrument to implement norms of clean electoral politics.

Rabi Roy,¹² the former speaker of Lok Sabha after discussing in depth the various recommendations made by Tarkunda Committee, Dinesh Goswami Committee along with various suggestions for electoral reforms made by different election commissions from time to time asserted that nothing short of a very powerful people's movement would compel the government and Parliament to implement the various reforms suggested by the aforesaid committees and Election Commissions. He suggested that any

¹¹ Sushma Yadav, "Election Commission and Electoral Process", Mahendra Pratap Singh and Himansu Roy, ed., *Indian Political System: Structure, Policies, Development*, New Delhi, Jananda Prakashan, 1998, pp. 506-524.

¹² Rabi Ray, "Electoral Reforms: Need of the Hour", *Politics India*, Vol. III, No. 4, October 1998, p. 7-9.

political party which promotes communalism either before, during or after elections, should be deregistered and disqualified from contesting the elections; any political party bearing the name of religion, race or caste either wholly or partly, should be debarred from contesting elections; expeditious steps should be taken to issue Identity cards to voters; electronic voting would be introduced as early as possible; no candidate should be declared elected unless he/she has secured 50 per cent of total votes polled; steps should be taken to prohibit person with criminal background from contesting elections; anti-defection law should be amended; section 77 of the R.P. Act should be amended to plug loopholes in enforcing ceiling on electoral expenditure by bringing all election expenses including those by parties and friends under the candidate's expenditure. To him, the above mentioned electoral reforms, if delayed further, may imperil the democratic foundation of our country, so they are the need of the hour.

Sri Shivraj Patil,¹³ a former speaker of Lok Sabha in his article points out the defects like money power, muscle power and how political parties and candidates seeking votes in terms of religion and caste line, in our electoral system. To curb these problems he suggests that candidates securing more than 50% of votes polled should be declared elected; there should be multi-member constituencies so that the scope of using the feelings of caste and religion may be reduced; there should be no bye-elections if an elected member regions or dies and in such cases candidate polling the next highest votes should be sent to the legislature as the elected candidate as it would

¹³ Shivraj Patil, "Electoral Reforms", *Politics India*, Vol III, No. 4, October 1998, pp. 10-11.

reduce the election expenditure; there should be special courts to decide the election disputes; the E.C. should be allowed to function independently; there should be 30% reservation for women in Union & State legislatures; compulsory voting; anti-defection law should be amended to remove the lacunae in our electoral system.

Syed Shahabuddin,¹⁴ of former Member of Parliament, also discussed about the use of money power, corruption, bogus voting, evils of defections, etc. have greatly perverted our electoral process. He suggested that the law should prescribe a minimum educational qualification for candidates for the quality of representation; anti-defection law should be amended to check the unholy nexus between defection and corruption; identity cards should be issued to all voters to check bogus-voting; delimitation of constituencies; rotation of reservation seats for the SC and ST; the present system of nomination by the President to the Rajya Sabha/Legislative Council need to be reviewed, etc.

V. Krishna Ananth,¹⁵ in his article while analyzing the passionate appeal of the President Mr. K.R. Narayanan on the eve of the Golden Jubilee Celebration of the E.C. that, all the political parties should deny tickets to persons with criminal background to purge our electoral system. Ananth maintains that this problem of criminalisation is not so simple and the way out too is not so simple asking the political parties to deny tickets to persons with criminal background. The task of cleansing the political establishment of

¹⁴ Syed Shahabuddin, "A Chapter of Electoral Reforms", *Politics India*, Vol. III, No. 4, October 1998, pp. 12-15.

¹⁵ V. Krishna Ananth, "Crime and Politics", *The Hindu*, 30 January 2001.

criminal elements can be accomplished only if the state (the Legislature, Executive and Judiciary) ensures the rule of law. The failure of the state in rising to the expectations of the people leads to the increasing criminalisation of the political system.

Mr. Rajeev Dhavan¹⁶ in his article also maintains the same view about the criminalisation of politics. He maintains that if voters are uninformed, democracy suffers. In spite of the recommendation of Law Commissions 170th Report (1998), the Election Commission's official publication on electoral reforms: views and proposals, the President Mr. Nayanaran's appeal to all political parties, etc. which decried the entry of chargesheeted criminals in politics, nothing has happened. Political parties lament with critics, but support criminals as candidates. Therefore, he maintains that the right to vote has meaning only if the people know, and have the right to know, the full antecedents of the candidates, without which no matters how many suggestions and recommendations come to the fore, nothing would change the ugly menace of criminalisation in politics.

However, these literature are over simplification of intellectual attempt. Although some other literature on this topic are available they are not up to the present day requirement. This is where this research work would contribute significantly to fill up the gap in the existing literature.

¹⁶ Rajeev Dhavan, "Voters and Criminals", *The Hindu*, 17 November 2000.

Objectives of The Study

It is in this perspective, the purpose of the study has been: The report of different committees for electoral reforms in the country; to focus the areas which needs electoral reforms urgently; to find out the initiatives taken by the governments to bring necessary electoral reforms; to examine the effectiveness of existing electoral reforms in the country.

The study is descriptive and analytical. It depends on both primary and secondary sources. The primary sources include government reports and documents, and views of ministers, MPs and MLAs, other officials on this subject. The secondary sources cover books, journals and other research magazines.

The dissertation has been organized in the following chapters:-

Chapter 1 deals with a brief introduction of the Election Commission and Electoral reforms. What are the loopholes that have greatly perverted the electoral system and posing a tremendous threat to our democracy.

Chapter – 2 discusses the structure and powers and function of the Election Commission, the electoral machinery at the state, district and constituency level. It also focuses on certain suggestion of change to make the Election Commission more independent to function efficiently.

Chapter-3 discusses the conduct of elections in India. It focuses on the process notification for elections, filling of nomination papers, scrutiny and

withdrawal of nomination papers, qualifications and disqualification of candidates, polling and counting etc.

Chapter – 4 discusses the electoral reforms in our electoral system. It focuses on the present electoral malpractices, the suggestions made by different committees and Election Commission on electoral reforms, the steps taken by respective governments and certain suggestions of reforms to improve our electoral process.

Chapter – 5 deals with a brief conclusion of Elections and Electoral reforms in India.

CHAPTER – I I

Chapter – II

Structure, Powers And Functions of The Election Commission

Features of the Electoral Machinery

One of the peculiarities of Indian Constitution is that it provides a separate Chapter (Part XV) captioned the “Elections”. In this respect, it has made a departure from the usual practice of Constitution to leave elections as an important subject to be dealt with by the Executive or the Legislature. The provisions relating to elections show how serious the founding fathers of the Constitution had been to safeguard the political right, that is the right to vote as an integral part of the constitution itself.¹ They wanted the electoral machinery to be efficient, perfect and judicious so as to make our democracy a success.

It is therefore, worthwhile to mention a few fundamental principle embodied in detail in our electoral system. For example:-

- (1) There is one general electoral roll for every territory constituency. No person is eligible for inclusion in an electoral roll on ground of religion, race, caste, sex, etc.
- (2) Voting right has been given to every citizen above 21 years (which is now 18 years) of age. A citizen may, however be deprived of this right on some grounds like unsoundness of mind, punishment by a court for some

¹ M.V. Pylee, *Constitutional Government in India*, Bombay, Asia Publishing House, 1977, p. 770.

crime or held guilty by a court for some illegal or corrupt act. But the Election Commission has the power to waive disqualification of a person for reasons to be recorded by it in writing.

- (3) No person can be registered as a voter for more than one constituency. He or she may contest any election if he/she is above 25 years of age.
- (4) The state may make reservation of seats for Scheduled Castes , Scheduled Tribes and Anglo-Indians.
- (5) No person or candidate should commit a `corrupt` practice which includes payment of bribery including gifts, promise or some gratification for affecting the electoral process, exercise of undue influence on a person's franchise or spreading the feelings of enmity or hatred between the different classes on the grounds of religion, caste, language or community.

All these arrangements have been made in the Representation of the Peoples Act of 1950 and 1951 and these have been amended from time to time for the sake of ensuring free and fair polls in India.

DISS
324.630954
B1461 E1

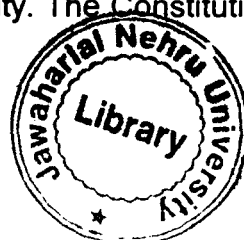


TH9084

Structure

The framers of the Constitution gave careful and earnest consideration for setting up an independent election authority. The Constitution provides for

TH-9084



a one-man Commission, namely, the "Chief Election Commissioner (C.E.C.), permanently in the office and such number of Election Commissioners, if necessary, as the President of India may from time to time fix. When any other Election Commissioner is appointed, the C.E.C. acts as the Chairman of the Election Commission. Thus, the Constitution authorizes the President to have a single member or a multi-number Election Commission. It is further provided that these officials of the E.C. working under him shall be governed by the law of Parliament. The Constitution has ensured that the C.E.C. shall perform his duties uninfluenced by party or political considerations and free from executive interference. The C.E.C. cannot be removed from his office except in like manner and on like grounds as a judge of the Supreme Court. His conditions of service cannot be varied to his disadvantage after his appointment.

Keeping in view of the fact that the Election Commission may be a single member body, the Constitution provides that the President after consultation with the Election Commission may appoint some Regional Commissioners and large contingent of public servants to assist the E.C. in the performance of his functions.

The position was clearly set out in Article 324 of the Constitution. Article 324 (1) vests the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to Parliament and to the Legislatures of every State and of elections to the offices of President and Vice-President held under this Constitution in a Commission (Election Commission).

Until 1966, the power of superintendence, direction and control vested in the Commission, could be exercised only by the C.E.C. The law was amended in 1966 to provide that the functions of the Commission under the Constitution and the election law may be performed, subject to any general or special directions of the Commission, also by a Deputy Election Commissioner or by the Secretary of the Commission.¹ However, the C.E.C. continues to be the sole authority in all matters pertaining to the preparation of electoral rolls and the conduct of elections to Parliament and State Legislatures and to the offices of the President and Vice-President.²

Article 324(2) provides that the E.C. shall consist of the C.E.C. and any number of other Election Commissioners as the President may from time to time appoint.

For the first General Election, the President sanctioned four posts of Regional Election Commissioners. Out of the four posts only two Regional Commissioners were appointed for a term of six months. However, in place of Regional Commissioners, a new post of Deputy Election Commissioner was created in the Election Commission in 1956.

In the 1957, 1962 and 1967 general elections there were only Deputy Election Commissioners to assist the Election Commission. In the mid-term election held in 1969, there was only one Deputy E.C. to assist the C.E.C.³ Evidently, the C.E.C. found it helpful to utilise the services of the Deputy

¹ Section 19A of the R.P. Act, 1951 inserted by Section 21 of the R.P. Amendment Act, 1966.

² B. Shiva Rao, "Election Practices and Machinery: Need for Reforms", *Journal of Constitutional and Parliamentary Studies*, Vol.IV, October-December 1970, p. 486.

³ B. Shiva Rao, *op. cit.*, p. 486.

Election Commissioners from time to time. As S.P. Sen Verma observed there is no reason, "why this practice should be discontinued. Ramakrishna Hegde also believes that a single member Election Commission cannot cope with the work in the present situation. He observes:-

"On 18 June 1985 the Election commission of India sought the views of various political parties on proposals for electoral reforms. The Janata Party in its reply suggested that the E.C. should consist of three members.⁴

B. Shiva Rao as far back as 1970 wrote rightly that such a heavy responsibility as is implicit cannot be borne satisfactorily by a single individual. The time seems appropriate therefore for action under Article 324 for expanding the present Commission into at least a five-member body, with a chairman. Such a commission will be in a position to with-stand political pressures and will inspire public confidence.⁵

While the aim underlying the scheme of a multi member body is laudable, it seems to spring from a basic misconception, namely, that the attributes of independence and fearlessness can manifest themselves only in a collective body.

Moreover, the suggestion for a multi-member Election Commission has been made on the ground that:-

- (i) Such a multi-member Commission will avoid the possibility of arbitrary action of a single individual.

⁴ Ramakrishna Hegde, *Electoral Reforms: Lack of Political Will*, Bangalore, Karnataka State Janata Party, p. 49.

⁵ B. Shiva Rao, *op. cit.*, p. 488.

- (ii) The responsibility relating to elections will be more effectively discharged and in exercise of its quasi-judicial functions.
- (iii) Such a Commission is likely to reach generally acceptable decisions and commands respect.

However, it is interesting to note that the Commission does not agree with the idea of a multi-member E.C. The E.C. had as early as 1972, expressed the view that a single member Commission had functioned efficiently and quickly. The Former Chief Election Commissioner, S.P. Sen Verma who has been opposed to the idea of a multi-member of E.C. argues in favour of a single C.E.C.⁶

Clause (5) of Article 324 provides that subject to the provisions of any law made by Parliament, the conditions of service and tenure of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine. The President of India had however, framed rules, called the C.E.C.'s (Conditions of Services) Rules, 1972. These rules, *inter-alia* provides that the C.E.C. shall hold office for a term of five years from the date on which he assumes office or until he attains the age of sixty-five years whichever is earlier. In 1991 Parliament made law *vide* C.E.C.'s (Conditions of Service) Act 1991 with retrospective effect from January. 1, 1986. Now the C.E.C. or other Election Commissioners shall hold office for a term of six years from the date of which he/they assume office:

⁶ S.P. Sen Verma, "Election and Electoral Reforms", S.L. Shakhder, ed., *The Constitution and the Parliament in India – The 25 years of the Republic*, Delhi, National Publishers, 1976, pp. 651-52.

Provided that,

- (i) The C.E.C. attains the age of sixty-five years; or
- (ii) An Election Commissioner attains the age of sixty two years, before the expiry of the said term of six years, he shall vacate his office on the date on which he attains the said age.*

The salaries and allowances of the C.E.C. and other Election Commissioners has been left to be fixed by the President (i.e. Parliament).

Article 324(5) stipulates that the C.E.C. shall not be removed from office except in the like manner and on the grounds as a judge of the Supreme Court and the conditions of service of the C.E.C. shall not be varied to his disadvantage after his appointment.

At the headquarters, the C.E.C. is at present assisted in the performance of his functions by the two Election Commissioners, three Deputy Election Commissioners and six Secretaries. The Secretariat is divided into eight branches, each headed by one Under Secretary or officer of equal status. Branches are further sub-divided into thirty sections. Each section has a complement of staff consisting of a section officer and a number of Assistants, Upper Division Clerks, Lower Division Clerks, and Group D Staff.

In pre-independence days, the unity of India was very much undermined by the existence of communal and separate electorates. Hence the Constitution by virtue of Art. 325, has provided that there shall be one

* Ministry of Law and Justice, Chief Election Commissioner and other Election Commissioners, Conditions of Service Act, 1991.

general electoral roll for every territorial constituency for election to either House of the Legislature of a state and no person shall be ineligible for inclusion in any such electoral roll or claim to be included in any special electoral roll for any such constituency on grounds of religion, race, caste, sex or any of them. Article 326 of Constitution provides for adult suffrage. The Constitution did not make exhaustive provisions to cover the details of the law of election. These details were left to be laid down by the legislation of Parliament under Article 327 of the Constitution read with Entry 72 in the Union List in the Seventh Schedule to the Constitution and by the state Legislatures under Article 328 of the Constitution read with Entry 37 in the state list in that schedule.⁷

In fact, no State Legislature had under-taken any legislation in pursuance of Article 328 read with Entry 37 in the State List or any matter relating to, or in connection with, elections to the state Legislature except that practically all the States have enacted laws removing certain disqualifications of members of the State Legislatures⁸ in pursuance of Article 191(1) of the Constitution.

The reason why, in spite of Entry 72 of list I and Entry 37 of List II, it was thought necessary to confer legislative power upon Parliament and State Legislature with respect to elections in Article 327 and 328 lies in a series of Articles in the Constitution which deals with elections in all their aspects.

⁷ S.P. Sen Verma, *The Law of Election to Parliament and State Legislature*, Allahabad, R.G. Sagar, 1963, p. 2.

⁸ *Ibid.*

To effectuate the plenary powers of the Commission under Article 324 of the Constitution, the Parliament has, under Article 327 and Article 328 enacted two laws laying down the detailed measures under which elections were to be held.

- (i) The first of these measures, namely, the Representation of the People Act, 1950, provides for matters connected with the preparation, revision and publication of electoral rolls and the administrative machinery for it. This act also provides for the Delimitation of Council Constituencies for the purpose of election to the Legislative Council. The Act has also allocated the number of seats in the House of the People to the several States and Union Territories and the Part B Tribal Areas in the State of Assam and has fixed the number of seats in each state Legislature.⁹
- (ii) The second of these measures, namely, the Representation of the people Act, 1951 makes provision with respect to the following important matters.¹⁰
 - (a) Qualifications and disqualifications for membership of Parliament and State Legislatures.
 - (b) Notification for election to the Houses of Parliament and State Legislative Assemblies and Legislative Council;
 - (c) Administrative machinery for the conduct of elections;

⁹ S.P. Sen Verma, *op. cit.*, p. 2-3.

