

4 Electoral Reforms

India, by virtue of the size of the electorate, claims to be the biggest democracy in the world, holding elections regularly at periodical intervals marked by election campaigns and political demonstrations of one sort or another. Elections have become India's great festivals—festivals which have been marked since the seventies by rigging, booth capturing, threat to voters and violence in a large number of constituencies in several States, particularly in northern India. Money power and muscle power have led to the criminalisation of electoral politics. The need for electoral reforms has been recognised by all political parties and many suggestions have been made by the Chief Election Commissioner R. K. Trivedi in 1983, the official Committee on Electoral Reforms headed by the Law Minister Dines Goswami in 1990, the Chief Election Commissioner T. N. Seshan in 1994 and the Election Commission in 1997. The Government is committed to enact a comprehensive measure to remove the roots of electoral malpractices. But the country still waits for such a measure. However, in pursuance of the proposals so far made several steps have been taken by the Government of India, though these touch only the top of the iceberg.

Lowering of voting age. The Constitution (Sixty-first Amendment) Act, 1987 by amending Article 326 lowered the age of the franchise from 21 years to 18 years. This came into force on 28 March 1989. Consequent to this, amendments were also made in the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

Registration of Political Parties. (A new part (Part IVA) has been

added to the Representation of the People (Amendment) Act, 1951 on registration of political parties. It provides for registration with the Election Commission, of associations and bodies of individual citizens of India as political parties for purposes of this Act. In other words, the Act defines "political party" as an association of a body of citizens of India registered with the Election Commission. Every application for registration must be made (a) within 60 days following the commencement of this Act if the political party is already in existence or (b) within 30 days of the formation of a party which did not exist on the date of the commencement of the Act. The application must be accompanied by a copy of its constitution, or memorandum of rules and regulations specifying that it "shall bear true faith and allegiance to the Constitution of India as by law established and to the principles of socialism, secularism and democracy and would uphold sovereignty, unity and integrity of the nation". Before granting the certificate of registration the Election Commission may call any particular person it deems necessary and even call officers of the party to explain certain necessary things.

This provision came into force from 15 June, 1989. A recognised political party has been classified as a *national party* or a *state party*, under the Election Symbols (Reservation and Allotment) Order, 1968. If a political party is recognised in four or more States, it is deemed to be a "national" party and a political party recognised in less than four States, is a "State party" in a State or States in which it is recognised.

Deputation to the Election Commission. (The amended Act provides that officers or staff engaged in preparation, revision and correction of electoral rolls for elections or for conduct of elections shall be deemed to be on deputation to the Election Commission for the period of such employment. All such personnel shall during that period be subject to control, superintendence and discipline of the Election Commission.)

Increase in Number of Proposers. (Number of electors who are required to sign as "proposers" in nomination paper for elections to Rajya Sabha and Vidhan Parishad has been increased to 10 per cent of the electors of the constituency or 10 such electors, whichever is less, to prevent frivolous candidates.)

Electronic Voting Machines. (The Representation of the People Act was amended to facilitate the use of electronic voting machines in elections.)

Booth Capturing. (The Representation of the People (Amendment) Act, 1989 provides for adjournment of poll or countermanding of

elections because of booth capturing. Booth capturing is defined to include among other things : (a) seizure of a polling station or a place fixed for poll by any person or persons making polling authorities surrender ballot papers or voting machines and doing of any other act which affects orderly conduct of elections; (b) taking possession of a polling station or a place fixed for poll by any person or persons and allowing only his or their own supporters to exercise their franchise and preventing others from voting; (c) threatening any voter and preventing him from going to a polling station or a place fixed for poll to cast his vote; (d) seizure of a place for counting of votes by any person or persons, making counting authorities surrender ballot papers or voting machines and doing of anything which affects orderly counting of votes; and (e) doing by any person in the service of Government, of all or any of aforesaid activities of aiding or conniving at any such activity in furtherance of a candidate's election prospects.

