

CHAPTER 19

Vice-President

The Vice-President occupies the second highest office in the country. He/she is accorded a rank next to the President in the official warrant of precedence. This office is modelled on the lines of the American Vice-President.

ELECTION

The Vice-President, like the President, is elected not directly by the people but by the method of indirect election. He/she is elected by the members of an electoral college consisting of the members of both Houses of Parliament.¹ Thus, this electoral college is different from the electoral college for the election of the President in the following two respects:

1. It consists of both elected and nominated members of the Parliament (in the case of President, only elected members).
2. It does not include the members of the state legislative assemblies (in the case of President, the elected members of the state legislative assemblies are included). Explaining the reason for this difference, Dr. B.R. Ambedkar observed:²

"The President is the head of the State and his/her power extends both to the

administration by the Centre as well as to the states. Consequently, it is necessary that in his/her election, not only members of Parliament should play their part, but the members of the state legislatures should have a voice. But, when we come to the Vice-President, his/her normal functions are to preside over the council of states. It is only on a rare occasion, and that too for a temporary period, that he/she may be called upon to assume the duties of the president. That being so, it does not seem necessary that the members of the state legislatures should also be invited to take part in the election of the Vice-President".

But, the manner of election is same in both the cases. Thus, the Vice-President's election, like that of the President's election, is held in accordance with the system of proportional representation by means of the single transferable vote and the voting is by secret ballot.

All doubts and disputes in connection with election of the Vice-President are inquired into and decided by the Supreme Court whose decision is final. The election of a person as Vice-President cannot be challenged on the ground that the electoral college was incomplete (i.e., existence of any vacancy among the members of electoral college). If the election of a person as Vice-President is declared void by the Supreme Court, acts done by him/her before the date of such declaration of the Supreme Court are not invalidated (i.e., they continue to remain in force).

The various vice-presidential elections held so far are summarised in Table 19.1.

¹The original Constitution provided that the Vice-President would be elected by the two Houses of Parliament assembled at a joint meeting. This cumbersome procedure was done away by the 11th Constitutional Amendment Act of 1961.

²*Constituent Assembly Debates*, Volume VII, p. 1001.

**Table 19.1** Elections of the Vice-Presidents (1952–till now)

Sl. No.	Election Year	Victorious Candidate	No. of Votes secured	Runner-up Candidate	No. of Votes secured
1.	1952	Dr. S. Radhakrishnan	—	Unopposed	—
2.	1957	Dr. S. Radhakrishnan	—	Unopposed	—
3.	1962	Dr. Zakir Hussain	568	N. Samant Singh	14
4.	1967	V.V. Giri	486	Prof. Habib	192
5.	1969	G.S. Pathak	400	H.V. Kamath	156
6.	1974	B.D. Jatti	521	N.E. Horo	141
7.	1979	M. Hidayatullah	—	Unopposed	—
8.	1984	R. Venkataraman	508	B.C. Kambley	207
9.	1987	Dr. Shankar Dayal Sharma	—	Unopposed	—
10.	1992	K.R. Narayanan	700	Kaka Joginder Singh	01
11.	1997	Krishna Kant	441	Surjeet Singh Barnala	273
12.	2002	B.S. Shekhawat	454	Shushil Kumar Shinde	305
13.	2007	Mohd. Hamid Ansari	455	Najma Heptullah	222
14.	2012	Mohd. Hamid Ansari	490	Jaswant Singh	238
15.	2017	Venkaiah Naidu	516	Gopal Krishna Gandhi	244
16.	2022	Jagdeep Dhankar	528	Margaret Alva	182

QUALIFICATIONS, OATH AND CONDITIONS

Qualifications

To be eligible for election as Vice-President, a person should fulfil the following qualifications:

1. He/she should be a citizen of India.
2. He/she should have completed 35 years of age.
3. He/she should be qualified for election as a member of the Rajya Sabha.
4. He/she should not hold any office of profit under the Union government or any state government or any local authority or any other public authority.

But, a sitting President or Vice-President of the Union, the governor of any state and a minister for the Union or any state is not deemed to hold any office of profit and hence qualified for being a candidate for Vice-President.

Further, the nomination of a candidate for election to the office of Vice-President must be subscribed by at least 20 electors as proposers and 20 electors as seconders. Every candidate has to make a security deposit of ₹15,000 in the Reserve Bank of India.³

Oath or Affirmation

Before entering upon his/her office, the Vice-President has to make and subscribe to an oath or affirmation. In his/her oath, the Vice-President swears:

1. To bear true faith and allegiance to the Constitution of India; and
2. To faithfully discharge the duties of his/her office.

³Presidential and Vice-Presidential Elections Act, 1952 as amended in 1997.

The oath of office to the Vice-President is administered by the President or some person appointed in that behalf by him/her.

Conditions of Office

The Constitution lays down the following two conditions of the Vice-President's office:

1. He/she should not be a member of either House of Parliament or a House of the state legislature. If any such person is elected as the Vice-President, he/she is deemed to have vacated the seat in that House on the date on which he/she enters upon the office as Vice-President.
2. He/she should not hold any other office of profit.

