

Electoral Reforms in India - Issues and Recent Reforms

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ABSTRACT : *One of the most important features of a democratic polity is elections at regular intervals. Elections constitute the signpost of democracy. These are the medium through which the attitudes, values and beliefs of the people towards their political environment are reflected. Elections grant people a government and the government has constitutional right to govern those who elect it. Elections are the central democratic procedure for selecting and controlling leaders. Elections provide an opportunity to the people to express their faith in the government from time to time and change it when the need arises. Elections symbolise the sovereignty of the people and provide legitimacy to the authority of the government. Thus, free and fair elections are indispensable for the success of democracy. Free and Fair Election is a mandate given by our Constitution for a Parliamentary Democracy. The word 'Democracy' coined in the preamble can be realized if we have the content of free, fair and effective election process in our system. Only free and fair elections to the various legislative bodies in the country can be guarantee the growth of a democratic polity.¹*

KEY WORDS: *Elections, Reforms, Issues, Democracy, NOTA, Money Power*

I. INTRODUCTION

India has the distinction of being the largest democracy of the world. Elections are the most important and integral part of politics in a democratic system of governance. While politics is the art and practice of dealing with political power, election is a process of legitimization of such power. Democracy can indeed function only upon this faith that elections are free and fair and not rigged and manipulated, that they are effective instruments of ascertaining popular will both in reality and in form and are not mere rituals calculated to generate illusion of difference to mass opinion, it cannot survive without free and fair elections. The election at present are not being hold in ideal conditions because of the enormous amount of money required to be spent and large muscle power needed for winning the elections. While the first three general elections (1952-62) in our country were by and large free and fair, a discernible decline in standards began with the fourth general election in 1967.² No such events were reported till the fourth general election. Over the years, Indian electoral system suffers from serious infirmities. The election process in our country is the progenitor of political corruption. The distortion in its working appeared for the first time in the fifth general elections, 1971. and multiplied in the successive elections especially those held in eighties and thereafter.³ Some of the candidate and parties participate in the process of elections to win them at all costs, irrespective of moral values. The ideal conditions require that an honest, and upright person who is public spirited and wants to serve the people, should be able to contest and get elected as people's representatives. But in actual fact, such a person as aforesaid has no chance of either contesting or in any case winning the election.

SOME ISSUES IN ELECTORAL POLITICS OF INDIA : The election at present are not being hold in ideal conditions because of the enormous amount of money required to be spent and large muscle power needed for winning the elections. The major defects which come in the path of electoral system in India are: money power, muscle power, criminalisation of politics, poll violence, booth capturing, communalism, castism, non-serious and independent candidates etc.

Money Power: Money plays a central role in elections nowadays. Election requires money not only to distribute it illegitimately to influence voter choices but also fulfill the legitimate expenditures required to fight an election in large and big constituencies of India. Even if we consider fighting an election in legitimate manner then also it requires visiting hundreds of villages meeting thousands of people and employing. According to studies the 2014 general election is likely to be the most expansive election in Indian history. Over Rs 313 crore in cash has been seized by Election Commission since the during this period. EC-appointed surveillance and flying squads intercepted cash, liquor and narcotics as part of the central poll body's directive to check black money use and illegal inducements to the electorate. In the cash seizures list, Andhra Pradesh leads the tally with over Rs 153 crore announcement of the 16th general elections followed by Karnataka with over Rs 28 crore, Maharashtra

with over Rs 25.67 crore), Tamil Nadu with over Rs 25.05 crore and Uttar Pradesh with Rs 24.07 crore. The total cash seizure stood at Rs 3,13,31,76,868.⁴

Muscle Power : Violence, pre-election intimidation, post election , victimisation, most of the riggings of any type, booth capturing both silent and violent are mainly the products of muscle power. These are prevalent in many parts of the country like Bihar, Western Uttar Pradesh, Maharashtra etc. and this cancerous disease is slowly spreading to south like in Andhra Pradesh, Criminalisation of politics and politicalisation of criminals, freely indulged in now, are like two sides of the same coin and are mainly responsible for the manifestation of muscle power at elections.⁵ By using of violence, the criminals are able to achieve success at elections for their benefactors.

