

Annexure 2

Representation of the People Act, 1950 - deals with the preparation and revision of electoral rolls,

The Representation of the People Act, 1951 - deals with all aspects of conduct of elections and post election disputes.

The Supreme Court of India has held that where the enacted laws are silent or make insufficient provision to deal with a given situation in the conduct of elections, the Election Commission has the residuary powers under the Constitution to act in an appropriate manner.

A non citizen cannot be a contesting candidate in the elections.

Article 84 (a) of the Constitution of India envisages that a person shall not be qualified to be chosen to fill up a seat in the Parliament unless he is a citizen of India. Similar provision exists for State Legislative Assemblies in Article 173 (a) of the Constitution.

Minimum age for becoming a candidate for Lok Sabha or Assembly election

Twenty Five Years

Article 84 (b) of Constitution of India provides that the minimum age for becoming a candidate for Lok Sabha election shall be 25 years. Similar provision exists for a candidate to the Legislative Assemblies vide Article 173 (b) of the Constitution read with Sec. 36 (2) of the R. P. Act, 1950.

For contesting an election as a candidate a person must be registered as a voter.

Sec 4 (d) of Representation People Act, 1951 precludes a person from contesting unless he is an elector in any parliamentary constituency. Section 5 (c) of R. P. Act, 1951 has a similar provision for Assembly Constituencies.

A registered voter from one State, can contest an election to Lok Sabha from any constituency in the country except Assam, Lakshadweep and Sikkim, as per Section 4 (c), 4 (cc) and 4 (ccc) of the R. P. Act, 1951.

A person convicted for some offence and sentenced to imprisonment for 3 years, cannot contest Election.

As per Section 8 (3) of R. P. Act, 1951, if a person is convicted of any offence and sentenced to an imprisonment of 2 years or more, this will be disqualification to contest elections. Even if a person is on bail, after the conviction and his appeal is pending for disposal, he is disqualified from contesting an election as per the guidelines issued by the Election Commission of India.

A person confined in jail can not vote in an election

According to section 62(5) of the Representation of the People Act, 1951, no person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police.

Security deposit for Lok Sabha election

Rupees 25,000/- and for SC/ST 12,500/- (Previously 500/- and 250/-)

As per Section 34 1 (a) of R. P. Act, 1951, every candidate is required to make a security deposit of Rs. 25,000/- (Rupees Twenty five Thousand Only) for Lok Sabha elections.

The same section 34 of R. P. Act, 1951 provides that a candidate belonging to Scheduled Caste and Scheduled Tribe is required to make a security deposit of Rs. 12,500 (Rupees Twelve Thousand five hundred Only).

Security deposit for an Assembly election

Rupees 10,000/- and 5,000/- for SC/ST (Previously 250/- and 125/-)

As per Sec. 34 (1) (b) of the R. P. Act 1951, a general candidate for contesting an Assembly election will have to make a security deposit of Rs. 10,000/-. A candidate belonging to Scheduled Caste / Tribe will have to make a security deposit of Rs. 5,000/- (Five Thousand Only).

This change in increasing the security deposit was brought about w.e.f 1-2-2010 vide Act 41 of 2009.

A candidate of a recognised National or State party requires one Selector for nomination

A candidate of a recognised national / state party, would require only one elector of the constituency as proposer, vide Sec. 33 of R. P. Act, 1951.

An Independent Candidate

The same section 33 of R. P. Act, 1951 provides that as an independent candidate or a candidate of an unrecognised political party, ten electors from the constituency should subscribe your nomination paper as proposers.

Loss of the deposit

A defeated candidate who fails to secure more than one sixth of the valid votes polled in the constituency will lose his security deposit.

Political Parties

The Election Commission had recognized 6 Political Parties as National Parties and 36 Political Parties as State Parties in different States at the time of General Elections in 2004.

As per the instructions of Election Commission as contained in Para 2 of Chapter II of Handbook for Returning Officers, a polling station should be provided for a well defined polling area, normally covering about 800 - 1000 electors. However, in exceptional cases, such number may exceed 1000 to avoid the breakup of any polling area in large villages or urban area. When the number exceeds 1200, auxiliary polling stations should be set up. There is provision for setting up of polling stations in localities inhabited by the weaker section of the society, even though the number may be less than 500. If there is a Leprosy Sanatorium a separate polling station may be set up for the inmates alone.