¹⁰ *Ibid.*, p. 3.

- (d) Conduct of elections and various stages thereof;
- (e) Candidates and their agents;
- (f) The poll;
- (g) The counting of votes
- (h) Declaration and publication of election results
- (i) Election expenses;
- (j) Disputes regarding elections – election petitions and election tribunals;*
- (k) Corrupt practices and electoral offences;
- (l) Incurring of disqualifications and their removal; and
- (m) Bye – election.

In supercession of all previous rules on the subject, the Representation of Electors Rule, 1960, and the conduct of Election Rules 1961, were made by the central government in consultation with the Election Commission under the Representation of People Act, 1961 respectively.

Election Machinery at the State and the District Levels

At the State level, the election machinery consists of the Chief Electoral officer (C.E.O.), who is selected by the Election Commission out of the panel of names provided by the state government.* Usually, the recommendation of the State is accepted. He is from the rank of a Senior Secretary and in some

* After 1966 this power has been deleted. The constitution (19th Amendment) Act, 1966 deleted the reference to the appointment of election tribunals from Article 324, and the relevant provision in R.P. Act., 1951 was modified vesting the power to try election petitions in the High Courts.

* Section 20, R.P. Act, 1951.

states functions in the capacity on whole-time basis, where as, in others, he functions in part-time basis. The C.E.O. supervises the preparation or revision of electoral rolls and conduct of elections in the state according to section 13-A of the R.P., 1950, but subject to the superintendence, direction and control of the Election Commission of India. Under Section 13-C of the above R.P. Act, the Election Commission may appoint one or more persons as Assistant Registrar Officer to assist any Electoral Registration officer in the performance of his functions, but such officer will function under the control of the Electoral Registration Officer.

The C.E.O. is the kingpin of the whole state electoral machinery. He, however, enjoys no statutory status. The term of the C.E.O. was accorded statutory recognition in 1956. The Law does not specify that the C.E.O. should be a full time officer of the state government exclusively attending to the election work. To tone up the electoral administration at the state level, the E.C. in 1957 suggested the creation of an additional post of Dy. Chief Electoral Officer in states where the C.E.O.s, were part-time officer.¹¹ This recommendation was implemented before the Third General Election, 1962. Now, the C.E.Os in all states & Union Territories (barring a few small territories such as, Dabra, Nagar Haveli etc.) are assisted at least by one whole-time officer designated as either Joint, Deputy or Assistant Electoral Officer or as Assistant Secretary. Some states, such as, Punjab, Andhra Pradesh, Orissa, etc. have more than one such officer. It is a matter of concern that this Election Commission has no branches of its own in any part

¹¹ *Ibid*,p. 67.

of the country to regulate the election. It has to depend upon the C.E.O. of the state administration who functions under the control of state government.

However, the administrative structure of the office of the C.E.O. varies from state to state depending upon the size of the state and the volume of work involved.

According to section 13-A of the R.P. Act, 1950 the election work in the District is entrusted to an officer, known as the District Election Officer (D.E.O). This law provides that, subject to the superintendence direction and control of the Chief Electoral Officer (C.E.O.), the District Election Officer shall co-ordinate and supervise all work in the district or in the area within his jurisdiction in connection with the preparation and revision of the electoral rolls for all parliamentary, assembly and council constituencies within the district. He is also required to perform all such other functions as may be entrusted to him by the Election Commission and the C.E.O. In the Union Territories, however, there is no District Election Officer. Their Duties are required to be performed by the Returning Officers themselves.

The organization of the electoral machinery at the District level varied from state to state till 1966. The Election Commission, in its annual report in 1965, suggested the creation of an independent office of the District Election Officer and this officer should be made statutory responsible for co-ordinating and supervising all the works connected with election within the district. This recommendation was implemented in 1966 through an amendment to the R. P Act, 1950. Despite this change as mentioned above, there is no uniformity of staff employed for carrying out election duties at district level.

Election Machinery at the Constituency Level

At the constituency level, there are four statutory officers, known as: (a) the Electoral Registration Officer, (b) the Assistant Registration Officer, (c) the Returning Officer and (d) the Assistant Returning Officer for the preparation and revision of the electoral rolls and the conduct of elections. Under Section 13-B of the R.P. Act, 1950 the Electoral Registration Officer (E.R.O.) for each Assembly constituency is designated by the Election Commission in consultation with the government of the State. For his assistance, as Section 13-C (1) of the R.P. Act, 1950 provides, the E.C. may have one or more Assistant Election Registration Officer. The Officers of the status of Dy. Collectors are designated as E.R.Os and Revenue Officer such as Tahsildars are nominated as Assistant E.R.Os.

Under Section 21 of the R.P. Act, 1951, the Returning Officer in every constituency is to supervise election. He is nominated by the E.C. in consultation with the government of India. The same officer can also be nominated as Returning Officer for more than one constituency under section 22 of the above Act. According to section 22(2) of the Act, the Assistant Returning Officer is empowered to perform any of the function of the Returning Officer under the supervision of the latter, except the scrutiny of nomination papers. Since the Returning Officers for the Assembly Constituencies are usually drawn from the cadre of sub-divisional officers and those for parliamentary constituencies from the cadre of district officers, it is pleaded that the E.C. should be given an absolute discretion in the nomination

of Returning Officer as the state government's advice in this matter is likely to be coloured by partisan consideration. Hence, the Electoral body of India should be authorized to nominate persons other than those belonging to the state machinery.

The staff consisting of presiding and polling officers, for the actual conduct of poll is appointed by the District Election Officer. Prior to 1966, this was the responsibility of the Returning Officer. The District Election Officer may appoint a presiding officer for each polling station and such polling officer or officers as are necessary. The presiding officer keeps order at the polling station and ensures the fair conduct of the poll. Usually government servants with some administrative capacity and some knowledge of the election law and reputation for integrity are therefore, picked up for appointment as presiding officers.

It is pertinent to note that, from the Chief Electoral Officer down to the presiding officers, everyone is answerable to the Election Commission for every act of his. The great importance that the Constitution-makers attached to the provision of an adequate and independent machinery to assist the E.C. in the discharge of its functions properly is evident from clause(6) of Article 324. Under this clause, the President or Governors of states are required to make available to the Chief Election commissioner such staff as he may deem necessary for the discharge of his constitutional obligations.

All the incumbents of this office so far as were— Sukumar Sen, K.V. K. Sundaram, S.P. San Verma, Nagendra Singh, T. Swaminathan, R.K. Trivedi, R.V.S. Peri Shastri, S.L. Sakhdher, T.N. Seshan, Mr. M.S. Gill etc. Mr. J.M.

Lyngdoh is the present incumbent of this office. Mr. T.S. Krishnamurthy and Mr. B.B. Tandon are the two Deputy Election Commissioners.

Powers and Functions of the Election Commission

The powers and functions of the E.C. are derived from Article 324 of the Constitution. These plenary powers are further supplemented by the Representation of the People Acts, 1950 and 1951, the Presidential and Vice Presidential Election Act, 1952, the Government of the Union Territories Act, 1963, the Delhi Administration Act, 1966 and the Rules and Orders made there under.

According to the Registration of Election Rules, 1960, and the Conduct of Election Rules, 1961, the E.C. has to perform the following functions to discharge its duties.

(a) Demarcation of Constituencies

For the purpose of elections, states are divided into geographically compact areas, known as constituencies. There are two types of constituencies: Parliamentary Constituency (for elections to Lok Sabha) and Assembly constituency (for elections to state Legislative Assemblies). All are single member Constituencies. Each parliamentary constituency consists of an integral number of Assembly constituencies. The number varies from state to state.

Earlier the Election Commission was always associated with the delimitation of Parliamentary and Assembly Constituencies in the country. The Commission divided the entire country into viable territorial divisions of Parliamentary and Assembly Constituencies. The delimitation of Parliamentary and Assembly constituencies was notified by the President.

The first General Elections to the Lok Sabha and Legislative Assemblies in 1951-52 were held on the basis of this delimitation of constituencies. This was, however, subjected to criticism. The E.C. after completion of the elections, therefore suggested to the Union Government that in future delimitation of constituencies should be made by an independent Commission composed more or less by persons in judicial service whose decision should be mandatory.¹²

Article 327 confers specific power on the Parliament to make law with respect to the delimitation of constituencies. This recommendation of the E.C. was accepted by the Parliament which passed the "Delimitation Commission Act, 1952." Under this Act, the duty of readjusting the representation of the several territories constituencies in the Legislative Assembly of each State, other than Jammu & Kashmir as also of delimiting the constituencies after every decennial census as envisaged in Article 81 and 170 of the Constitution (after 42 Amendment Act, 1976 changed) has been entrusted to a Commission called the "Delimitation Commission". Accordingly separate Delimitation Commissions were set up under specific status after the relevant

^{*} Sections 6 and 9, R.P. Act, 1950.

¹² Election Commission of India, *Report on the First General Election 1951-52*, *op. cit.*, p. 58.

^{*} Sections 5(1) and (2) Delimitation Commission Act, 1952.

population figures of decennial census in 1951, 1961 and 1971 were published.

This Delimitation Commission is a high powered body consisting of three members, two of whom are to be the serving or retired judges of the Supreme Court or High Courts and the Chief Election Commissioner is normally assisted by ten associate members of the state concerned (five members each from the House of the People and Legislative Assembly) in its duties. The associated members are appointed/nominated by the speaker of the House of which they were members.¹³ None of the associate members has the right to vote or to sign any decision of the Commission.

Further all secretarial assistance at all levels to the Delimitation Commission was provided by the E.C. even when the concept of multi-members Parliamentary and Assembly Constituencies, as was initially provided, was given up after the second general elections in 1957 by the two-members constituencies (Abolition) Act, 1961, the work of conversion of two member constituencies into single member constituencies was entrusted to the E.C.

With a view to secure uniformity of representation to the states in the Lok Sabha and uniformity in the physical demarcation of the constituencies, the Constitution of India provides that:

- (a) there shall be allotted to each state a number of seats in the House of the People in such a manner that the ratio between that number

¹³ Election Commission of India Report on the First General Election 1951-52, *op. cit.*, p. 58.

and the population of the state is, so far as practicable, the same for all states; and

(b) each state shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the state.*

Similar uniformity to various constituencies in Legislative assemblies has been ensured through Article 170 (in Lok Sabha and in the state Legislative Assemblies).

Under Article 330 (in the Lok Sabha) and Article 332 (in the State Assemblies) of the Constitution uniformity of representation to the Scheduled Castes and Scheduled Tribes has also been ensured by stipulating that the number of seats reserved in any State or U.T. for the SCs/STs shall bear, as nearly as may be, the same proportion to the total number of seats allotted to the State or Union Territory in the House of people as the population of the SCs or the STs in the State or part of the State, as the case may be, in respect of which seats are so reserved bears to the total population of the State or U.T.

The allocation of seats in the Lok Sabha to the different States and the number of seats in the Legislative Assemblies of states* were last determined by the Delimitation Commission, constituted under the Delimitation Act. 1972.

* In the case of smaller states having population of less than 6 millions, the above formula would not be applicable.

* Excluding J & K.

This Commission divided the entire country into 542 single member Parliamentary Constituencies, including 78 reserved for the SCs and nine(9) for Union Territories. Subsequently, the seats reserved for SC were increased from 78 to 79 and for ST from 38 to 40 in Pursuance of the SC and ST Orders (Amendment) Act, 1976. At present there are 543 Parliamentary constituencies with 79 SC seats and 41 ST seats.*

Regarding the demarcation of Parliamentary Constituencies, the Delimitation Commission first produces a working paper which is discussed with the Associate Members. The working paper is modified in the light of discussions with Associate Members and Published as draft proposals for inviting claims or objections. Suggestions are normally considered in public meetings which are held within a State. The Commission finally reconsiders all proposals at meetings with Associate Members and determines the boundaries of constituencies and specifies those to be reserved for SCs and STs.

The E.C. consolidates all the delimitation orders and publishes them in a single order known as the Delimitation of Parliamentary and Assembly Constituencies Order. Every order of the Delimitation Commission, both in terms of the allocation of seats in the Lok Sabha and the State Legislative Assemblies and in respect of delimitation of constituencies when published in the Gazette of India, has the force of law and cannot be questioned in any court.

* Presently there are 28 states and 7 UT's,

The vesting of final authority in the Delimitation Commission prevents gerry-mandering. The Constitution 42 Amendment Act, 1976 amended these (delimitation) articles to provide that the number of seats as allocated and the territorial extent of constituencies as determined by the delimitation of Parliamentary and Assembly Constituencies order, 1976 are unalterable until the publication of the population figures of the first census following the year 2000.*

Recently on January 4, 2001, the Supreme Court ordered notice to the centre on a writ petition for reconstituting the Delimitation Commission, (D.C.).

A public interest litigation was filed by Mr. P.T. Vasuthevan, an advocate from Tamil Nadu, contending that the centre had rendered the D.C. defunct for the past 24 years by not appointing members under Section 3 of the D.C. Act, 1972. He said that as per the Act, the Commission had to determine the total number of seats to be assigned to the State Legislative Assemblies and the number of seats to be reserved for SCs/STs.

The petitioner said that Section 9 of the Act also stipulated the constituencies in which seats were reserved for SCs shall be distributed in different parts of the State and located as far as practicable in those areas where the proportion of their population to the total was comparatively large. He submitted that reservation for SCs/STs was not a permanent feature as Article 344 of the Constitution provided for reservation for SCs/STs only for 10 years, but it was extended from time to time. He wanted to contest from his

* Article 329 (a) of the Constitution and Section 10 (2) of the Delimitation Commission Act, 1962.

constituency, but could not do so because it had been reserved for SCs. As a result the aspirations of the members of other Communities could not be fulfilled for the last 43 years.

As the Commission is now defunct, the PIL was filed seeking a direction for reconstruction of the Commission.¹⁴

(b) Preparation of Electoral Rolls

The architects of the Indian Constitution fairly recognized the paramount significance of an electoral list, and for this they laid in Article 324 that the preparation of the Electoral Rolls and the maintenance thereof shall be the duty of the Election Commission.

The electoral rolls, under Article 326 and Section 62 of the R.P. Act, 1951, must be prepared correctly to hold free and fair elections which means, it must have all the names of eligible voters irrespective of their religion, race, caste and sex. A person who was 21 and now 18 years of age, an Indian citizen and is not otherwise disqualified under this Constitution or under any law made by appropriate legislature on the ground of non-residence, unsoundness of mind, crime or corrupt illegal practice, is entitled to be registered as a voter at any such election.¹⁵

Section 13-D, 15, 27(2) and 27(4) of the R.P. Act 1950 require electoral rolls to be prepared for all Parliamentary, Assembly and Council Constituency.

¹⁴ Elections: "SC Notice on Delimitation Commission", *Spectrum's Current Events Update*, 2001, p. B-3.

¹⁵ M. Krishna Nair, *The Law of Election*, Trivendram, The Academy of Legal Publication, 1986, pp. 37-40.

Article 325 of the Constitution provides that there shall be one general electoral roll for every territorial constituency for election to either House of the Parliament or of the state Legislature. This Article is complementary to Article 15(1) and its guarantees equality in matters of political right.¹⁶ By Article 326, elections to the House of People and the Legislative Assemblies of states will be on the basis of adult suffrage. It, however, does not mean to confer on an adult, a right to exercise franchise unless he gets himself registered as a voter.

Though the preparation of correct electoral rolls is the responsibility of the Election Commission, sometimes the State officials who prepare these electoral rolls on behalf of the E.C. adopt partisan attitude because of the pressure of the State Government; and in the process they exclude the name of eligible voters and include those of ineligible voters. The electoral roll is generally seen being prepared by part-time workers, teachers, etc. There were complaints of inclusion of bogus voters in Haryana and West Bengal with the connivance of the State official machinery, when a team of seven members of the Commission was sent to the spot to conduct inquiry in some of the Constituencies of the Hissar District in 1981. It detected about 10,000 bogus voters in the electoral lists.¹⁷

Because of the partisan attitude of the State official machinery, the E.C. sometimes finds it very difficult to prepare the electoral rolls, correctly. However, according to Article 329, the preparation of electoral rolls is mainly

¹⁶ *Ibid.*, p. 47.

¹⁷ *The Tribune*, October 31, 1981.

the responsibility of the E. C. and the Courts cannot interfere with them unless they violate certain provisions of the Constitution. To avoid this, E.C. makes wide publicity of the programme for revision of the rolls through News papers.¹⁸

For every constituency there is one electoral roll and it is prepared under the superintendence, direction and control of the E.C. No person shall be registered in more than one constituency but this limitation does not apply to the constituencies of the Legislative Councils. However, a person already registered in this list as a voter, may become disqualified for registration and in that case his name shall forthwith be struck off from the electoral roll of that constituency.