Criminalisation of Politics : During the election period, newspapers are usually full of information about the number of criminals in the field sponsored by every party. The reason of the criminals behind entrance to politics is to gain influence and ensure that cases against them are dropped or not proceeded with. They are able to make it big in the political arena because of their financial clout. Political parties tap criminals for fund and in return provide them with political patronage and protection.⁶ Rough estimates suggest that in any state election 20 per cent of candidates are drawn from criminal backgrounds: Mafia dons and other powerful gangsters have shown that they can convert their muscle power into votes often at gun point. Voters in many parts in the country are forced to vote for the local strongman. Tickets were given to the candidates with criminal records even by National Party. All these instances reported time and again show that democracy in India has largely failed to be what it was meant to be because the electoral system has been perverted. Our politics have been corrupted because the corrupt and criminals have to entered it.⁷ Criminalisation of politics has become an all-pervasive phenomenon. At one time politicians hired criminals to help them win elections by booth capturing. Today, those same criminals have begun entering parliament and the state legislature. There persists a big swarm of other burning issues hampering the democratic piousness and productive representation in our Indian society. The rampant issues bulging out as a handicap to election process are-

- Financing of election exceeding the legal limit
- Booth capturing
- Intimidation of voters
- Buying Voters
- Tampered electoral rolls
- Large-scale rigging of elections
- Abuse of religion and caste in the enlistment of voters, etc

The elections today more or less have become an ambitious investment venture, where everyone wants to try their hand at. Therefore each and every step of election process is packed with loads of inaptness as discussed below.

II. HISTORY OF ELECTION REFORMS IN INDIA

The journey of corruption in election process did not befall all of a sudden but gradually in a time span of several decades. Initially the requirement of money was felt for campaigning and since the majority voters were illiterate masses so, electioneering was required to be on a large scale. The candidates fetched support, aid and finances from criminals and muscle men. Generation and accumulation of money requires a robust support from the bureaucracy and these tend to encompass the bureaucracy too in the political web. After a while the criminals involved in non- bail able and cognizable offences themselves started participating in politics since they could easily win the elections by threats and coercion. The battle of ballot became battle of bullets. And when these kinds of people aspire to become the part of our honorary legislature, what better reforms can we expect from our government?

Taking cognizance of these shortcoming several commissions came up with the proposal for reformation of Electoral process in India including Goswami Committee on Electoral Reforms 1990, Vohra Committee Report 1993, Indrajit Gupta Committee on State Funding of Elections 1998, Law Commission Report on the Electoral Laws 1999, National Commission to Review the Working of the Constitution 2001, Election Commission of India with Proposed Electoral Reforms, 2004 and the Second Administrative Reforms Commission 2008. These committees first outlined the alarming divergence and irregularities of the Election process and then made recommendations for its implementation.

Recent Reforms : In July, 2013 the Honorable Supreme Court ruled that Parliamentarians and State Legislators who were convicted of serious crimes, meaning carrying a jail term of two years or more would be barred from contesting elections. The court struck down section 8 of the Representation of the People Act which allowed convicted members of Parliament and Legislative Assemblies to continue in office while their appeals journeyed through courts often for indefinite periods. The Government, backed by support from almost all political parties, had introduced a bill in Parliament to override this Supreme Court judgment and then passed the ill-fated Ordinance which now stands withdrawn.

NOTA (None Of The Above)⁸ : This option was introduced in the electronic voting machines in India after the landmark judgment delivered by the Supreme Court (the apex court in the Indian Judicial system) in PUCL vs. UOI.⁹ The right to vote in India is a statutory right. The converse of this, i.e. the right not to vote, while maintaining secrecy was claimed vide a petition to the Supreme Court by PUCL. Since the petition filed by PUCL (Peoples Union For Civil Liberties) was a Writ Petition under Article 32, the Court had to judge its maintainability, as it was contended that Right to Vote is considered a statutory right. The Court held that although Right to vote is a statutory right, the decision taken by the voter is a facet of Freedom of Expression under Art. 19(1)(a). Fundamental Right of freedom of speech and expression under 19(1)(a) and statutory right under S. 79 of Representation of People Act is violated if right not to vote is denied. Thus the Court held that the Writ Petition is maintainable.

