

## The Representation of the People Act: 1951

Dr. Paromita Chakraborty, Surendranath College

### Key Provisions

- The act regulates the actual conduct of elections and by-elections.
- It provides administrative machinery for conducting elections.
- It deals with the registration of political parties.
- It specifies the qualifications and disqualifications for membership of the Houses.
- It provides provisions to curb corrupt practices and other offences.
- It lays down the procedure for settling doubts and disputes arising out of elections.

### Qualification for Contesting Elections in India

- The person must be a member of a Scheduled Caste or Scheduled Tribe in any state/UTs if he/she wants to contest a seat reserved for them.
- The minimum age for becoming an MLA/MPs (Lok Sabha) is 25 years.
- At the panchayat and municipality levels, the minimum age limit for contesting elections is 21 years.

### Right to Vote

- Apart from Article 326 of the Constitution (that guarantees the right to vote to every citizen above the age of 18 years, unless disqualified by any law), Section 62 of the RPA, 1951 also ensures that every person who is in the electoral roll of that constituency is entitled to vote.
- One person can vote at one constituency only and only for one time in a particular election.
- If a person is confined in a prison, whether under a sentence of imprisonment or transportation, then he is not eligible for voting, however, in the case of preventive custody, he can vote.

- However, the Act allows those serving sentences less than 2 years to contest elections from prison.
- NOTA Option: None of the Above was introduced in the ballot papers/ Electronic Voting Machine (EVMs) in General Election to the State Assemblies in 2013.
- VVPAT: Voter Verifiable Paper Audit Trail is an independent system attached with the EVMs that allows voters to verify that their votes are cast as intended.
- Provisions Related to Political Parties: Every association or body in order to become a political party must be registered with the ECI whose decision regarding registration will be final.
- Change in name and address of a registered political party must be communicated to the ECI.

### Voluntary Contributions

- Voluntary contributions by any person or company within India can be accepted by the registered political party.
- A company can donate any amount of money to any political party.
- There is no obligation of the company to report such donations in its profit and loss account.
- It is mandatory for the political parties to submit to the ECI a list of donations they received above Rs. 2,000.
- Political parties cannot receive more than Rs 2000 as cash donations.
- Now, political parties are eligible to accept contributions from foreign companies defined under the Foreign Contribution (Regulation) Act, 2010.

### Declaration of Assets and Liabilities

- Individuals contesting elections have to file an affidavit, declaring their criminal records, assets & liabilities and educational qualification.
- After getting elected, MPs are required to file a declaration of assets and liabilities with the Speaker of Lok Sabha and the Chairman of Rajya Sabha.

- These declarations have to be made by MPs within 90 days of taking their seats in Parliament.

### Right to Information

- Candidates need to furnish information whether he/she is accused of any offence punishable with imprisonment of 2 years or more in a pending case or has been convicted of an offence.

### Voting Through Postal Ballot

- Any class of person can be notified by the ECI in consultation with the concerned government which can give their votes by postal ballot.

### Section 126 of the RPA, 1951

- 48 hours before the polling ends or concludes, displaying of any election matter by television or similar apparatus in a constituency is prohibited.
- Section 126 is not applicable to the print media, news portals and social media
- Section 126A prohibits the conduct of exit poll and dissemination of its results during the period.

### Ceiling on Expenditure

- A candidate contesting polls in large states can spend up to Rs 70 lakh in the Lok Sabha election and Rs 28 lakh in an Assembly election.

### Counting of Votes

- At every election where a poll is taken, the votes are counted by, or under the supervision of the Returning Officer (RO), and contesting candidate, his election agent and his counting agents.

- Destruction, loss, damage or tampering of ballot papers at the time of counting must be reported by the RO to the ECI.

### Corrupt Practices

- All government or non-government officials are included within the scope of corrupt practices.
- Bribery: Any gift/offer/promise or gratification to any person as a motive or reward.
- Undue Influence: Any direct or indirect interference/attempt to interfere on the part of the candidate with the free exercise of any electoral right.
- The publication by a candidate any statement of fact which is false in relation to the personal character/conduct of any candidate

### Promoting Enmity

- Any person who promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred between different classes of citizens of India can be punished with imprisonment for a term which may extend to 3 years.
- Prohibition of public meetings during a period of 48 hours ending with the hour fixed for the conclusion of the poll.

### Significance of the Acts

- The provision of direct election for every constituency makes the process of election more democratic and participatory by encouraging and empowering people to play an active role in choosing appropriate candidates.
- Decriminalizing Indian Politics: The RPA, 1951 plays the significant role in breaking the politicians, police & criminal nexus, by prohibiting the entry of persons with a criminal background into the electoral process, thus decriminalizing Indian politics.

- **Accountability and Transparency:** The RPA,1951 provides for the expenditure monitoring mechanism which ensures the accountability and transparency of the candidate in the use of public funds or misuse of power for personal benefits.
- **Clean Election:** The RPA,1951 prohibits corrupt practices like booth capturing, bribery or promoting enmity etc., and ensures the conduct of free & fair elections.

### Challenges

- **False Disclosures:** Even after the provision of the declaration of assets and liabilities in the RPA act, candidates do not disclose all the assets and provide wrong and incomplete information regarding their assets, liabilities, and income and educational qualifications.
- **False Declaration as Offense:** The RPA ,1951 should be amended to include all the items related to the election disclosure in the affidavit and making false declarations in connection with the election to be an offence.
- **State Funding of Elections:** To minimise the role of money in elections, provisions should be made for state funding of elections.

Though these provisions are given for the conduct of free and fair elections the there is a need also for the ECI to become more prudent and proactive to ensure the fairness and transparency of a general election.