The form and language of the electoral rolls are prepared in accordance with the instructions given by the Election Commission. Every eligible voter is required to fill in the printed form available at the office of the Chief Electoral Officer, in order to become an elector.

There are three kinds of electoral Rolls, namely – (a) Electoral Rolls for Parliamentary Constituencies; (b) Electoral Rolls for Assembly and Electoral College Constituency; and (c) Electoral Rolls for Council Constituencies.¹⁹

According to Part – III and section 13(1) of the R.P. Act, 1950, the electoral rolls for every Parliamentary Constituency, other than a Parliamentary Constituency in the State of J & K or in a Union Territory, shall consist of the electoral rolls for all the Assembly Constituencies comprised

¹⁸ N.S. Gehlot, *Elections and Electoral Administration in India*, New Delhi, Deep & Deep Publications, 1992, p. 46-47.

¹⁹ P. M. Bakshi, *Elections: Law and Procedure*, Delhi, Bahari Brothers, 1985, p. 49.

with the Parliamentary Constituency. In the same way, for every constituency there shall be an electoral college to be prepared in accordance with the provision of the R.P. Act, 1950 under the supervision of the Election Commission. And for the purpose of election to the Legislative Council of a state in any local authorities constituency, graduates' constituency and the teachers constituency, section 27 of the R.P. Act lays down the procedure of preparing the electoral roll under the control and supervision of the Election Commission.

The electoral rolls of all constituencies in the country are normally revised before a general election and a bye-election with reference to a qualifying date, which is the first day of January of the year in which the rolls are revised. The rolls can also be revised in any particular year if so directed by the Election Commission. There are two methods of revising the rolls: (a) intensive revision (b) summary revision.

Intensive revision is carried out through house to house visits by enumerators who record in electoral cards the names of all citizens who have attained the age of 18 years and above on the qualifying date and who have ordinarily been residing in a particular house. A copy of electoral cards, duly signed by the enumerator and the head or a senior member of the family is handed over to the head or any other adult member of the family, for his record. The electoral roll of constituency is then prepared on the basis of entries made in the electoral cards, printed and published in draft for inviting claims and objections (Section 22 to 25 of R.P. Act, 1950 and Rules 12 to 22, 23, 26 and 27 of R.E. Rules, 1960), normally within a period of 30 days or a

shorter period which should not be less than 15 days from the date of draft publication. This period can also be extended in appropriate cases by the Election Commission. Extensive publicity is given to the draft rolls through the radio, newspapers, etc.

Copies of the draft rolls are also kept at easily accessible places like Municipal Panchayat offices for public inspection. According to Rule 22(1) of R.E. Rules 1960. two copies of each part of the rolls is given free of cost to all recognized political parties with a view to securing their cooperation in having correct electoral rolls. After the disposal of claims and objections the electoral registration officers prepare a list of amendments to the rolls known as supplements. There after the rolls are finally published together with the supplements and are made available for public inspection and sale.

According to section 23, R.P.Act,1950 any eligible person whose name is not included in the electoral roll of a constituency may get his name enrolled by making an application to the Electoral Registration Officer of the constituency. No inclusion of any name on the basis of such application is, however, possible for an elector unless such application is made well before the election is called, because that application will necessarily have to be displayed for inviting objection thereof for a minimum period of seven days and no inclusion of any name under the law can be ordered after the last date for making nomination for that election.

(c) Reorganization of Political Parties and Allotment of Symbols

One of the important functions of the E.C. is to recognize political parties as the all-India or State political parties and to allot election symbols to them. Under Section 29 of the R.P. Act 1951 and Rules 5 and 10 of the conduct of Election Rules – the E.C. specify symbols and allot them to candidates in elections.²⁰ If in a general election a particular party gets four percent of votes polled in any four states, it is recognized as an All-India party. If a party gets four percent votes in a state, or a region, it is recognized as a State or Regional Party. Many a time these political parties split either because of personality conflict or because of ideological differences or both. Whenever a political party splits each group claims the reserved electoral symbol, allotted to the parent party by the Election Commission. In such a situation, it is the duty of the E.C. to resolve that dispute. Mr. S.L. Shakhder, the former C.E.C., evolved a formula for this purpose and decided that the reserved election symbol would be allotted to that group which has a numerical majority of M.Ps and M.L.As.

No doubt, the E.C. has power to adjudicate upon disputes with regard to the election symbol when the party splits, but if one of the splinter group merges with some other political party and decides to dissolve the party against the opposition of the other group, as it happened in Meghalaya in 1975 in case of all Parties Hill Leaders Conference, the E.C. can neither derecognise a party nor can it freeze its symbol. The Supreme Court in its

²⁰ P.P. Rao, "National and State Parties", *The Hindu*, October 10, 2000.

judgment of All Party Hill Leaders Conference Shillong V.M. A. Sangma, (AIR 1977, S.C. 2155; (1977)4, SSC, 161), held that in adjudicating the dispute with regard to recognition of political party, the Election Commission shall exercise the judicial power of the state. This power is conferred on it by Article 324. the reserved symbol "flower" of the APHLC was restored by the Supreme Court.²¹

Again it not only allots symbols to political parties but also to individual candidates and while doing so, it can change the symbol of the candidates as well. This judgment was given by the Allahabad High Court in 1978 in Ram Avtar V. Election Commission of India.²²

Recently the E.C. had announced that the C.P.I. (Marxist) has ceased to be a national party, but accepted its status as a state party in Kerala, Tripura and West Bengal. The C.P.I. had been a national party in terms of election symbols (Reservation and Allotment) Order, 1968 and had enjoyed the status since then. However, on December 2, 2000 the E.C. amended the election order modifying the criteria for recognition as National and State Parties, opening the possibility for the C.P.I. to regain its national party status.

The Commission decided that from now on, a political party shall be eligible to be recognized as a national party if it secures at least six percent of valid votes polled in any four or more state at the general elections to Lok Sabha or to the Legislative Assembly and in addition win at least four seats in the House of the People from any state or states. The other criteria was that a

²¹ P.M. Bakshi, *op. cit.*, p. 237.

²² A.I.R. Allahabad 210, (1978), *All Law Journal*, p. 237.

political party wins at least two percent in the House of the People from at least three different states. It clarified that there should be a minimum of 11 MPs among the 543 directly elected representatives there by giving weightage to party presence in Lok Sabha.

For recognition as a state party it would now require to secure six percent of valid votes polled in the state at a general election either to the House of the People or to the Legislative Assembly of the state concerned and also two seats in the Assembly of the state concerned. The other criteria was that the party could win at least three percent of the total number of seats in the Legislative Assembly of the state or at least three seats in the Assembly, whichever is more.

Political parties like C.P.I. and Samata Party welcomed the order stating the criteria is more realistic and it takes into account the changed political situation.²³

(d) Conduct of the Poll

The conduct of the poll is another important function of the E.C. In the actual polling the party in power and various dominant groups and individual try to use all sorts of means of win the election. Hence, the E.C. has to be very vigilant to prevent rigging in elections. For this purpose, it issues a code of conduct to be observed by all the political parties and people at the time of election.

²³ "Election Commission Inches towards consensus on Code", *The Hindu*, Dec. 2, 2000.

- (a) Provides separate booths for the weaker sections of society;
- (b) Appoints election observers to keep a watch on the conduct of officials and other miscreants;
- (c) Prevents impersonation by taking the thumb impression or signature of the voter on the counterfoil of the ballot paper and by putting a mark of indelible ink on the finger. In Sikkam identity cards were issued to the voters in 1980 for preventing bogus voting;
- (d) Allows the candidates or his agent to put his seal on the ballot box;
- (e) Ensures secrecy of voting by shuffling the ballot papers before counting;
- (f) Does not permit the candidates or his agent or any other person except the polling officer to note the serial number of ballot paper issued to the voter.

That apart the E.C. can regulate its own procedure. In the case of Amin Ahmad V. Nandlal Sinha, it was held that the E.C. could authorize one of its officers to authenticate and sign a notification issued in the name of E.C. under Section 30 and 150 of the R.P. Act, 1951.²⁴ By Section 19-A, it is now provided that the functions of the E.C. may be performed by a Dy. Election Commissioner or by the Secretary to the E.C.²⁵

²⁴ M. Krishnan Nair, *op. cit.*, p. 65.

²⁵ R.P. Bhalla, *Elections in India*, Delhi, S. Chand and co., 1972, p. 32.

(e) Cancellation of Poll

The E.C. has not only the power of holding elections but also to cancel it and order repoll, if it is rigged. This was done in Garhwal Lok Sabha bye-election in 1981. While countermanding the poll held on June 14, the C.E.C. Mr. Shakti observed, "the presence of outside forces has naturally vitiated the free and fair conduct of the poll in the Garhwal constituency". Rigging is prevalent in many forms. One form of rigging common to the whole country is bogus voting. In Nagaland, for instance, voting by school children is a regular feature at elections said an election official in 1977. Double enrolment is also more in urban areas-voters register their name in their native village as well as places of work.²⁶ Printing of unauthorized ballot papers and using them on polling day too is rigging. Such a charge was raised during 1983 J & K Assembly poll. Snatching ballot boxes while in transit from booth to counting stations is a common feature of rigging in some northern and eastern states. Often manipulation in counting and declaration of results, with the connivance of officials, led to complaints of rigging to the E.C.²⁷

(f) Holding of Bye-Elections

It is also the responsibility of the E.C. to hold bye-election, whenever there is a mid-term vacancy in the Lok Sabha or Legislative Assembly. In this respect there is an impression that the E.C. has been alleged that it has favoured the party in power at the centre. These allegations, to some extent,

²⁶ *Ibid.*, p. 120.

²⁷ Anjana Kaw Bhagat, *Elections and Electoral Reforms in India*, New Delhi, Vikas Publishing House, 1996, pp. 172-173.

are not without foundation. For example in 1987 in West Bengal, the bye-election was postponed after-fixing the date in spite of the fact that the state govt insisted that the bye-election should be held, where as in Uttar Pradesh the Garhwal Lok Sabha bye-election was postponed on the request of the ruling government that, too, for more than twenty months. The rejection of West Bengal government's demand under the pressure of the congress I, and the acceptance U.P. government's demand for postponing bye-election without any solid basis smarks of partisan attitude on the part of E.C. Therefore, it is suggested that, the R.P. Act should be amended by providing that the bye-election should be held within six months unless there is a failure on the part of the constitutional machinery in the state or there is national emergency under Article 352 of the constitution.

(g) Disqualifying of the Candidates

Under the R.P. Act, 1951, the E.C. has also the power to disqualify candidate, if he does not file election returns within a prescribed period. After every election a fairly large number of candidates fail to file these election returns as a result there of the E.C. has to disqualify them. Recently the Election Commission has disqualified Ms. Jayalalitha, the AIADMK general secretary due to her conviction in the TANSI case for three years from contesting the Assembly polls in Tamil Nadu held by the end of April 2001. Although there have been a great deal of controversy over this disqualification, the Commission after analyzing various High Court judgments on Section 8 of the R.P. Act had categorically stated that "disqualification of

candidature for election under this section would commence from the date of conviction, regarding of whether the sentence is stayed and the person intending to be a candidate is on bail or not”.²⁸

(g) Disqualification of MPs and MLAs

The E.C. also advises the President of India about the disqualification of the MPs and MLAs, which may incur after their election either by accepting a paid government assignment or otherwise. This is done in accordance with the Article 103(1) of the constitution. For example – the E.C. set aside the election of Mr. Har Chand Singh, an MLA of the Punjab Legislative Assembly under Section 123(3) of the Act, 1951 in November, 1984. He was disqualified for 6 years.²⁹

(i) Quasi-judicial Powers

Among the functions assigned by the Constitution as adopted in 1949, to the E.C. was the appointment of electoral tribunals for the decisions on doubts and disputes arising out of or in connection with elections to Parliament or State Legislature.

But this function was deleted from Article 324(1) by the 19th Amendment to the Constitution in 1966. Accordingly, the R.P. Act, 1952, had been amended making it clear that an election may be called in question by presenting a petition to the High Court within whose jurisdiction, the election

²⁸ *The Hindu*, 13 March 2001.

²⁹ *Report of the Election Commission*, 1985, pp. 61-62.

has been held. This has been provided for under section 100 of the R.P. Act, 1951. Under Section 30 of the same Act, the jurisdiction of a civil court is debarred to entertain or adjudicate upon the questions of a person to be registered as elector or legality of any action taken by an Electoral Registration Officer. Moreover, no Civil Court, under Section 170 of the R.P. Act, will hear any question relating to the legality of any action taken by the Returning Officer, who is the “appellate authority” under Section 14 to 24 of the R.P. Act, 1951.³⁰

Notwithstanding the bar created in this section, the power of the Supreme Court or High Court to entertain matters relating to election, by way of writ jurisdiction, is not affected. The power of a High Court under Article 225 of the Constitution are untrammelled by law and even though there is a provision that the elections can be challenged only by way of election petition, the jurisdiction of the High Court which is derived from the Constitution can in no way be affected. Thus, where the point of the fundamental character or if it affects the election as a whole, the High Court can interfere with a suitable case in the exercise of its ordinary jurisdiction conferred by Article 226. but it has been settled in the case of Hari Prasad Mool Shanker Trivedi v.V. B. Raju that no civil Court trying the election petition can go behind the electoral roll to see if the elector is “ordinarily a resident” of the constituency in which his name is entered.*

³⁰ * M. Krishan Nair, *op. cit.*, p. 13.
* A.I.R. 1973 SC 2602.

Powers and Functions of the C.E.C.

- (1) It is his duty to get the electoral rolls for all the elections prepared and revised subject to the provisions of the Constitution and R.P. Act, 1951.
- (2) To exercise his superintendence, direction and control over all matters relating to the elections of the President, Vice-President, the Parliament and State Legislatures. For this, he appoints election officers.
- (3) He advises the President and the State Government regarding the incurrment of disqualifications by any member of the Union or State Legislatures, subsequently to his election. This is done under Section 8-A, 11-A(2), and 15-A of the R.P. Act, 1951.
- (4) Appoints election officers for inquiring into doubts and disputes arising out of or connected with the election arrangements. He may settle a dispute regarding allotment of symbols to the parties at the time of elections.
- (5) Advises the President to appoint Regional Election Commissioners to help him in the performance of his duties. He may also requisition from the President and the Governor, such staff as he may deem necessary for conducting the work of the election.
- (6) He may postpone the dates of election for some reasons or even cancel an election if he is satisfied with the complaints about rigging, booth capturing, violence, etc. This is a quasi-judicial function which cannot be challenged in any court of law.

- (7) Reserves the right to prepare a roster for central broadcasts and telecasts allocating particular days and time to particular parties.
- (8) He may visit the disturbed areas and make appeals through the media to pacify the clamouring people for the rectification of electoral records or procedures.
- (9) He may exempt a person from the disqualification imposed by a judicial decision. The disqualifications are set out in Article 102 and 191 of the Constitution and section 8, 8-A, 9, 9-A, 10 and 10-A of the R.P. Act, 1951.
- (10) He may waive the conditions of holding an election until the electoral rolls are revised. In exceptional situation he may order repoll.
- (11) If the Union government desires to extend the duration of emergency in a state under Article 356 of the Constitution beyond six months or one year, it can be done with the approval of Parliament, but such a proposal of the government must be supported by the C.E.C.
- (12) After the election is over, he issues a notification that the House is duly constituted.³¹
- (13) Under Section 19A of the R.P. Act, 1951 he may delegate his powers to the Dy. E.C. or to the Secretary of the E.C.

Reforming the Election Commission

The E.C. has called for every effort to eliminate scope for criticism against the electoral machinery. It has urged the government to implement the

³¹ Ram Krishna Hegde, *op. cit.*, p. 46.

already accepted proposal that the appointment of the Chief Election Commissioner be subject to law made by the Parliament. It has also suggested a series of reforms to reduce the scope of controversies over the timing of elections and malpractices such as manipulation to voter's list, rigging or booth capturing and misuse of official machinery. One of the suggestions made by the Commission that it must be given the same status as Parliament the Supreme Court, the Comptroller and Auditor General and the Union Public Service Commission.

Therefore, it would be pertinent that taking into account the suggestions made by the Tarkunde Committee, the members of the E.C. should be appointed by the President, on the advice of a Commission consisting of the Prime Minister, the Leader of the Opposition in the Lok Sabha and the Chief Justice. (b) The E.C. should be a multi-member body as the elections for such a vast country like India is a stupendous task. (c) The status of the E.C. should be similar to the status of High Court and the Supreme Court. (d) The Commission must be armed with Mandatory Powers to hold bye-elections whenever a vacancy arises with in a specific time limit.