If because of booth capturing result of poll/result of counting cannot be ascertained, the returning officer will report the matter immediately to the Election Commission. The Commission 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 penalty for booth capturing, under Section 153A, shall be imprisonment for a term not less than six months which can extend to two years along with fine. Where such offence is committed by a person in the service of Government, he shall be punishable with imprisonment for a term of not less than one year which may extend to three years along with fine.

Election Expenses. In November 1994 the Government of India enhanced the limit of poll expenses both for assembly and parliamentary constituencies. The maximum allowances allowed for a Vidhan Sabha candidate is fixed at Rs. 150,000 (previously Rs. 50,000) and that for Lok Sabha Rs. 450,000 (previously Rs. 150,000; (and Rs. 58,000 in smaller States). The legal limits are low and the Election Commission's proposal to increase the limits to reasonable level has not yet been seriously considered by the Government.

Electoral Law Changes in 1996. The Representation of the People (Amendment) Act, 1996 introduced some important changes with effect from 1 August 1996. Some of these changes are :

(1) *Disqualifications on conviction under the Prevention of Insults to National Honour Act, 1971* : Any conviction under sec. 2 (offence of insulting the Indian National Flag or the Constitution of India) or

sec. 3 (offence) of preventing singing of National Anthem or the Prevention of Insults to the National Honour Act, 1971 shall hereafter entail disqualification for contesting elections to Parliament and State Legislatures for a period of 6 years from the date of such conviction.)

(2) *Increase in security deposits and number of proposers* : The amount of security deposit which a candidate for an election to the Lok Sabha or a State Legislative Assembly has to make has been increased from Rs.500 to Rs.10,000 for the general candidate and from Rs.250 to Rs.5000 for a Scheduled Caste/Scheduled Tribe candidate. This has been made to check the multiplicity of non-serious candidates. However, in the case of a candidate for a State Legislative assembly the minimum deposit for a general candidate will be Rs.5000 and Rs.2500 for a Scheduled Caste/Scheduled Tribe candidate.)

Further, the nomination of a candidate in a parliamentary or assembly constituency shall be subscribed by 10 electors as proposers, if the candidate does not belong to a recognised National or State Party. In the case of a recognised party one proposer is sufficient. Minimum interval between the last date for withdrawal and date of poll has been reduced to 14 days from 20 days.

(3) *Restriction on contesting elections from more than two constituencies* : No candidate shall be eligible to contest election from more than two constituencies at a general election or at the bye-elections. Similar restrictions will apply in case of elections of Rajya Sabha and State Legislative Councils.)

(4) *Death of candidate* : No election will be countermanded on the death of a contested candidate as it was done previously. If the deceased candidate belonged to a recognised National or State Party, the party concerned may nominate another candidate within 7 days of the issue of notice to that effect by the EC.)

(5) *Prohibition of going armed to or near a polling station* : Going armed with any kind of arms as defined in Arms Act, 1959 within the neighbourhood of a polling station is now a cognizable offence punishable with imprisonment upto 2 years or with fine or with both. The arms found in possession of the offender shall be confiscated and licence, if had been granted, shall be revoked.

(6) *Prohibition on sale of liquor, etc.* : No liquor or other intoxicants shall be sold, given or distributed by any shop, eating place, hotel or any other place (public or private), within a polling area during the period of 48 hours ending with the hour fixed for the conclusion of the poll. Any person violating this law shall be punishable with

imprisonment upto 6 months or with fine upto Rs.2000 or both.

(7) Time limit for holding bye-election to any House of Parliament or a State Legislature will now be held within 6 months of occurrence of vacancy in the House. However, this stipulation will not apply if the member's remainder term whose vacancy is to be filled is less than one year, or if the EC, in consultation with the Central Government, certifies that it is difficult to hold the bye-election within the said period.

The President issued an ordinance on 5 June 1997, called the Presidential and Vice-Presidential Elections (Amendment) Ordinance 1997, whereby the number of proposers and seconders for contesting election to the office of the President was increased to 50 each in place of 10; numbers of proposers and seconders for contesting Vice-Presidential election was increased to 20 each in place of 5. The amount of security deposit has been increased to Rs.15,000 in place of Rs.2500 for contesting elections to the offices of the President and Vice-President.)