TERM AND VACANCY

Term of Office

The Vice-President holds office for a term of five years from the date on which he/she enters upon his/her office. However, he/she can resign from his/her office at any time by addressing the resignation letter to the President. He/she can also be removed from the office before completion of his/her term. A formal impeachment is not required for his/her removal. He/she can be removed by a resolution passed by a majority of all the then members of the Rajya Sabha and agreed to by the Lok Sabha. This means that this resolution should be passed in the Rajya Sabha by an effective majority and in the Lok Sabha by a simple majority. Further, this resolution can be introduced only in the Rajya Sabha and not in the Lok Sabha. But, no such resolution can be moved unless at least 14 days' advance notice has been given. Notably, no ground has been mentioned in the Constitution for his/her removal.

The Vice-President can hold office beyond his/her term of five years until his/her successor assumes charge. He/she is also eligible for re-election to that office. He/she may be elected for any number of terms.⁴

⁴Dr. S. Radhakrishnan was elected for a second term.

Vacancy in Office

A vacancy in the Vice-President's office can occur in any of the following ways:

1. On the expiry of his/her tenure of five years
2. By his/her resignation
3. On his/her removal
4. By his/her death⁵
5. Otherwise, for example, when he/she becomes disqualified to hold office or when his/her election is declared void.

When the vacancy is going to be caused by the expiration of the term of the sitting vice-president, an election to fill the vacancy must be held before the expiration of the term.

If the office falls vacant by resignation, removal, death or otherwise, then election to fill the vacancy should be held as soon as possible after the occurrence of the vacancy. The newly-elected vice-president remains in office for a full term of five years from the date he/she assumes charge of his/her office.

POWERS AND FUNCTIONS

The functions of the Vice-President are two-fold:

1. He/she acts as the *ex-officio* Chairman of Rajya Sabha. In this capacity, his/her powers and functions are similar to those of the Speaker of Lok Sabha. In this respect, he/she resembles the American vice-president, who also acts as the Chairman of the Senate—the Upper House of the American legislature.
2. He/she acts as President when a vacancy occurs in the office of the President due to his/her resignation, impeachment, death or otherwise.⁶ He/she can act as President only for a maximum period of six months within which a new President has to be elected. Further, when the sitting President is unable to discharge

⁵Krishna Kant was the first Vice-President to die in office.

⁶When two Presidents, Dr. Zakir Hussain and Fakruddin Ali Ahmed, died in office, the then respective Vice-Presidents, V.V. Giri and B.D. Jatti acted as President.

his/her functions due to absence, illness or any other cause, the Vice-President discharges his/her functions until the President resumes his/her office.⁷

While acting as President or discharging the functions of President, the Vice-President does not perform the duties of the office of the chairman of Rajya Sabha. During this period, those duties are performed by the Deputy Chairman of Rajya Sabha.

The Constitution has not fixed any emoluments for the Vice-President in that capacity. He/she draws his/her regular salary in his/her capacity as the *ex-officio* Chairman of the Rajya Sabha. In 2018, the Parliament increased the salary of the Chairman of the Rajya Sabha from ₹1.25 lakh to ₹4 lakh per month⁸. Earlier in 2008, the pension of the retired Vice-President was increased from ₹20,000 per month to 50% of his/her salary per month⁹. In addition, he/she is entitled

⁷The Vice-President, Dr. S. Radhakrishnan discharged the functions of the President in June 1960, when the then President Dr. Rajendra Prasad was on a 15-day tour to the USSR and again in July 1961, when he/she (Dr. Rajendra Prasad) was very ill.

⁸Vide the Finance Act, 2018, with effect from 1st January, 2016. This Act amended the Salaries and Allowances of Officers of Parliament Act, 1953.

⁹The Vice-President's Pension (Amendment) Act, 2008. This Act amended the Vice-President's Pension Act, 1997.

to daily allowance, free furnished residence, medical, travel and other facilities.

During any period when the Vice-President acts as President or discharges the functions of the President, he/she is not entitled to the salary or allowance payable to the Chairman of Rajya Sabha, but the salary and allowance of the President.

INDIAN AND AMERICAN VICE-PRESIDENTS COMPARED

Though the office of the Indian Vice-President is modelled on the lines of the American Vice-President, there is a difference. The American Vice-President succeeds to the presidency when it falls vacant, and remains President for the unexpired term of his/her predecessor. The Indian Vice-President, on the other hand, does not assume the office of the President when it falls vacant for the unexpired term. He/she merely serves as an acting President until the new President assumes charge.

It is evident that the Constitution has not assigned any significant function to the Vice-President in that capacity. Hence, some scholars call him/her 'His Superfluous Highness'. This office was created with a view to maintain the political continuity of the Indian State.

Table 19.2 Articles Related to Vice-President at a Glance

Article No.	Subject-matter
63.	The Vice-President of India
64.	The Vice-President to be ex-officio Chairman of the Council of States
65.	The Vice-President to act as President or to discharge his/her functions during casual vacancies in the office, or during the absence, of President
66.	Election of Vice-President
67.	Term of office of Vice-President
68.	Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy
69.	Oath or affirmation by the Vice-President
70.	Discharge of President's functions in other contingencies
71.	Matters relating to, or connected with, the election of Vice-President