During the last five decades of its working the E.C. of India has acquired for itself a prestigious position in the constitutional set up of the country. Any body having a grievance against a political party, candidate, minister or official can approach the Commission for its redressal. A feeling has grown in the country that the Election Commission is the only suitable agency for the removal of their electoral grievances and can render the requisite help and guidance in all matters pertaining to elections. The

Commission has been able to generate a sense of faith that the people repose in its integrity. In fact, the Election Commission of India is one of the institutions that has earned the country credit at home and abroad.

In the ultimate analysis it is inferred that, to make the Election Commission to function independently is not enough. The political parties too will have to play their role in a fair manner so that rigging, booth capturing and other malpractices do not take place without the connivance of the candidates.

CHAPTER –III

Chapter - III

Conduct of the Elections

The conduct of elections is a stupendous task that the Election Commission has to undertake throughout the whole of India. In a modern democratic set up with its universal franchise, some preliminary processes for conducting the elections are to be observed. Therefore, the Constitution of India as well as the laws of the election prescribe elaborate procedures, such as (a) Notification of dates for election; (b) process of nominations; (c) Candidature (Qualifications and disqualifications); (d) polling and counting of votes, etc.

(A) Process of Notification for Election

The Presidential notification, under Section 15 of the R.P. Act, 1951, calling up the Parliamentary Constituencies to elect members for constituting a new Lok Sabha is issued either on the expiry of the term of life of the existing House or on its dissolution.¹

Under Section 17 of the Act, State Government for constituting the new Vidhan Sabha shall also issue the similar notification. The E.C. there upon, under Section 30 (a to d) of the Act publishes the schedule for holding Parliamentary and Assembly elections, fixing the last date for filling nominations, dates for scrutiny of nomination and the date (s) for the poll. It is published in the Gazette of India.

¹ *Manual of Election Law*, New Delhi, Law Ministry Publications, 1982, p. 168.

Under Section 12 of the above Act, it is provided that the notification for biennial elections to the Council of States can be issued more than three months before the date on which the term of the office of the retiring members is due to expire. Under Section 14, the President can not issue notification for General Elections more than six months before the date on which the term of the existing House of the People or a State Legislative Assembly would expire under the provisions of Article 83(2) or of Article 172(1) of the Constitution. All the provisions in Sections 12, 14, 15, 15A, 53(3), 147, 149, 150 and 151 deal with the process of such notifications. In case of bye-elections Section 147-151 of the Part IX of the Act, 1951, provides for the issue of notification specifying a date before which election should be held.

Soon after the notification, under Section 30 and 39 of the R.P. Act, 1951 the notification of fixing the dates follows. It settles the last date for making nomination, the date for scrutiny of nominations, the last date for withdrawal of candidature and the date on which polling shall take place. So far as the biennial elections to the Council of States are concerned, the notification, will be issued on such date as the E.C. may recommend. It is provided that such notification, will be issued not more than three months prior to the date on which the term of office of the retiring members would expire. There is no specific provisions for the date on which a notification for election, for a casual vacancy or for election when the number of nominated candidates is less than that of the seats, should be issued.

But in Section 30 of the R.P. Act, 1951, some specific restrictions on the fixation of dates have been imposed. For example – for the last date for making nominations, it shall be the seven days after the date of publications of the notification call for an election. A public holiday shall not be counted in this period.² As regards the last date for the scrutiny of nomination, shall be the day immediately following the date for making nominations. For the last date of the withdrawal of candidature it shall be the second day after the date for the scrutiny of nominations. It is further necessary that the days for polling shall be fixed, the gap of 12 days for the last date for the withdrawal of the candidature. Similar restrictions were their in regard to biennial election to the states as mentioned in Section 39 of the R.P. Act. For a general election to the Legislative Assembly of a state under Article 172(1) of the Constitution and under Section 16 of the Act, 1951, notification fixing dates for the elections or for a bye-election, will be the same. In stead of publishing in the “Gazette of India”, the notification containing the dates is published in the “State Gazette”.

On the issue of the notification fixing the poll dates, the Returning Officer of each constituency shall issue public notices of the intended elections. As per Rule (3) of the conduct of Election Rules, 1961, such a public notice should be published in English and in the Regional languages of the State, in which the Electoral Rolls have been printed.

² M.Krishnan Nair, The Law of Elections in India, Trivendrum, The Academy of Legal Publications, 1986, p. 744.

It may happen that the election at some polling stations may not be completed, as per the fixed date notified by the Election Commission, following adjournment of poll on some specific unavoidable reasons (such as violence, booth capturing and corrupt practices). The E.C. under Section 153 of the R.P. Act, 1951 shall be competent, for reasons which he considers sufficient, to extend the time for the completion of the election. It can be done by making necessary amendment in the notification issued by it under Section 30 to 39 of the Act. But it is not necessary to mention all the dates afresh in the amended notification.³

(B) Filling of Nomination Papers

Under Section 32, any person may fill in the Nomination-Papers as a "candidate" for the election if he is qualified to be chosen to fill that vacant seat under the Constitution or under the provisions of the government or Union Territories Act, 1963, as the case may be.

The prescribed form, the nomination papers, indicating the candidate's name, age, Postal Address and Serial Number in the Electoral Roll, duly proposed by registered Voter (elector) of the constituency and assented to by the candidate, must be delivered to the Returning Officer either by the candidate in person or by his proposer between 11 A.M. and 3 P.M. on or before the last date fixed for the purpose. The proposer must be a voter in that constituency and the nomination paper must contain his name, and electoral number. In case of a reserved seat, there should also be a

³ *Ibid.*, p.80.

declaration specifying the particular caste or tribe or the area to which the candidate belongs.

The nomination papers (Forms 2A to 2E) must be accompanied by a treasury receipt or a receipt issued by the Reserve Bank of India as evidence of the security deposit as well as declaration by the candidate about the choice of symbol and the appointment of an election agent. Under Section 70 with rule 120, R.P. Act, 1951, a person (voter) can contest a number of seats, whether Parliamentary or Assembly or both simultaneously. He, however, must relinquish all except one seat within ten days from the date of publication of results in the official Gazette declaring him elected.

Preliminary Scrutiny of Nomination Papers

On the receipt of the nomination papers, the Returning Officer (R.O.) judicially examines all these papers and decides the objections raised, regarding the entries made therein, electoral number of the candidate and his proposer and seconder as laid down under Section 36(2) of the R.P. Act 1951. At this stage, the candidate is entitled to rectify any, clerical or technical error in the nomination papers. Under Section 30(1) of the Act, when the date is fixed by the R.O., the candidate, his election agent, his proposer and seconder are permitted to attend the proceeding. Any candidate may raise objection to the validity of nomination papers of his rival candidate. The rival candidate whose nomination is challenged is also entitled to rebut the same till the following date. The R.O. is empowered under Section 36(2) of the Act, 1951, to reject a nomination paper on the ground that: (a) the candidate is

either not qualified to fill the seat under the constitutional provisions of Article 84, 102, 173 and 191; (b) or the provisions of Section 33 and 34 of the R.P. Act, 1957, have not been complied with (i.e., about the manner time, deposit, etc); and (c) the signature of the candidate or the proposer on the nomination paper is not genuine. But the R.O. cannot reject the nomination for any technical defect of a substantial nature. This was held by the Supreme Court in the B.L. Gupta V. Jawala Prasad case in 1960.⁴

If the cases of rejection are not proper, they are subjected to challenge in any civil court. It is, therefore, necessary that the R.O. after scrutiny has to record briefly his reason for rejecting the nomination papers.⁵

A nomination paper cannot be rejected by the R.O. on the ground of difference in age mentioned in the nomination papers. This was the judgment of the Supreme Court delivered in 1984. Thus, improper rejection is permissible under Section 36 of the Act, 1951, and the same is a ground for setting aside the election under Section 100 of the Act. The person seeking nomination is required to subscribe an oath or affirmation made before the R.O. according to the form set out the purpose in Schedule III to the Constitution under Article 84 and 173. If the person is under the Prevention Detention Law in a Prison, it can made before the Superintendent of the prison or before any person authorized by the E.C.

After doing the function of accepting or rejecting the Nomination Paper, the R.O. has to prepare a list of validly nominated candidates in form 4 of the

⁴ R.P. Bhalla, *Elections in India*, Delhi, S. Chand and Co., 1972, p. 178.

⁵ P.M. Bakshi, *Elections: Law and Procedure*, Delhi, Bahari Brother, 1985, p. 59.

Conduct of Election Rules, 1961 and Section 36(8) of the Act, 1951. Under Section 38, the R.O. Should publish the list of all the contesting all the candidates, allotting a different symbol to each candidate, as far as practicable, with his choice expressed in the nomination papers. The Decision of the R.O. is final, but subject to the special directions issued by the E.C. of India.

Withdrawal of Candidatures

The provision for the withdrawal of candidatures is mentioned in Section 37 of the R.P. Act, 1951. The withdrawal can be made by a notice in writing in form-5 of the scheduled-1 in regard to the conduct of Election Rules, 1961. The notice for the withdrawal is delivered to the R.O. on the day fixed for the purpose. On receipt of it, the R.O. shall note the date and hour of receipt upon it. The words "to withdraw" of Section 123(1) (a) of the Act, 1951 under Section 37 do not apply to a situation where a contesting candidate announces that he does not wish to contest the election or he declares his intention to withdraw in favour of another contesting candidate. This view was expressed by the Supreme Court in Sri. Umad V. Raj Singh's case in 1975.*

There upon, the R.O. prepares and publishes a list of the contesting candidates mentioning the choice regarding their symbols. On certain grounds, the E.C. may direct the R.O. to revise his decision about the allotment of a symbol, which has become controversial, being contended for by other candidates. The decision of the R.O. shall be final. A copy of the list

* A.I.R. 1974 SC 1218.

of the contesting candidates is further supplied to each of the contesting candidates or to their agents.

Effect of death of a Candidate

After scrutiny of the nomination papers, if a candidate, whose case has been found valid and whose name is in the list of contesting candidates, dies and a report of death is received before the commencement of the poll, the R.O. shall, under Section 52 of the R.P. Act, 1951, countermand the poll and report the fact to the E.C. In such cases, all proceedings with reference to the election shall be commenced anew in all respects as if a new election.

Date of Poll: Election Commission's Decision

The decision of the E.C. to fix the date for an election or a poll in a constituency or in the state is final under Section 30(d) of the R.P. Act, and it cannot be challenged by the state government on the ground that the law and order situation there render the holding of an election undesirable. The Election Commission is expected to consider the views of the State Government before taking a final decision.

(C) Eligibility of the Candidates

The qualifications and disqualifications for the membership of a Legislature are well defined in Constitution and the electoral law. The Constitution of India under Article 84(1) (b) and (c) and Article 173(a) and (c)

and (c), lays down that, apart from any other qualification stipulated in this Constitution by the appropriate legislature, a person to be eligible for membership of the Lok Sabha or a State Legislature must be a citizen of India and not less than 25 years of age. As per the electoral law under Section 4(d) and 5(c) of the R.P. Act, 1951, the candidate must be an elector for a Parliamentary Constituency in India and in the case of Lok Sabha elections and for the Assembly Constituency in the State in the case of election to the Vidhan Sabha. Moreover, a candidate for a reserved seat must belong to a Scheduled Caste or a Scheduled Tribe. The Parliament has refrained from stipulating any other qualifications for candidates in the hope that political parties sponsoring candidates would nominate only the persons of established integrity, honesty and wisdom.⁶

According to Section 34(1) of the Act, 1951, a candidate is, however, required to deposit a security of Rs. 5,00 and Rs. 250 in the government treasury for contesting in Parliamentary and Assembly constituency, respectively. Only half of this amount has to be deposited in the case of candidates for reserved seats. This security is forfeited to the appropriate government, as section 158(4) lays down, except when the candidate is elected or secures at least 1/6 of the total valid votes cast in which case it is fully refunded to the candidates. The E.C. has proposed to increase the amount of 'Security Deposit' by ten times (Rs. 5,000) in the case of election from a Parliamentary Constituency and Rs. 2,500 in case of Assembly or

⁶ R.P. Bhalla, *op cit.*, p. 175.

Council Constituency, in order to frustrate the non-serious candidate from filling the forms.

Normally, the qualifications required for a person to be chosen to fill a seat in Parliament or Assembly are as follows:-

(a) He must be a citizen of India (b) must make or subscribe an oath of affirmation (given in third schedule of the Constitution) before any person authorized in that behalf by the E.C. (c) for membership of the Council of States and a Legislative Council, the minimum age prescribed in the Constitution is 30 and for the House of People and Legislative assembly, it is 25 years (d) must be an elector of the constituency concerned. For the "Union Territories" under the 1st Schedule to the Government of Union Territories Act, 1963, the prescribed age is 25 years.

In case the candidate has not attained the prescribed age on the date of scrutiny of his nomination papers, his election shall be set aside even though he might have attained the age before the date of election. It was held by the Supreme Court in its verdict given in 1968, in the case of Pasupathi V. Harihar, A.I.R. 1968 SC 1364.

Disqualification of a Candidate

For the election to the Lok Sabha, a candidate must not hold any 'office of profit' under the government of India or the government of any State, other than an office declared by law not to disqualify its holder. It is stipulated in Article 102(1) (a) of the Constitution of India. He must not also be of unsound mind, an undischarged insolvent or an alien. These are mentioned in Article

191 and 102 of the Constitution. And lastly, he must not be disqualified by or under any law made by the Parliament. The disqualifications for membership of the Vidhan Sabha are the same as stated above, but the State Legislatures have been empowered to declare the holders of certain offices of profit as qualified for membership of the Assembly. The additional ground of disqualifications are laid down in Section 7 to 10A, of the R.P. Act, 1951 which are in consonance with Article 102 and 191 of the Constitution.

In view of the fraudulent filling of nomination papers from the Kakatpur Assembly Constituency in Orissa, the Election Commission has recommended some amendments to Section 33 and 36 of the Act and Forms 2A and 2B appended to the conduct of Election Rule, 1961, to prevent recurrence of such cases, i.e. it should be obligatory in the part of the candidate to furnish his photograph or his proposer in case he is presenting the nomination form in the absence of the candidate.⁷ By virtue of the power conferred by the Parliament under Articles 102 and 191 of the Constitution, Section 8(2) holds a person disqualified who has been convicted by a Court in India for any offence and sentenced to imprisonment for not less than two years, and shall remain disqualified for a further period of five years since his release. The E.C. can remove this disqualification or reduce its period also. For one who is already a member, the above disqualification will operate only on the expiry of three months from the date of conviction. If an appeal or revision is filed within such period, the disqualification will take effect only on

⁷ K.S. Hegde, *Electoral Reforms: Lack of Political Will*, Bangalore, Karnataka Janata Party Office, 1987, p. 126.

its disposal. But it should be noted that the Preventive Detention Clause is not a disqualification for a candidate under either the Constitution or the above electoral law. It was settled in the judgment of the Supreme Court in 1981.*

Apart from that, the candidate must not have been convicted of any offence under Section 171(c) or 171(f) of the Indian Penal Code or Section 125 or 135 or 136(2)(a) of the R.P. Act, 1951. Such candidates are disqualified from the membership of the Parliament or the State Assembly for a period of six years. A candidate who has been dismissed from government service for corruption or disloyalty to the State, is liable to be disqualified under Section 7(b) of the R.P. Act, 1951. Moreover, a person may be disqualified for election on account of "Corrupt Practices" committed either at the previous election or at the recent election, for a period of six years from the date on which that order takes effect. It may be noted that under Section 11 of the Act of 1951, the E.C. can either remove (except Section 8A of the Act) in which the person found to be guilty of any corrupt practice by an order of the High Court under Section 99 of the Act) any disqualification or reduce its period.

The E.C. is of the opinion that the term 'Criminal Record' must be re-defined in consultation with the political parties, i.e. persons of proven criminal records and whose detention under NSA, ESMS, COFEPOSA, FERA and Goonda Act has been approved by the Judicial Advisory Boards, must be held disqualified from contesting any election. Even the person resorting to violence during election campaign including disturbing election meetings and

* V.C. Shukla Vs. P.L. Kaushick A.I.R. 1981 SC 547.

booth-capturing should be tried under the law and if convicted, should be disqualified.⁸

Anti-Defection Law under the 52nd Amendment Act, 1985

In order to check the evils of growing tendency towards floor crossing (political defections), the Rajiv Gandhi government enacted the Anti-Defection Law in 1985. According to it, the seat of a member of Parliament or State Legislature shall fall vacant, if (a) an elected member on a party ticket resigns voluntarily his membership of that party or votes against the party by violating the party whips or abstains from voting without obtaining the prior permission of such a party unless such action is conducted by the party concerned within 15 days, (b) an independent member after his election joins any political party, and (c) a nominated member joins any political party after the expiry of six months from the date he took oath as a member of the House. The decision as to disqualification shall be taken by the speaker or the Chairman as the case may be and it shall be final. This law on political defection has made an impact on our electoral disqualification.⁹

Although, the existing anti-defection law is satisfactory, it seems that its application is faulty. Similar view had also been expressed by former C.E.C. Mr. Manohar Singh Gill. In July 1998, while setting an agenda of electoral reforms, Mr. Gill said that if the decision relating to anti-defection matters instead of the speaker are rendered by the President or the State Governor, on

⁸ K.S. Hegde, *op. cit.*, p. 126.