Recently the Commission has issued instructions for Rationalisation of Polling Stations in the country, and the limit of electors has been increased to 1500 per polling station, as Electronic Voting Machines are being used now.

Distance between Polling Stations

According to Para 3 of Chapter II of Handbook for Returning Officers, polling stations should be set up in such a manner that ordinarily no voter is required to travel more than two kms to reach his polling station.

Free lift to the polling station is not permitted

It is a corrupt practice under section 123 (5) of the R. P. Act, 1951. This offence is punishable under Section 133 of the same Act, with imprisonment which may extend upto 3 months and/or with fine.

Acceptance of Money

Acceptance of money to vote for a candidate is a corrupt practice of bribery under Section 123 (1) of R. P. Act, 1951. It is also an offence under section 171-B of Indian Penal Code and is punishable with imprisonment of either description for a term which may extend to one year or with fine or both.

Acceptance of any offer of liquor or other intoxicants or a dinner to vote for a particular candidate or not to vote for him is bribery.

If any person induces or attempts to induce the voter to vote for any particular candidate or otherwise he will become an object of Divine displeasure, he will be guilty of the corrupt practice of exercising undue influence on a voter under sec 123 (2) of R. P. Act, 1951.

It is also an offence under section 171C of Indian Penal Code and punishable with imprisonment of either description for a term which may extend to one year or with fine or both.

Treatening

Any threat to a voter that he would be excommunicated if he votes for a particular candidate or does not vote for another particular candidate is a corrupt practice of undue influence under Section 123 (2) of R. P. Act, 1951. It is also punishable under sec 171 F of Indian Penal Code with imprisonment of either description for a term which may extend to one year or with fine or with both.

Expenditure Limit

The law prescribes that the total election expenditure shall not exceed the maximum limit prescribed under Rule 90 of the Conduct of Election Rules, 1961. It would also amount to a corrupt practice under sec 123 (6) of R. P. Act, 1951.

The limit for election expenditure is revised from time to time. At present the limit of expenditure for a parliamentary constituency in bigger states like U. P, Bihar, Andhra Pradesh, Madhya Pradesh is Rs. 40 lakhs.

The limit of election expenditure for an assembly constituency in the above bigger states is Rs. 16 lakhs.

The limit of election expenses in the above bigger states at the time of 2009 general election was Rs. 25 lakhs for a Parliamentary constituency and Rs. 10 lakhs for an assembly constituency.

The maximum limits of election expenditure vary from State to State. The lowest limit at present for a parliamentary constituency is Rs. 16 lakhs for the constituency of Dadra and Nagar Haveli, Daman and Diu and Lakshadweep. The lowest limit for assembly constituency is Rs. 8 lakh in Goa, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Puducherry

Accountability of Expenditure

Under section 77 of the R.P.Act, 1951, every candidate at an election to the House of the People or State Legislative Assembly is required to keep, either by himself or by his election agent, a separate and correct account of all expenditure in connection with the selection incurred or authorised by him or his election agent between the date on which he has been nominated and the date of declaration of result, both dates inclusive. Every contesting candidate has to lodge a true copy of the said account within 30 days of result of the election.

In every state the account of election expenses shall be lodged by a contesting candidate with the District Election Officer of the district in which the constituency from which he contested lies. In the case of Union Territories, such accounts are to be lodged with the Returning Officer Concerned.

If a candidate is contesting from more than one constituency, he has to lodge a separate return of election expenses for every election which he has contested. The election for each constituency is a separate election.

Under section 10A of the RP Act, 1951, if the Election Commission is satisfied that a person has failed to lodge an account of election expenses with the time and in the manner required by or under that Act and he has no good reason or justification for the failure, it has the power to disqualify him for a period of 3 years for being chosen as, and for being, a member of either House of Parliament or the Legislative Assembly or Legislative Council of a State.

The deadline after which no public meetings and processions can be taken out

As per Sec. 126 of R. P. Act, 1951, no public meetings and processions can be taken out during the period of 48 hours ending with the hour fixed for the conclusion of poll.

A Person can vote even if his vote has been cast

If a person finds that someone else has already voted in his name, then also he will be allowed to vote. But his ballot paper will be marked as a Tendered Ballot Paper by the Presiding Officer. This will be kept separately in the prescribed cover, as per Rule 42 of the Conduct of Elections Rules, 1961.