The main advantage of the incorporation of NOTA is upholding and recognition of the right of the citizens to not cast a vote while maintaining secrecy during such abstinence. The true spirit of democracy lies in the right of the citizens to be able to choose their representatives periodically. Obviously the ends of democracy can be met only when majority of the citizens exercise this right. However, at the same time it must be ensured that the citizens are not compelled to choose the best from the worst (which, unfortunately is the case more often than not). This is exactly what NOTA seeks to achieve. The driving force behind the decision of the Supreme Court in PUCL vs. UOI was the fact that introduction of NOTA in EVMs would compel the political parties to project candidates with a so to speak „clean background“ in the various constituencies. NOTA is a powerful device in the hands of the voters who, if dissatisfied with the quality of the candidates may choose to use it. This consequently has the effect of a constant pressure on the political parties to ensure that only qualified and suitable candidates represent their political party in the elections. The consequence of this entire procedure : a much cleaner political future for India. At least this was the entire idea behind the Supreme Court passing a Judgment in favor of introduction of NOTA. The advantages of NOTA are obviously numerous as have been stated in the preceding section. But to scale down the benefits tone line –NOTA is a step forward in achieving the ends of democracy.

III. INITIATIVES BY THE ELECTION COMMISSION

Other than dealing with challenges faced in the election process, the Election commission lays down the model of Code of conduct, since it is the custodian of fair and free elections. But the harsh reality is that political parties never obey the code of conduct. The predicament is not lack of laws, but want of any strict execution. In order to squash out this iniquitous inclination, there is a need to reinforce the hands of the EC and to give it more officially authorized and institutional powers. The EC must be delegated with powers to penalize the wayward politicians who go astray and disobey the electoral laws. The commission has taken numerous new initiatives in the recent past. Prominent among these are, a scheme for Electronic Media as a medium for broadcast by Political parties, checking criminalization of politics, computerization of electoral rolls, providing electors with Identity Cards, un-complicating the formula for maintenance of financial records and filling of the same by candidates. A multiplicity of channel for stern compliance of Model Code of Conduct provided a level for contestants during the elections. And this is the rationale why the EC has been operational for the renovation of the election process since it came into motion. It is apparent from the varying electoral system is full of upheavals but the demand of time is to preserve and strengthen the Democracy.

Summing Up : Over the years, the Election Commission has conducted a number of laudable electoral reforms to strengthen democracy and enhance the fairness of elections. These reforms are quite adequate and admirable. Undoubtedly, the election machinery, under the aegis of the EC, deserves credit for conducting elections in a free and fair manner. However, our system is still plagued by many vices. To win votes, political parties resort to foul methods and corrupt practices. Such maladies encourage the anti-social elements to enter the electoral fray. The problem is not lack of laws, but lack of their strict implementation. In order to stamp out these unfair tendencies, there is a need to strengthen the hands of the EC and to give it more legal and institutional powers. The EC must be entrusted with powers to punish the errant politicians who transgress and violate the electoral laws.

Our Election Commission tries its best to weed out the virus of malpractices. It is optimistic of strengthening and improving the working of democracy through free and fair elections. It has always devised better systems and is using advanced scientific technologies for maintaining the high reputation of the Indian elections. However, the success of reforms will largely depend upon the will of the political parties to adhere to and implement such reforms. An independent media and an enlightened public opinion have no substitute in pushing through reforms. If people vote according to their convictions and punish those who infract the rules, corrupt practices will automatically disappear. And this will go a long way towards enabling democracy to flourish and grow to its full capacity.

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