⁹ N.S. Gehlot, *Trends in Indian Politics*, New Delhi, Deep & Deep Publications, 1988, pp. 176-78.

the opinion of the Commission, it would receive more respect and accountability from the common people. This is a good suggestion so steps should be taken to implement it.

Election Agents, Polling and Counting Agents and their Functions

The contesting candidates may appoint in the prescribed form any person as an 'Election Agent'. Such appointment is made under Section 40-41 of the R.P. Act, 1951, on the basis of the election notice and is given to the R.O. No person shall be appointed as an election agent, who is disqualified for being the member of Parliament or the State Legislatures. Choice of an election agent must be made carefully and he should have experience in the conduct of election. Section 139 to 145 of the Act deal with some qualifications of election agents.¹⁰

Under Sections 36,37,45,47,50,60,64, and 77(1) of the Act, 1951 an election agent has to perform many functions like – to attend at the time of scrutiny of nominations and examine objections, if any, to deliver withdrawal of the candidature of the candidate, if authorized in this behalf by him in writing, to appoint counting agents, to attend at polling station and, if necessary, to perform the functions of a polling agent at the time of counting and also to keep a separate and correct account of expenditure in connection with the election, incurred or authorized by him or by the candidate.

¹⁰ P.M. Bakshi, *op. cit.*, p. 71.

Campaigning

Candidates for election, other than independents are usually chosen by the central executive or Election Committee of the political parties on the recommendation of their state units. Their names are announced in the press and the party takes care to see that wide publicity is given to its candidates in their respective constituencies. Then on, the election campaign, starts. A candidate must make himself known to his voters. It is desirable that he should visit as many voters as possible and particularly those areas where he is sure of support.

The law provides for an interval of not less than 19 days between the last date fixed for the withdrawal of candidature and the date of poll. This period is utilized by candidates for canvassing and educating the electors. Wooing the voters is a serious business. It should be so organized that campaign starting with the announcement of the candidature gathers momentum at its peak as the polling day approaches.

The Constitution guarantees to all citizens the fundamental rights of freedom of association and freedom of expression and speech. In a democracy these rights, at no time, more valuable than at election time. The candidates and their supporters canvass householders, address people in the streets, hold public meetings and bring out leaflets, pamphlets, etc. for explaining the policies and programmes of their political parties. However, all these material must bear in the front the name and address of the printer and publisher; the printer of such document is required to obtain from the intending publisher a declaration regarding his identity signed by him and

attested by two persons. A copy of the declaration and one copy of the printed document is required under the law to be sent to the C.E.O./Dist. Magistrate within 10 days of its printing, according to the instruction of the E.C.¹¹

Since 1977 the recognized National and State parties have been allotted free time by the E.C. on radio and T.V. The order of broadcasts for national parties has been determined by draw of lots by the representatives of the C.E.C. in the presence of the representatives of the National Parties. Lots for the State level broadcasts by State parties are also drawn in the same manner by the representatives of the State C.E.C. In the broadcasts, the party leaders are required to follow an accepted code. The code prohibits any attack on religion or communities, incitement for violence, criticism of friendly countries, aspersions on the integrity of the President and judiciary anything affecting the integrity of the nation and any thing obscene or defamatory.

Part VII of the R.P. Act, 1951 and Section 123 of the Act elaborate statutory provisions to ensure that an election campaign is not vitiated by corrupt practices or other electoral offences. These corrupt practices are (i) bribery (ii) undue influence (iii) promotion of enmity or hatred between different classes of citizen on grounds of religion, caste, community or language or appeal to voters on the above grounds (iv) publication of false statements in relation to the personal character of a candidate (v) conveyance of voters to and from polling booth (vi) obtaining assistance from specified categories of government servants for promoting the prospects of election.

¹¹ Anjana Kaw Bhagat, *Elections and Electoral Reforms in India*, New Delhi, Vikas Publishing House, 1996, p. 48.

The indulgence in any of these corrupt practices by the candidates or his election agents if proved, through an election petition, which may be filed by a candidate or any elector in the constituency within 45 days of the election of the candidate before the High Court, will render his election void and disqualify him from membership of Parliament or State Legislature and from voting for such period as the President of India may decide after obtaining the opinion of the Commission.

Under the Indian Penal Code, bribery, undue influence, impersonation, false statements in relation to the personal character or conduct of a candidate illegal payments in connection with election, failure to keep election accounts, promoting enmity between different groups on grounds of religion, race, place of birth, language, etc. Are penal offences. Besides this, the E.C., in consultation with recognized national and state parties, has evolved a 23 – point model code of conduct, for the guidance of political parties and candidates for a healthy and peaceful election campaign since the 1980 Parliamentary elections. In the code of conduct, among others, political parties in power in the centre and in the states are required not to issue advertisements at the cost of public exchequer^{or} use government vehicle and other official measures in the elections.

For due observance of the code of conduct by candidates and parties, a Standing Committee is constituted in each district under the Chairmanship of the Deputy Commissioner/Dist. Magistrate. This Committee consists of senior police officers of the district and representatives of all National and State registered parties of the district. Since 1980, the E.C. has started

appointing Senior government officials as observer in each constituency to be present in the constituency on the day(s) of poll and counting and report their findings to the Commission.¹²

The Poll

To ensure the sanctity of the elections, the Constitution of India has made elaborate statutory provisions for free and fair exercise of the right to vote of the Indian citizens. According to Section 56 of the R.P. Act, 1951, the E.C. shall notify the hours during which the poll will take place, but the total period allotted on any date for polling of a Parliamentary or Assembly Constituency should not be less than eight hours. Neither the Government nor the Commission is entitled to extend this period.¹³

A polling station usually caters to the need of 750 to 1000 electors. A list of contesting candidates is pasted outside each polling station. The ballot box of a specified colour and design approved by the E.C., and bearing labels both inside as well as outside, containing serial number of the constituency and the polling station and date of the poll, is used at each polling station. Prior to the commencement of the poll, the Presiding Officer demonstrates the empty ballot box to the polling agents of each candidate present to show that it bears correct labels and contains no ballot papers.

The presiding officer affixes, his own signature and obtains the signatures of the polling agents whosoever are present in the polling station at

¹² Anjana Kaw Bhagat, *op. cit.*, p-50.

¹³ N.S. Gehlot, *op. cit.*, p-108.

the time of commencement of the polling on the paper seal and inserts it at the appropriate place. The ballot box cannot be opened without breaking the seal. The District Election Officer appoints the Presiding Officer and other administrative staff necessary for the conduct of poll at each polling station. One of the polling officers tallies the name and other particulars of each elector with the relevant entry in the electoral roll and calls out the name and serial number of the elector. At this stage, any candidate or his election agent or polling agent is entitled to challenge the identity of a person after depositing a sum of Rs. 2 in cash with the Presiding Officer for every such challenge. The deposit is refunded in case the challenge is established or is considered to have been *bona fide* otherwise it is forfeited.*

Another polling officer issues a ballot paper to an elector after:-

- (a) marking his/her left forefinger with indelible ink;
- (b) recording the elector's serial number and part number of the electoral roll in the counterfoil; and
- (c) taking his/her signature or thumb impression on the counterfoil of the ballot paper.

The system of obtaining signature or thumb impression of an elector which was dispensed with the 1975 Parliamentary election was reintroduced with a view to prevent impersonation and bogus voting. The entry relating to the elector is also underlined in the copy of electoral roll used in the polling station to denote that goes into the voting compartment marks his choice on the ballot paper with an arrow cross mark rubber stamp provided for the

* Rule 36 of the Conduct of Election Rules, 1961.

purpose against the name or symbol of the candidate of his choice, comes out of the voting compartment with the folded ballot paper and inserts it in the ballot box which is kept in front of the presiding/polling officer. No person is permitted to vote in more than one constituency or twice in the same constituency. The Rules and Regulations governing the manner of voting of elections make it clear that the voters shall have to cast their votes in such a manner as prescribed therein i.e. under Section 59 of the R. Act 1951, the 'secrecy of ballot' shall be maintained and no vote shall be received by proxy. Under Rule 17 of the conduct of Election Rules, 1961, the voters holding the "declared offices" (they are referred to as special voters) can cast their votes in the usual manner by going to the polling station. The special voters are the President, Vice-President, State Governors, Ministers of the Union and the State Cabinets, the Speakers, and so on.

According to Section 20(3) of the R.P. Act, 1950 Section 60 of the R.P. Act, 1951 and Rules 17 and 18 of the conduct of the Election Rules, 1961, the 'special voters' as mentioned above and the 'Service Voters' are entitled to vote by post at any election of a Parliamentary or Assembly constituency. Following persons are in the category of Service voters:-

- (a) Members of the armed forces of the Union;
- (b) Members of an armed police forces of a state, serving outside of that state;
- (c) Members of a force to which the provisions of the State Army Act, 1950 have been made applicable;

^{*} Section 62, R.P. Act, 1951.

(d) Persons employed under the government of India or posted outside India;

(e) The wife of any such person, if she is residing with him.

All such special voters, who wish to vote by post at an election are required to send an intimation in the prescribed form to the R.O. at least ten days before the date of poll. On receipt of it, the R.O. shall issue a postal ballot paper to each of them. They are required to return their ballot papers with the declaration to the R.O. on the date fixed for poll.¹⁴

As mentioned above, the balloting is secret, and every officer on election duty is obliged to maintain secrecy. If an elector in whose place, some one has already voted, turns up at the polling station and the presiding officer is satisfied about the identity of the person, he is issued a ballot paper endorsed with the words at the back "Tendered ballot paper". These ballot papers are not inserted into the ballot box but are kept separately in sealed envelopes and are opened and scrutinized if necessary, by the High Court in connection with an election petition.*

According to Rules 37, C.E. Rule 1961, the Marking of the left forefinger of a voter with indelible ink is a special feature of elections in India. It is used to eliminate the possibility of impersonation at elections. The Commission has also introduced the scheme of photo-Identity Card to each elector as an experimental measure in the state of Sikkim and some other

¹⁴ N.S. Gehlot, *op. cit.*, p-110.

* Rule 42, Conduct of Election Rules, 1961.

places and has now decided to extend it to other places also as a solution to impersonation.

To ensure peaceful and orderly conduct of the poll, the holding and attending of public meetings during the period of forty-eight hours ending with the hours fixed for the conclusion of the poll is prohibited. Canvassing on the date of the poll in any shape or form is also banned within a distance of one hundred metre of the polling station.

Despite, all precautions, under Section 57 of the R.P. Act, 1951; if there is a riot or open violence at a polling station or a natural calamity like storm or snowfall or some other cause, the presiding officer is authorized to adjourn the poll. The adjourned poll is held on a date, time and place to be fixed by the Returning Officer with the prior approval of the E.C. The counting of votes in that constituency is deferred till the completion of the adjourned poll.

According to section 58 and 64-A in case a ballot box used at a polling station is unlawfully taken away by a person or accidentally or intentionally lost or damaged or tampered with, if the Returning Officer is satisfied that the result of the poll at that polling station cannot be ascertained for that reason, or if there is a procedural error or irregularity which may vitiate the poll at the polling station, the Returning Officer reports the matter to the E.C. and the Chief Election Officer of the state. The E.C., if it deems necessary, declares the poll at that polling station to be void and fixes the date and hours for fresh poll which is notified by the Returning Officer to the contesting candidates and also gives wide publicity in the polling area.

After the completion of the poll, the presiding officer closes the slit of the ballot box, seals it and delivers the sealed pockets containing various election papers, the marked counterfoils of the used ballot papers, marked copy of the electoral rolls, etc. to the Returning Officer. They are kept in safe custody and cannot be opened without the direction of a competent court.

The Count and Declaration of Results

Part V of the Council of Election Rules, 1961, deals with the counting of votes in the Parliamentary and the Assembly constituencies. Part VII of the Act, deals with the counting of votes by the Assembly member or in Council Constituencies. The votes polled at each constituency are counted under the supervision of the Returning Officer by counting supervisors and assistants appointed by him. The votes may be counted either at one place for all the Assembly segments of a Parliamentary Constituency or at different places for the various Assembly segments under the supervision of the Assistant Returning Officer. The final result is collected by the Returning Officer at his headquarter. Rule 51 of conduct of Election Rules, 1961, subject to any direction of the E.C., the Returning Officer fixes the date, time and place of counting of votes and intimates the same to each candidate or his election agent. Each candidate is entitled to appoint as many counting agents for observing the counting of votes and to bring to the notice of the counting assistants errors therein, if any.

Besides the candidates and the counting agents, none else except the counting supervisors and assistants, public servants on duty in connection

with the election and persons authorized by the E.C. are allowed entry in the counting hall.

The scrutiny and counting of the ballot papers received by post is taken up by the R.O. first at the commencement of the counting.

A postal ballot paper is rejected:-

- (i) if no vote is recorded thereon;
- (ii) if vote is given in favour of more candidates than one;
- (iii) if it is damaged;
- (iv) if it is not returned in the cover sent along with it to the elector;
- (v) if it is spurious ballot paper;
- (vi) if it bears any mark of writing by which the elector can be identified;
- (vii) if the mark indicating the vote is placed in such a way that it makes it doubtful to which candidate the vote has been given.*

As regards the counting of votes polled at polling stations, first the Returning Officer satisfies himself that the ballot boxes received from the various polling stations are in tact and permits the counting agents or the candidates to satisfy themselves on this.

Prior to general elections to Lok Sabha in 1971, the votes were counted polling station wise. A new counting procedure was, however, introduced for the Lok Sabha elections of that year under which counting was done in two stages. First, all ballot papers of an Assembly segment were counted for numbers only, made up into bundles of 25 or 50 each and mixed. In the second stage, the bundles of ballot papers were distributed to different

* Rule 56(2) of the Rules, 1961.

tables where these were opened, scrutinized and counted candidate-wise. As the procedure of counting of votes was complicated, dilatory and laborious, it has been discarded in favour of polling station wise counting from 1980 onwards.

Under the procedure of counting, ballot papers are scrutinized for their validity by the counting supervisors and counting assistants polling station wise. Each table is supplied with a counting tray containing as many compartments as the number of candidates and a tray for doubtful ballot papers. The doubtful ballot papers are scrutinized by the Returning Officer at his table in the presence of the candidates or their election agents. The Returning Officer alone is the authority to decide whether a ballot paper is valid or invalid.¹⁵

The ballot paper is likely to be rejected if:-

- (a) if bears a mark of writing by which the identity of the voters can be identified;
- (b) the ballot paper does not contain the official mark;
- (c) it bears a mark different from the one authorized for use at the polling station;
- (d) the Returning Officer is satisfied that it is fake ballot paper;
- (e) the vote is given in favour of more than one candidate; or
- (f) it cannot be correctly ascertained in whose favour the vote has been given .

¹⁵ Anjana Kaw Bhagat, *op. cit.*, p,56.
Rule 56, C.E. Rules, 1961.

Decision of the Returning Officer as to the validity of the ballot paper is final. After the completion of the counting, the total number of votes polled by each candidate is recorded in a result sheet and the candidates securing the largest number of valid votes is declared elected. Before the declaration of result any candidate or his agent or any of the counting agents may apply for a recount of the votes either wholly or partially. This application containing the grounds shall be given to the R.O. If the application appears to be frivolous or unreasonable, it is likely to be rejected. It was held in both the cases (Smt. Sumitra Devi V. Sheo Shankar Prasad Yadav and Beliram Bhalaiik V. J.B. Khachi¹) that a recount would not be granted as a matter of right but only on the basis of adequate material facts and evidence based on sound grounds.

However, it must be noted that, the decision of the R.O. on such application is final. If two candidates contesting a seat, according to Section 65 of R.P. Act, 1951, happen to secure an equal number of the highest votes, the result is decided by lot.

After the conclusion of counting all over the country, the E.C. publishes, in the Gazette of India, a notification containing the names of all the candidates elected to the Lok Sabha. It is on the issue of such notification that Lok Sabha is deemed to have been duly constituted.

From the above discussion, it is pertinent to note that, although the E.C. has been empowered by the Constitution and the election laws, to conduct elections throughout the territory of India, it has ceased to be an independent body. Because most often it decides the dates of polls at the

¹ A.I.R. 1975 SC 283.

dictation of the ruling government at the centre and states. whenever there are violations in the elections, the EC being responsible for smooth conducting of polls were tight-lipped and contended with seeking informations and clarifications. For this, the independence of office should be restored and its powers redefined to reinforce its duties and responsibilities.

CHAPTER – I V

Chapter - IV

Electoral Reforms in India

India is the largest democratic country in the world and the functioning of a healthy democracy depends on the conduct of free and fair elections. Free and fair elections with adult franchise constituted the essence of the democratic process because they provided for a periodic selection and orderly replacement of rulers, expressed the popular verdict on the record of the government and institutionalized the accountability of those in the authority of electorate.¹

The Parliament has made a law to ensure free and fair elections and a very comprehensive system of elections have been developed. However the experiences of the last thirteen general elections have shown certain merits and demerits of this system. Many evils have crept into the system. Although some changes have been made in it, yet the electoral process is still beset with many evils and anomalies. To curb it numerous reforms and suggestions have been submitted by opposition parties, lawyers and jurists, various Committees and Commissions. The Election Commission has, also from time to time made a number of suggestions for its improvement.

As discussed earlier, among the various defects of the present electoral system in India, following are most serious:-

¹ Gopal Krishna, "Electoral Participation and Political Integration", Rajni Kothari, ed., *Context of Electoral Change in India: General Elections 1967*, New Delhi, Academic Books, 1969, p.67.

The use of money power on a large scale and the consequent increase in political corruption. Since 1971, the money spent on elections to Lok Sabha and State Legislatures has assumed such alarming proportion that they positively constitute a grave danger to the existence of democracy in the country; the electoral process has been vitiated with criminalization and politicization of crime. The battle of ballot have been turned into battles of bullet. Candidates with criminal backgrounds are contesting elections and get elected using arms; large number of political parties and independent candidates that have been coming up and contesting elections. There is no way of restricting them, unless we revamp the whole constitutional set up; the present electoral system does not follow a candidate to win elections with the largest number of votes polled, rather candidates with slender margin of votes get elected which falls too short of the majority of votes polled during the election; the abject dependence of the Election Commission on the Centre and State Governments for the conduct of polls is another serious defects in the existing electoral system; even more than money power which vitiates the electoral machinery is muscle power. Often the administrative machinery is hand in glove with these elements. Booth capturing and rigging have been a stigma of Indian democracy; it is generally complained that the government in power at the time of elections misuse official machinery to further the election prospects of its candidates; electoral reforms as to arrest the opportunistic defection has never been properly dealt with. Though the anti-defection law in this regard exists, it suffers from inherent weakness and limitations; etc.

The need for electoral reforms perhaps being felt during the late 1960s in the country. This was due to the difficulties which came to the fore in the very working of the system during all this period since independence and in the backdrop of the uninterrupted sway of a single party at successive polls in the country which it was thought would be against the spirit of majority and representation of plurality of interests so germane to the Indian democracy.²

Numerous attempts have been made for electoral reforms. For the first time, a Joint Parliamentary Committee on Amendments to Election Law was formed in 1970 to examine the question of electoral reform from all angles. But with the dissolution of Lok Sabha in December 1970, this Committee's life also came to an end. When in 1971 a new Lok Sabha and new government came into being, a 21-member committee headed by Sri. Jagannath Rao was formed in July 1971. It included, among others, the then Law Minister Sri H.R. Gokhle. The question of electoral reform was discussed threadbare in this Committee. After about a year's labour this Committee submitted to Parliament a report in 2 volumes making number of very valuable suggestions.³

In 1974, Jaya Prakash Narayan on behalf of the citizen's for Democracy (C.F.D.), appointed a Committee consisting of six members headed by Justice V.M. Tarkunde to study and report on scheme of electoral reforms. The members of this Committee were – V.M. Tarkunde, M.R.

² Rabi Roy, "Electoral Reforms: Need of the Hour", *Politics India*, vol. III, No. 4, October 1998, p. 7.

³ Dr. Agarala Easwara Reddy and Dr. D. Sundar Ram, "Democracy and Indian Electoral System: Need for Reforms", Dr. Agarala Easwara Reddy and Dr. D. Sundar Ram, ed., *Electoral Reforms in India*, New Delhi, Uppal Publishing House, 1992, pp. 15-16.

Masani, P.G. Mavlankar, A.G. Noorani, R.D. Desai and E.P.W. Decosta. The C.F.D.'s Committee submitted its report on February 9, 1975. The Committee suggested changes in the procedure of appointment of the Chief Election Commissioner and also recommended a three member election commission. It pleaded for a reduction in the voting age from 21 to 18. It also pointed out that television and radio should be placed under an independent corporation. It also recommended for the formation of Voter's Council in as many constituencies as possible which can help in free and fair election.

On August 5, 1975, the Election Laws (Amendment) Bill was hurriedly passed in a day and the Rajya Sabha approved the same the very next day. However emergency was proclaimed soon after and whatever amendments were made to the election laws went on distorting the system further without reforming it. After the 1977 election, Janata Government was formed. For the first time that year, the national and state political parties were given time on radio and television to broadcast election messages during the state assembly elections. Besides passing the Constitution (54th Amendment) Act to remove distortions brought by the Act, passed during emergency, the Janata Party government also appointed a Cabinet Committee to consider proposals for electoral reforms. The Committee was headed by the then Home Minister, Charan Singh. At that time, the then C.E.C. S.L. Shaktiher made significant suggestions on various issues ranging from election

expenses to booth capturing.⁴ But the Janata Party government had to resign from office before it could initiate any electoral reform.

When Mrs. Indira Gandhi came to power in 1980, a series of package of recommendations for electoral reform was made by Sri. S.L. Shakti and Mr. R.K. Trivedi in consultation with the opposition leaders.⁵ Nevertheless, the EC initiated the reforms on its own behalf the following problems: (i) the practice of creating camps near the polling booths be stopped (ii) the plying of vehicles be regulated (iii) the number of polling booths be increased by about 50% in a constituency (iv) electoral rolls be updated with reference to January 1st, every year to updated them all times for all elections (v) one-day polling be introduced to eliminate the chances of voting by impersonation (vi) scheme of issue of identity Card-Cum-Photograph were introduced in Sikkim, Nagaland and Manipur (vii) electronic voting machine was introduced in Kerala and Delhi (viii) code of conduct was released after consulting all parties.⁶

The question of electoral reforms further gained momentum when the government headed by Rajiv Gandhi came to power in 1984. The most remarkable step of this government was the introduction of Anti-Defection Law Bill in January, 1985.

Another Committee on electoral reforms was constituted by the National Front Government under Mr. V.P. Singh in January, 1990, after discussing various aspects of electoral reforms with the representative of

⁴ S.L. Shakti, "Electoral Reforms", *Journal of Constitutional and Parliamentary Studies*, Vol. XVIII, Nos. 1-2, January-June 1984, pp-1-11.

⁵ *Ibid.*, p-93.

⁶ N.S. Gehlot, *Elections and Electoral Administration in India*, New Delhi, Deep and Deep Publications, 1992, p. 223.

political parties in Parliament. Comprising M.Ps and Experts and headed by the then Law Minister, Dinesh Goswami, the Committee did laudable and prompt work and submitted its report in May 1990 itself. This Committee suggested the need for an amendment to the anti-defection law; changes in voting system; rotation of reserved seats for SCs and STs; photo-identity cards should be made multi-purpose cards for all voters; no candidate shall be allowed to contest an election from more than two constituencies; use of electronic voting machine to put an end to manipulation and tempering, etc. On the basis of the proposals therein, the government introduced four bills in the Parliament to give effect to its recommendations.⁷ But unfortunately the National Front Government had to resign on November 7, 1990, before these bills could be enacted.

Further attempt in this regard was that of the Narshimha Rao government which summoned a separate session of the Parliament to get two bills – the Constitution (Eight-Third) Amendment Bill 1994 and the Representation of the People (Second Amendment) Bill, 1994 passed.⁸

The United Front Coalition succeeded in partially fulfilling its promise to the people to reform the electoral process in the form of the R.P. (Second Amendment) Bill on July 25, 1996, which was passed unanimously on the same day. The Bill has following salient features: (a) candidates will not be allowed to contest from more than two seats at a time; (b) non-serious candidates will be eliminated from contesting Parliamentary and Assembly

⁷ Jayatilak Guha Roy, "Electoral Reforms", *Theme Paper for the Thirty Eight Annual Conference*, New Delhi, Indian Institute of Public Administration, 1994, p. 13.

⁸ T.S Sankaran, "Electoral Reforms: A Farce and an Opportunity", *Economic and Political Weekly*, July 2, 1994, pp. 1635-1637.

elections through a ten-fold increase in the security deposit from Rs. 500 to Rs. 5000; (c) elections will not be countermanded because of the death of a candidate. In the case of the death of a candidate of a recognized political party, the party will have the authority to nominate a replacement within seven days. No such replacement will be allowed in case of an independent; (d) the campaigning period is reduced from 21 days to 14 days; (e) names in a ballot paper will be arranged in an order which would give priority to the candidates of recognized political parties. The same could be followed by the candidates of regional and other registered parties. The last category would be of the independents; (f) fresh delimitation of Lok Sabha constituencies will be on the basis of 1991 census report; (g) penalties on officials, put in charge of election work will be imposed for breach of official duty.⁹

Here it would be pertinent to note some of the crucial and controversial electoral reforms introduced by the then C.E.C. T.N. Seshan as part of his crusading efforts to cleanse the electoral arena of the various ills plaguing it. The EC had made the issue of photo-identity card a precondition for conduct of any future elections. The EC had barred the Union and State ministers from undertaking an official visit of a constituency after the announcement of an election and till its completion. The EC had also directed that no minister will summon any election-related officer to a place or office or guest house outside the constituency where elections have been announced till the completion of the poll process. The EC has directed that all the candidates

⁹ Sushma Yadav, "Election Commission and Electoral Process", Mahendra Pratap Singh & Himansu Roy, ed., *Indian Political System: Structure, Policies, Development*, New Delhi, Jnanda Prakashan, 1998, p. 519.

should maintain a detailed day-to-day account of all the money they spend as a part of their campaign. To curb election expenditure, the Commission has also put a ceiling on poll expenditure incurred by a candidate.¹⁰

In July, 1998 the EC set an agenda of electoral reforms by stating the task of delimitation of constituencies including the question of rotation of seats for reserved categories, should be entrusted with the Commission. On the anti-defection law, the former C.E.C. Mr. Gill said that though the law was satisfactory, its application is faulty. If the decision relating to anti-defection matters are rendered by the President or the State Governor, this would receive more respect and accountability from the common people, apart from being arrived at more quickly and expidiously.¹¹

Besides this the 15th Law Commission under the Chairmanship of Justice Jeevan Reddy and on January 14, 1999 the Indrajeet Gupta Committee have also proposed far reaching electoral reforms. However, the reports on electoral reforms by all these committee, though some improvements have come up, yet it has not fully changed the electoral law. With the conclusion of every general election, new problems raise their heads and old problems are aggravated.

¹⁰ "Electoral Reforms: Seshan's Crusade", *Civil Service Chronicle*, Vol. V, No. 9, March, 1995, p. 9.

¹¹ Dr. B.L. Fadia, *Indian Government and Politics*, Agra, Sahitya Bhawan Publications, 2000, p. 653.

Recent Developments

The Constitution (Sixty-First Amendment) Act, 1988 amends article 326 by substituting the words 18 years for 21 years. This came into force on 28 March 1989. Thus the Parliament through a constitutional amendment in 1989 has reduced the minimum voting age from 21 to 18.

On September 21, 2000 the Supreme Court took on record the term of settlement agreed between the centre and the EC of India on the question of the disciplinary functions of the EC over the officers, staff and police deputed to perform election duties. Accordingly, the disciplinary functions of the EC, during the election period shall extend to – (a) suspending and officer/official/police personnel for insubordination or dereliction of duty; (b) substituting any officer/official/police personnel by another such person, and returning the substituted individual to the cadre to which he belongs, with appropriate report on his conduct; (c) making recommendation to the competent authority, for taking disciplinary action, for any act of insubordination or dereliction of duty, while on election duty. Such recommendation shall be promptly acted upon by the disciplinary authority and to be communicated to the EC within a period of six months; (d) the government of India will advice the state governments that they too shall follow the principles and decisions, since large number of election officials are under their Administration. According to Mr. Gill Parliament had added Section 13CC and 28A of the R.P. Act, 1950 and 1951 by the amendment in

1989, which made it clear that, from the notification to the result of elections, the EC would supervise, control and discipline all those involved in the polls. In December 2000, the centre also issued directives to state governments over the extended disciplinary powers of the EC.¹²

Number of electors who are required to sign as proposers in nomination papers for elections to Council of States and State Legislature Council has been increased to ten percent of the electors of the constituency or ten such electors, whichever ever is less, to prevent frivolous candidates.

The Representation of People's Act, 1951 was amended to facilitate the use of electronic voting machines in elections.

Section 58A has been inserted in the R.P. Act, 1951 by Act 1 of 1989 providing for adjustment of poll or countermanding of elections because of booth capturing, which has been defined in Section 135A of the Act. If result of poll and counting because of booth capturing cannot be ascertained the Returning Officer will report the matter forthwith to the EC. The EC on such report may either declare the poll at the particular polling station as void and appoint a date for fresh poll or countermand election in that constituency.

The EC is presently engaged in strictly enforcing the Identity Card programme from 1 January 1995, *Vide* its notification dated 28 August 1993.¹³

On December 2, 2000, the EC amended the Election System (Reservation and Allotment) order 1968, modifying the criteria for recognition of political parties as national or state parties. From now on for recognition as

¹² *Spectrum's Current Events Update*, 2001, pp. B 46-47.

¹³ Anjana Kaw Bhagat, *Elections and Electoral Reforms in India*, New Delhi, Vikas Publishing House, 1996, pp. 231-232.

national party, a political party must secure at least six percent of valid votes polled in any four or more states at the general elections to the Lok Sabha or to the Legislative Assembly and in addition win at least four seats in the House of the People from any state or states. The other criteria for recognition as a national party would be that the political party wins at least two percent in the House of the People from at least three different states. There should be a minimum of 11 MPs among the 543 directly elected representatives, giving weightage to party presence in the Lok Sabha. For the recognition as a state party, a political party must secure six percent of valid votes polled in the state at a general election either to the House of the People or to the Legislative Assembly of the State concerned. The other criteria would be that the party wins at least three percent of the total number of seats in the Legislative Assembly of the state or at least three seats in the Assembly, whichever is more. The EC made it clear that the reserved criteria for recognition shall not be applied to the detriment of any of the existing recognized five national and forty-five state parties and the current status under the revised criteria shall continue till it is modified after any further general elections to the House of People or state Legislative Assemblies.

The EC convened a all-party meeting on 16 September 2000 in New Delhi to hammer out a consensus on the contentions issue of the implementation of the model code of conduct. The meeting was attended by all the eight national parties and thirty one regional parties. The EC's proposal was that the code should come into force from the date of announcement of polls. While some parties agreed to the proposal, other wanted the code to

become enforceable from the date of notification of polls. There was no agreement over the time period over which the code should remain in force – proposals ranged from 15 days to 45 days. The EC observed that all parties who were in power wanted the code to be enforced for a bare minimum period but wanted it to be stretched to the maximum in states where they were in the opposition.¹⁴

Lastly, on the eve of the golden jubilee celebration the former C.E.C. Mr. Gill while sharing his experiences of conduct of election said, a photo-identity card in hand and a voting machine in the polling booths.¹⁵

Suggestions

The following suggestions are offered to make the democracy sound and healthy and to redress the problems faced by the Election Commission.

The existing procedure for the appointment of the CEC has to be changed. The CEC should be appointed by the President after consultation with a Committee consisting of the Chief Justice of India, the Prime Minister and the leader of the opposition party in the Parliament. It should be made mandatory that, the CEC after completion of his term will not be eligible for any office of profit so that the allegation of the ruling party has its say in the appointment of the CEC shall be neutralized. The Commission should be a multi-member body to cater to increasing workload in conducting the elections. Lastly, though entrusted with the responsibility of conducting elections to the Union and State Legislatures, including the offices of the

¹⁴ *The Hindu*, 19 September 2000.

¹⁵ *The Hindu*, 18 January 2001.

¹⁶ Dinesh Goswami Report, 1990.

President and Vice President, the E.C. has been denied the right to recruit and regulate the conditions of service of its secretarial-staff, a right available to some other organs of the state, viz, the Parliament, UPSC and CAG of India.

At present the EC is completely at the mercy of the Central and state governments and it cannot update the electoral rolls without assistance from state staff. Its abject dependence has put the independence of the electoral body under constant threat from the vested interests and domination of the party in power which controls the administration in the state. Therefore, the EC should have its own staff and administrative machinery at the state level and have its own power to regulate their services.

The EC has itself made various recommendations as to how to curb the frivolous and non-serious candidates. These are – the security deposit should be raised; official facilities like telephone, subsidy for printing papers, etc. should be denied to independent candidates; contesting candidates who failed to secure specific percentage of votes should be disqualified to contest the next election. These proposal should be taken into account by political parties to evolve a national consensus before these recommendations are put into action.

The proposal made by the Lok Sabha Joint Parliamentary Committee that a statutory limit of six months should be introduced for the holding of all kinds of bye-elections, should be put into action in order to do away with the suspicion that the party in power has it own vested interests in differing the bye-elections for a long period. The power to postpone these bye-elections

should be rest with the EC itself, but it shall require advance genuine grounds to the parliament. However, former Lok Sabha speaker Sri. Shivraj Patil argues that if an elected member resigns or dies no bye-election should be held. In such eventuality, the candidate polling the next highest votes should be sent to the legislature as an elected candidate. This would reduce the election expenditure and compensate the cost of holding the elections to see that only the candidates getting more than 50% votes polled should be declared elected.¹⁶

To prevent criminalization of politics, former Deputy Election Commissioner, Mr. G.V.G. Krishnamurthy stressed the need for a rule which should come into force expidiously. He is of the opinion that, the EC should instruct the returning Officers to reject the nomination papers of those who are being prosecuted in a court of law for serious offences like murder or rape and they need not have to wait for the verdict of judiciary in a particular case.¹⁷ Even the President Mr. K.R., Narayanan has appealed to all the political parties not to give tickets to persons with criminal background to contest elections to curb the menace of criminalisation of politics. So it should be the duty of the political parties to refrain from giving ticket to persons with criminal background from contesting elections.

The abject dependence of the EC on the central and state governments for the conduct of election is posing a threat to the electoral system. And the question of enormous election expenses that a candidate

¹⁶ Shivraj Patil, "Electoral Reforms" *Politics India*, Vol. III, No. 4, October 1998, p. 10.

¹⁷ Surendra Mohan, "Election Commission as Super Judiciary," *Radiance View Weekly*, 1-7, November 1998, p-10.

has to incur has been a matter of serious concern, that the candidates and parties have to resort to corrupt practices to camouflage actual expenditure. This has provided an opportunity to blackmoney to creep into the electoral process. It is therefore simultaneous elections to the Lok Sabha and State Assemblies should be held, as it would reduce election expenditure. And it is absolutely necessary that some sort of state funding of election campaign should be introduced under which candidates of a recognized political party and independents who have received more than 1/10 of the votes polled in the previous elections as laid down by law, would be entitled to receive a fixed contribution in two installments equal to 1/3 of the ceiling imposed by the E.C. Apart from this, the recognized parties should be given additional grants for their organizational work and office expenses. Secondly, the amount and expenditure for election of every party and candidates should be audited by a machinery set up by the EC and be available for public inspection. The amount donated by the firms and companies for this purpose should also be made known.

The existing 52 constitutional Amendment Act, 1952 (Anti-Defection Law) should be amended so that any elected representative who leaves the party he or she represents, has to vacate the seat forthwith. It is the duty of the Speaker of the House to declare the disqualification of a candidate, therefore, he is generally under pressure from the party in power. According to Mr. Gill, the former C.E.C. though the law is satisfactory, its application is faulty. If the decision relating to anti-defection matters are rendered by the

* Indrajeet Gupta Committee Report, 1999.

President or the State Governor, this would receive more respect and accountability from the people.¹⁸ To improve the lacunae of this law the power to disqualify any candidate should remain with the Election Commission.

It has been noticed that the Election appeals/disputes/grievances take a long time to be disposed of. Although it is required by law that the election petitions should be disposed of within six months of its filing, yet seldom it is done. The former CEC, Mr. Gill had done a commendable job by writing a letter to the Union Minister of Law and Justice that inordinate delays in the judicial process are subversive of the very purpose of the provisions for election petitions. He had also pointed out that 23 cases of 1990 vintage and 27 other cases from the 1991 elections are still waiting the verdict of the courts despite the clear provisions in the R.P. Act stipulating that the election petitions shall be filed as expeditiously as possible and such cases would be concluded within six months.¹⁹

It is often suggested that the present majority system should be replaced by a system of Proportional Representation (P.R.) and it would be best suited to the multi-party conditions of India. It is argued that in order to reflect more correctly the popular support of different political parties that they are enjoying in legislative bodies, i.e. Lok Sabha and state Assemblies, seats should be allotted in proportion to the valid votes polled by the parties. Therefore, of the various form of P.R., the most democratic and feasible form for India would be list system. Where the list of candidates shall be presented

¹⁸ B.L. Fadia, *op. cit.*, p. 653.

¹⁹ Rabi Ray, "Electoral reforms: Need of Hour", *Politics India*, Vol. III, No. 4, October 1998, p. 9.

in order of preference the party wants them to be elected and the electors are called upon to accept this or that party list and also the party's order of preference indicated in the list. According to Madhu Limaye, "in India where parties are far from democratic, a list system based on P.R. would be disastrous. A Lok Sabha elected on this basis would not be representative of the nation but of party bureaucracies and party bosses.

The country has been facing serious problems of governance at the centre of late, with too many political parties, most of them small, local or regional entities without the national perspective, sharing power. The Law Commission in 1999 suggested, *inter alia*, reducing the number of political parties by making a provision that, any political party which obtains less than 5 per cent of the total votes shall not be entitled to any seat in the Lok Sabha or any Assembly. This is a salutary suggestion. Proliferation of political parties has been the bane of Indian politics from the beginning. It is necessary to bring down their number in the interest of effective governance.²⁰

It has also become essential to relate reservation for the SC and ST to all constituencies with more than 30% SC or ST population, in addition to other constituencies with 20% or more SC and ST population, by rotation, for every general election. Today other social groups inhabiting in the reserved constituencies suffer from a sense of permanent deprivation.²¹

In the case of Lok Sabha and Assembly elections, the central government as well as the state governments should function only as a

²⁰ P.P. Rao, "National and State Parties", *The Hindu*, October 2000.

²¹ Syed, Shahabuddin, "A Change of Electoral Reforms", *Politics India*, Vol. III, No. 4, October 1998, p. 15.

caretaker government during a minimum period immediately preceding the election and it should include some leaders of the opposition parties.²² It should form a minimum programme for the service of people and it should be required to as per the model code of conduct laid down by the E.C. This step would certainly insulate the electoral process from the allegation of the misuse of official machinery for the interests of the party in power.

Radio and Television should be allowed to be used by all political parties for election propaganda on some considered formula. The votes secured by the political parties in earlier elections could be a rational basis.

Besides this, any political party which promotes communalism before, during or after elections should be deregistered and disqualified from contesting the election: Any political party which bears the name of any particular religion, race or caste should not be registered as a political party to contest elections.

So it is inferred that, there is no dearth of proposals and suggestions, but what is needed is the will of all the political parties to arrive at a national consensus for their expeditious implementation. The above mentioned electoral reforms if delayed further, may imperil the democratic system of the polity. They are the need of the hour.

²² J.R. Siwach, *Dynamics of Indian Government and Politics*, New Delhi, Sterling, 1985, p.324.

CHAPTER – V

Chapter – V

Conclusion

In modern democracies, the electoral system is a determinant as well as a concomitant and it provides the institutional framework for fashioning and moulding the instrument of power on the anvil of a popular approval. India, being the largest democracy in the world, the issue of election and electoral reforms occupy a central place.

In India, although we have a Constitutional body named as “Election Commission” (E.C.) being vested by the Constitution the power of superintendence, direction and control of the preparation of electoral rolls for the conduct of all elections to the Parliament and the Legislature of every States and to the offices of the President and Vice-President held under the Constitution (Article 324), the exercise of electoral task is an awesome process. It requires, a lot of preparations and adequate arrangements for smooth and peaceful elections.

For the last five decades, despite numerous constraints, the E.C. has effectively rendered its constitutional obligation or rather it would be pertinent to say that the electoral system has generally performed fairly well. However some anomalies still stand in the way of the E.C., to make it a transparent and responsible body. Therefore without addressing the problems which the electoral process and the E.C. are confronted with the future of the democracy is never going to be smooth.

Among the various defects of the present electoral system in India, the followings are most serious:

The electoral process has been vitiated by criminalisation of politics and politicization of crime. According to former Election Commissioner, Mr. G.V.G. Krishnamurthy that almost forty members of Parliament and seven hundred members of State Legislative Assemblies facing criminal charges were the members of 11th Lok Sabha. Therefore he had suggested that the Returning Officer should reject the nominations of candidates with criminal background without waiting for judiciary's verdict. Even the President of India, Mr. K.R. Narayan while speaking on the eve of the Golden Jubilee Celebration of the Election Commission, showing concern due to this criminalization, called upon the political parties to refrain from giving tickets to individual with criminal records.

Another area which needs reform is about funding of elections. The present practice allows political parties to gather black money from different sources. Therefore the very fact of the state funding of elections should not be blinked away.

Another area which requires reform is that, large of number political parties and independent candidates that have been coming up and contesting elections. There is no way of restricting them unless we revamp our whole constitutional set-up.

The present electoral system do not follow a candidate to win election with the largest number of votes polled, rather candidates with slender margin of votes get elected. Therefore it would be better to introduce proportional

Representation where candidates with highest number of votes polled get elected.

Electoral reforms as to arrest the opportunistic defection has never been properly dealt with. Through the anti-defection law, 1985 in this regard exists, it is not free from inherent weakness. As the decision relating to the disqualification of a candidate rests with the speaker of the House, he is likely to be under pressure. Therefore this power should be exercised by the Election Commission.

The abject dependence of the E.C. on the centre and state governments from the preparation of electoral rolls to the conduct of election is another serious problem. Therefore the E.C. should be fully independent in the management of these affairs for the proper working of the electoral process.

Besides this, increasing violence at the polls, booth capturing and rigging is promoting loss of public faith in participatory democracy, the misuse of public media and administrative machinery principally by the party in power and the rotation of reserved seats for the SCs and STs, need expeditious reforms.

The need for electoral reforms perhaps being felt during the late 1960s in the country due to the difficulties in the very working of the system since independence and in the backdrop of the uninterrupted sway of a single party at the successive polls. Numerous attempts have been made for it.

A Parliamentary Committee to suggest amendments to election law from all angles was constituted for the first time in 1970. But with the dissolution of Lok Sabha in 1970 itself, the life of this Committee also came to

an end. In 1974, Jaya Prakash Narayan, on behalf of the Citizen's for Democracy appointed a Committee under Mr. V.N. Tarkunde, a former judge of the Supreme Court to study and report on the scheme of electoral reforms. In January 1990, on the basis of the decision taken in a meeting of all the representatives of all the political parties Mr. V.P. Singh appointed another Committee headed by Mr. Dinesh Goswami, the then Law Minister and Justice to suggest electoral reforms. Besides this the Jeevan Reddy Committee, Indrajeet Gupta Committee, Jagannath Rao Committee, Justice Krishna Aiyar Committee and have also proposed for reaching reforms.

Along with this, various governments in power, such as, Mrs. Indira Gandhi, Rajiv Gandhi, Narshimha Rao and various Election Commissioners like T.N. Seshan, G.V.G. Krishnamurthy, M.S. Gill have also suggested certain reforms to the electoral process.

Certain most needed electoral reforms have also come up. The Parliament through a constitutional amendment in 1989 has reduced the minimum voting age from 21 to 18 for all the Indian citizens; On September 21, 2000 the Supreme Court took on record the term of settlement agreed between the centre and the Election Commission on the question of the disciplinary functions of the Commission over the officials, staff and police deputed to perform election duties; Number of electors who are required to sign as proposes in nomination papers for election to Council of states and state Legislative Council has been increased to ten per cent of the electors of the constituency or ten such elector, which ever is less, to prevent frivolous candidates; The Representation of People's Act, 1951 was amended to

facilitate the use of electronic voting machines during elections; Section 58A has been inserted in the R.P. Act, 1951 by Act 1 of 1989 providing for adjournment of poll or countermanding of elections because of booth capturing, rigging etc.; The Election Commissioner is presently engaged in strictly enforcing the Identity Card Programme from 1st January 1995 vide its notification dated 28 August 1993; On 2nd December 2000 the E.C. amended the Election System (Reservation and Allotment) order 1968, modifying the criteria for recognition of political parties as national and state parties, etc.

In spite of all these above reforms, the electoral system is still beset with many evils and therefore need urgent reforms to make it more transparent and responsible. Following suggestions are made to cleanse the present electoral anomalies:

The C.E.C. should be appointed by the President in consultation with the Chief Justice of India, the Prime Minister and the leader of the opposition; The E.C. should have the rights to recruit and regulate its own staff as other organs of the state, viz, the Parliament, UPSC, CA.G of India, etc.; A statutory limit of six-months should be introduced for the holding of bye-elections; Candidates with criminal backgrounds should be debarred from contesting elections; Election petitions should be disposed of within the stipulated period of six months; The system of Proportional Representation should be introduced; The reserved seats for the SCs and STs should be rotated so that other social groups of those constituencies do not feel deprived; A care-taker government should function for a minimum period immediately preceding the elections; Radio and television should be allowed to be used by political

parties for election propaganda on some considered formula; Any political party which promotes communalism, before, after or during elections should be deregistered and disqualified from contesting election; Any political party which bears the name of any religion, race or caste should be debarred from contesting elections, etc.

There is no dearth of proposals and suggestions, but what is needed is the will of all political parties to arrive at a national consensus for their expeditious implementation.

BIBLIOGRAPHY

BIBLIOGRAPHY

Primary Sources

Committee on Election Reforms, reports of the Committee Appointed by Jaya Prakash Narayan on behalf of the Citizens for Democracy, Chairman: V.M. Tarkunde, New Delhi, 1995.

Committee on Electoral Reforms, Report of the Committee on Election reforms, Chairman: Dinesh Goswami, New Delhi, Ministry of Law and Justice, 1990.

Manual of Election Law, New Delhi, Ministry of Law, Government of India.

Books

Advani, L.K. et. al., *Electoral System in India: Need for Reform*, Chandigarh, Panchand Research Institute, 1987.

Aggrawal, J.C., *Elections in India: 1952-96*, Delhi, Sipra Publications, 1996.

Ayyar, A. N., *Law of Election*, Madras, company Law Institute, 1961.

Ayyar, K., *All India Election Guide*, Madras, Oriental Publications, 1956.

Bakshi, P. M., *Elections: Law and Procedure*, Delhi, Bahari Brothers, 1985

Bannerjee, A. C. *The Making of the Indian Constitution: 1939-47*, Calcutta, A. Mukherjee and Co., 1948.

Bhagat, Anjana Kaw, *Elections and Electoral Reforms in India*, New Delhi, Vikas Publishing House, 1996.

Bhalla, R. P., *Election in India: 1950-1972*, New Delhi, S. Chand & Co. Publishers, 1973.

Bhambhri, C.P., *The Indian State*, New Delhi Sipra Publications, 1998.

Bhandari, Kusumlata, *Indian Electoral Reforms*, New Delhi, Election Archives, 1988.

Butler, D. A. Lahiri and R. Roy, *India Decides: Elections 1952-1991*, eds., New Delhi, Living Media Books, 1991.

- Chawla, D. D., *Election: Law and Practices*, New Delhi, Bahri Brothers, 1967.
- Chopra, J. K., *Politics of Election Reforms in India*, New Delhi, Mittal Publications, 1989.
- Dube, M. M., and Jain, K. L., *Elections: Law and Procedures*, Indore, Vedpal Law House, 1985
- Fadia, B.L., *Indian Government and Politics*, Agra, Sahitya Bhawan, 2000.
- Gadgil, N. V., *Government From Inside*, Merrut, Meenakshi Publications, 1968.
- Gehlot, N. S., *Trends in Indian Politics*, New Delhi, Deep and Deep Publications, 1988.
- Gehlot, N.S. *Elections and Electoral Administration in India*, New Delhi, Deep & Deep Publications, 1992.
- Goyal, O. P. *Caste and Voting Behaviour*, Delhi, Ritu Publishers, 1981.
- Goyal, O.P., *India, Government and Politics, New Delhi*, Light and Life Publications, 1979.
- Grover, V. (ed). *Election, Electoral Mechanism and Behaviour in India*, New Delhi, Deep and Deep Publishers, 1989.
- Gupta, R. L., *Electoral Politics in India, Delhi*, Discovery Publishing House, 1985.
- Hegde, Ramakrishna, *Electoral Reforms: Lack of Political Will*, Bangalore, Karnataka State Janata Party, 1984.
- Iqbal Narain, *Twilight or Dawn: the Political Change in India, 1967. 71*, Educational, Agra, 1972.
- Jagdish Lal, *Conduct of Elections Rules: 1961*, Allahabad, Law Publishers, 1961.
- Jain, M. P., *Indian Constitutional Law*, Bombay, M. N. Tripathi, 1978.
- Jakhar, Balram, *People, Parliament and Administration*, New Delhi, Metropolitan Press, 1982.
- Jha, Parameshwar, *Political Representation in India, Meerut*, Meenakshi Publications, 1976.

- Jhingta, Hans Raj, *Corrupt Practices in Elections: A Study under the Representation of the People Act, 1951*, New Delhi, Deep and Deep Publication, 1996.
- Kashyap, Subash C., *Anti-Defection Law: Promises, Provisions and Problems*, New Delhi, Lok Sabha Secretariat, 1989.
- Kashyap, Subhash C., (eds.), *Electoral Reforms in India*, New Delhi, Institute of Constitutional and Parliamentary Studies, 1971.
- Kashyap, Subhash C., *The Politics of Defection*, Delhi, National Publishing House, 1989.
- Kothari Rajni (ed.), *Party system and election studies: the first of a series of occasional papers launched by the Centre for the Study of Developing Societies*, Bombay, Allied Publishers, 1970.
- Krishna Mani, P. N., *Elections, Candidates and Voters*, New Delhi, Institute of Constitutional and Parliamentary Studies, 1967.
- Krishnan Nair, M., "Electoral Reforms in India" in Venkata Rao V. and Pattabhiram, M.,(eds.), *Changing Contours-A Political Study*, Hyderabad, M. Venkatarangaiya Foundation, 1982.
- Krishnan Nair, M., *The Law of Elections in India*, Trivendrum, The Academy of Legal Publications, 1986.
- Maheshwari, S. R. *Political Development in India*, New Delhi, Concept Publishing House, 1984.
- Maheshwari, S. R., *Electoral Politics in National Metropolis*, Delhi, Ritu Publications, 1982.
- Mirchandani, G.G., *The People's Verdict*, New Delhi, Vikas Publishing House, 1980.
- Mishra, Subrat Kumar and James Chiriyankadanth, (ed.), *Electoral Politics in India: A changing Landscape*, New Delhi, Segment Books, 1992.
- Pai Pandikar, V. A. and Arun Sud, *Changing political representation in India*, New Delhi, Uppal Publishers, 1983.
- Pai Pandikar, V. A. and Ramashray Roy, *Financing of Elections*, New Delhi, Centre for Policy Research, 1981.
- Palkhivala, N. A., *We, the People of India the largest democracy*. Bombay, Strand Book Stall, 1984.

- Prasad, R. C., *The Mature Electorate*, New Delhi, Ashish, 1975.
- Pylee, M. V., *Constitutional Government in India*, Bombay, Asia Publishing House, 1978.
- Rajagopalachari, C., *Rescue Democracy from Money Power*, Bombay, Bharatiya Vidya Bhawan, 1971
- Ram Gopal, *Undemocratic Elements in the Indian Constitution*, Bombay, Sumaiya Publications, 1977.
- Reddi, Agarala Easwara and D. Sundar Ram (ed.), *Electoral Reforms in India*, New Delhi, Uppal Publishing House, 1992.
- Shakdhar, S. L., *Electoral Reforms for India*, New Delhi, Council and Citizen for Democracy, 1980.
- Shakdher, S. L. (ed.) *The Constitution & the Parliament in India- The 25 years of the Republic Delhi*, National Publishing House, 1976.
- Shiv Lal (ed.), *Elections and Constitution*, New Delhi, The Election Archives, 1976.
- Shiv Lal, *India: Electoral Behaviour: 1987-88*, New Delhi, Election Archives, 1988.
- Shiva Rao, B., *Framing of India's Constitution*, New Delhi, I. I. P. A., 1968.
- Singh, L. P., *Electoral Réforms: Problems and Suggested Solutions*, New Delhi, Uppal Publishing House, 1986.
- Singh, Prabha Prasad, *Political Violence in India*: Delhi; Amar Prakashan, 1989.
- Singhvi, L. M. (ed.), *Elections and Electoral Reforms in India*, New Delhi, Sterling Publishers, 1971.
- Siwach, J. R., *Dynamics of Indian Government and Politics*, New Delhi, Sterling, 1991.
- Subhash C. Kashyap (ed.), *Elections and Electoral Reforms in India*, New Delhi, I. C. P. S., 1971.
- Venketarangaiya, M., *Free and Fair Elections*, New Delhi Ministry of Information and Broadcasting, Govt. of India, 1966.

Verma, B. N. and A. K. Verma *Bullets and the Ballots: the Parliamentary Elections in India*, 1984, Bareilly Samuchit, 1986.

Yadav, Sushma, Election Commission and Electoral Process, Mahendra Pratap Singh and Himansu Roy (ed.), *Indian Political System: Structure, Policies, Development*, New Delhi. Jnananda Prakashan, 1998.

Articles

Abel, M., "Money and Elections", *Indian Review*, Vol. 66, No. 10, January 1971, pp. 57-60

Advani L.K., "Curing Indian Elections of their gross corruption", *Organiser*, 26 January, 1969.

Advani, L. K., "Election by list system", *Organiser*, 27 January 1973.

Advani, L. K., "How a better electoral system can cure us of Casteism and Communalism", *Organiser*, 15 August 1969, pp.17-18.

Advani, L. K., Money Power in Elections: A Plea for Public Funding, *Mainstream*, Vol. 25, 10 October, 1987.

Advani, L. K., "There is a remedy to the baffling problem of election expenses", *Organiser*, 15 August 1968, pp. 22-23

Ahmed, Bashiruddin, "the Reshaping of India's Polity", *Hindustan Times*, 25 June 1991.

Ananth, V. Krishna, "Crime and Politics", *The Hindu*, 30 January 2001.

Benjamin, P. N., "Need to check misuse of official machinery", *Deccan Herald*, 13 May 1991.

Bhalla, R. P., "Electoral Mechanism in India: 1951-1971", *The Indian Journal of Political Science*, Vol. 33, No. 1, January, March, 1972, pp. 26-57.

Bhambhri, C. P. and P. S. Verma, "Voting Behaviour: A Comparative Study of the Minority Communities". *The Indian Journal of Political Science*, Vol. 35, No. 4, October, December, 1974.

Bhambhri, C. P., "Indian Voter is Mature", *National Herald*, 6, November, 1989.

- Bhardwaj, Brahm., "Election Symbols in Politics", *Indian Political Science Review*, Vol. 6, No. 1, April-September, 1971.
- Bhargava, G.S., "Election Commission's Restriction on Media Poll Coverage", *Mainstream*, Vol. xxxvi, No. 5, 24 January 1998, p. 55-56.
- Bhaskaran, R., "Election Law Reform", *Indian Express*, 11 September, 1968.
- Bhattacharjea, Ajit, "Election Expenses: Loopholes in the Law". *Times of India*, 16 February, 1972.
- Bhattacharjea, Ajit, "Poisoning the Roots. Black Money and Election", *Times of India*, 15 February 1973.
- Bhattacharjea, Ajit, "Election, and Corruption", *Indian Express*, 2 December, 1978.
- Bhimsensachar, C. M., "Electoral Reforms". *Times of India*, 10 December, 1974.
- Chakravarty, Nikhil, "Thoughts on Elections", *Mainstream*, Vol. xxxvi, No. 5, 7 March 1998, pp. 6-35.
- Chandra Shekhar, "Good Beginning on poll reforms", *Link*, 32:23, 14 January 1991, pp. 8-9
- Chandrasekharan, K., "For Free and Fair Elections", *Janata*, 29, December, 1974, pp.11-12.
- Chaudhary, Pawan, "Money, Fraud and Election", *Democratic World*, 19, July, 1973, pp. 6-8.
- Da Costa, E. P. W., "Electoral Reform", *Times of India*, 20. August, 1974.
- Da Costa, E. P. W., "The distortions in the electoral system, *Indian Express*, 29 July 1977.
- Dhar, M. K., "Money and Electioneering", *Hindustan Times*, 16 January, 1969.
- Dhar, M.K., "Curb the use of Money and Violence", *Nation and the World*, 16 February 1998, pp. 10-13.
- Dhavan, Rajeev, "Banning Political Parties", *The Hindu*, 25 August 2000.
- Dhavan, Rajeev, "Voters and Criminals", *The Hindu*, 17 November 2000.

- Easwara Reddi, Agarala and D. Sundar Ram "Democracy and Political Parties" *Deccan Chronicle*, 11 January, 1988.
- Electoral Reforms: Seshan's Crusade", Cover Feature, *Civil Service Cronicle*, Vol. V, No. 9 March 1995, pp. 9-13
- Ganesan, G., "Electoral Reforms", *The Hindu*, 18 March, 1975.
- Ganesan, G., "Reforming the Electoral System", *Indian Express*, 16 December, 1988.
- Ganesan, K., "Making a Choice: on some alternative electoral systems", *Frontline*, 27 April 10 May 1991, pp. 45-18.
- Gokhale, H. R., "No Unilateral Decision on Electoral Reforms" *Indian Express* 20 September, 1975.
- Gopaldaswami, R. A., "Scheme for Proportional Representation" *The Hindu*, 1 March , 1973.
- Iqbal Narain and Mohanlal Sharma "Election Politics in India Notes Towards an Empirical Theory", *Asian Survey*, Vol. 9, No. 3, March, 1969, pp. 202-220.
- Jain L. C. "Suggestions for Electoral Reforms", *Hindustan Times*, December 3, 1974.
- Jain, A. P. "Black Money and Politics", *Indian Left Review*, October, 1973, pp. 8-10.
- Jain, R. B., "Reforms, Finance, Electoral College", *The World Focus*, 1:10 October 1980, pp. 27-32.
- Jayaprakash Narayan, "Clean Elections: Not with Dirty Money", *Sarvodaya*, October, 1973, pp. 153-163.
- Journal of the Constitution and Parliamentary Studies* (Special Numbers on Electoral Reforms) 1970 and 1984.
- K. C. Khanna, "Rending Electoral Reforms, Anti-Defection Law is not Enough", *The Times of India*, 13 February 1985.
- K. C. Khanna, "Towards Electoral Reform", *The Times Of India*, 14 February, 1983.

- Kabad, B. K. R., "Reforming Election System: A Combination of Various Features", *Times of India*, 27 November, 1984
- Karan Singh, "Electoral Reforms Overdue", *Tribune*, 5 March 1986.
- Kashyap, Subhash C., "Voting Age: Plea for Enfranchising Youth", *Hindustan Times*, 23 June, 1970.
- Kashyap, Subhash C., "Defections: flaws in the 10 Schedule", *Hindustan Times*, 10 January 1991.
- Katyal, K. K., "Reforming the Election Laws", *The Hindu*, 3 April, 1978.
- Katyal, K. K., "Who Killed the defection Bill"? *The Hindu*, 4 September, 1978.
- Katyal, K.K., "The Election Laws", *The Hindu*, 1 May 2001.
- Kaul, T.N., "The Electoral Scene", *Mainstream*, Vol. xxxvi, No. 5, 7 February 1998, pp. 12-13.
- Khanna H. R., "The Politics of Violence", *Hindustan Times*, 27 May 1991.
- Kothari, Rajni, 'Financing of Elections', Political Legitimacy at Stake", *Times of India*, 16 November, 1974.
- Kripalani, J. B., "Fair Elections"? *Indian Express*, 22 January, 1974.
- Krishna Kant "Black Money and Electoral Reform: Lift Ceiling, "Comple Disclosure", *Hindustan Times*, 28 December, 1974.
- Krishna Kant "Black Money and Electoral Reforms: Legitimate Politics, Costs Money, *Hindustan Times*, 26 December, 1974.
- Krishna, G., "Can Convicted Persons Contest Elections?", *The Hindu*, 6 March 2001.
- Kuldip Nayar, "Funding the Election", *Indian Express*, 18 April, 1979.
- Kuldip Nayar, "Limit in Expenditure" *Statesman*, 9 March, 1971.
- Kumar, B. Venkatesh, "Election Commission: Power to Allot Symbols", *Economic and Political Weekly*, Vol. xxxv, No. 38, 16-12 September 2000, pp. 3387-3391.
- Kumar, Pradeep, "Massification of Electoral Democracy and Political Fluidity", *Mainstream*, Vol. xxxvi, No. 7, 7 February 1998.

- Limaye, Madhu, "Reform of leaders, first step to cleaner polls", *The Statesman*, 13 July, 1991.
- M. K. Dhar, "Reforming Elections", *Hindustan Times*, 8 April 1975.
- Madhu Limaye, "Electoral Reform: Dream and Reality" *Times of India*, 14 December, 1989.
- Maheshwari, S. R., "Government's role in ensuring free and fair elections", *The Hindu* 8 October, 1979.
- Meher, M. R., "Reducing Influence of Money Power in Elections", *Financial Express*, 10 November, 1974.
- Mohan, R., "Conviction and Right to Contest Election", *The Hindu*, 16 January, 2001.
- Mohan, Surendra, "Election Commission as Super Judiciary", *Radical Views Weekly*, 1-7, November, 1998, pp. 10-11.
- Nihand Mate; Electoral Reforms: Some Suggestions *Janata*, 14 October, 1990.
- Noorani, A. G., "Enact Electoral Reforms before Midterm Polls", *Indian Express*, 6 November, 1990.
- Noorani, A. G., "Reform of Election Law", *Indian Express*, 17 March, 1974.
- Noorani, A. G., "Transfer of Officials on Poll Eve", *Financial Express*, 16 April, 1991.
- Padmanabhan, B. S., "For an Improved Electoral Law", *The Hindu*, 28 January, 1972.
- Pai Panandikar, V. A., "State Funding Of Indian Elections", *Times of India*, 18 December, 1989.
- Pandey, Kedarnath, "Money Power and Clean Politics", *Free Press Journal* 30 November, 1971.
- Patil, Shivraj, "Electoral reforms, *Politics India*, Vol. III, No. 4, October 1998, pp. 10-11.
- Pattabhiram, M., "Suggestions to Tone up Electoral Machinery", *The Hindu*, 26 January, 1969.

- Prasad, B.B., Do we need reform election laws, *Critique: A Journal of Critical Theory*, Vol. 2-3, No. 4-1, June-September, 1999.
- Rajagopalachari, C., "Save Democracy: Make Elections Less Expensive", *Swarajya*, July 13, 1968, pp.1-2.
- Ramaji Lal, "Representation and Electoral Imbalances: A Plea for Electoral Reforms", *Indian Political Science Review*, Vol. xxiv, No. 2, July-December 1980, pp. 284-291.
- Ramamurthy, M. V., "Electoral Reform", *The Hindu*, 9, November, 1972.
- Ramesh Thapar, "Reform Must Begin", *Seminar* No. 159, November, 1972, pp. 35-36.
- Rao, G. R. S., "Electoral Reforms in India", *Indian Express*, 14. February, 1991.
- Rao, P.P., "National and State Parties", *The Hindu*, 10 October, 2000.
- Ray, Rabi, "Electoral Reforms: Need of the Hour", *Politics India*, Vol III, No. 4, October 1998, pp. 7-9.
- Sahey, S., "Clock Look: Electoral Reform", *The Statesman*, 9. October, 1980.
- Santhanam, K., "Election Commission Needs Reform", *Swarajya*, 17 April, 1971 pp.1-2
- Santhanam, K., "Electoral Reforms", *Swarajya*, 8 March, 1975.
- Santhanam, K., "Elections and Democracy", *Swarajya*, 23 January, 1971, pp.1-2
- "SC Notice on Delimitation Commission", *Spectrum's Current Events Update*, 2001, p. B-3.
- Sen, S. R., 'Electoral System: Urgency of Basic Reforms', *Economic and Political Weekly*, Vol. 26, No. 6, 9, February, 1991.
- Sen-Verma, S. P., "Electoral Reform: What, Why and How"? *Organiser*, 28 February, 1970.
- Sezhiyan, Era, "Rejecting the Parliamentary System", *The Hindu*, 29 February, 2001.
- Shahabuddin, Syed, "A Charter of Electoral Reform", *Politics India*, Vol. III, No. 4 October 1998, pp. 12-15.

- Shakher, S. L., "Will of the People: Reforming the Electoral System", *Financial Express*, 15 October 1980.
- Shiva Rao, B., "Corrupt Practices in Elections." *The Hindu*, 11 April, 1969.
- Shiva Rao, B., "Need to Expend Election Commission", *The Hindu*, April 26, 1969.
- Shiva Rao, B., "Suggestions for Electoral Reform" *The Hindu*, 26 April, 1969.
- Singh, L. P., "Proportional Representation" *Indian Express*, 17 January, 1990.
- Tarkunde, V. M., "Voters Councils for Fair and Free Elections", *Radical Humanist*, Vol. 34, No. 11, February 1971, pp. 378-44.
- The Hindu, 13 March 2001.
- The Hindu, 13 September 2000.
- The Hindu, 16 February 2001.
- The Hindu, 18 January 2001.
- The Hindu, 18 September 2000
- The Hindu, 2 November 2000
- Vadilal, Lallubhai, "Electoral Reforms: Main Issue", *Radical Humanist*, Vol. 40, No.2, May, 1976.
- Vajpayee Atal Behari, "Need for Changing the Electoral System" *Amrita Bazar Patrika*, 7 April, 1972.
- Vivek, "Lists System is the Most Suitable for India" *Organiser*, 27 May, 1972.