



# ROLE OF ELECTION COMMISSION IN ELECTORAL REFORMS : A SNAPSHOT

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**Abstract:-** Having regard to the magnitude and diversity of India, it is an eloquent testimony of the parliamentary system of Indian democracy that the basic framework as bequeathed to us in 1950 has been preserved. Shortcomings in the system are amenable to realistic solution within the precincts of the present constitution if the major political parties bring their commitment to national unity and progress to bear on devising solutions. There is no need for a radical change in the Constitution or to switch over from the parliamentary system to the Presidential system of government. With such diversity and immensity of the population, it would almost be impossible to operate a Presidential system in India. Elections are the life-breath of India's democratic polity. The health and vitality of parliamentary democracy are sustained by ensuring free, fair and peaceful elections where the verdict of the people finds full expression. Elections to the parliament conducted over the past 68 years or so have, except for minor aberrations, been successful and widely acclaimed in the country. India is ranked as one of the 39 countries with a stable democratic set up in the World.

**Keywords:-** Socialist, Secular , Democratic, Republic Electoral Process Election commission etc.

**Introduction:-** The unimpeachable impartiality and independence of the Election commission are one of the main ingredients of democracy and the Electoral Process. So, whatever the structure of the Commission is and however adequate the powers conferred on its success in fulfilling its constitution to ensure free and fair elections would depend, it enjoys the confidence of public including the electorate, candidates and all the political parties. The Election commission within more than six decades of its existence has no doubt acquired a unique position in the constitutional structure of the governance of this country. It has been able to engender in the people of India, the attitude of confidence and faith and respect for the election commission. It has given the people confidence that the electoral process would bring the government of their choice. The entire process of election bears an imprint on the efficiency, impartiality, and independence of the Election commission. This is one of the institutions that have earned India considerable credit at home and abroad (McMillan, 2012: p 199).

Free and fair elections are essential in a healthy democracy. It is a vital condition for the success of democracy that institutions are based on the rule of law. More the elections are free and fair, the stronger the allegiance the electorate will have towards democratic institutions. Contrary to this, if the elections are not fair, people will lose faith in democracy and the institutions as well. Mohan Dharia (Minister of state planning 1971-75) has rightly argued that the Present Election system, which has encouraged the use of black money, casteism, abuse of administrative machinery, rigging and even capturing of booths has thus, eroded the faith of the people towards the system as a whole ( Singh, 1976: p 243).

Elections lie at the very heart of democracy. It is through elections that people in a democracy participate in public affairs and express their will. It is again through elections that power changes hands in a peaceful and orderly manner in a democracy and the authority of government gets clothed with legitimacy. „Elections, thus not only sustain democracy but enliven it as well. Holding of free and fair election is, therefore, a sine qua non of democracy. India is both the largest and one of the most populous democracies in the world. This apart, in comparison to most of the developed democracies of the world, problems of illiteracy, poverty, etc. still continue in India as is the case with most of the developing countries. Its electorate is not only vast but also quite diverse reflecting the plurality of caste, religion, region, language, etc. of its social mosaic. Conducting periodic elections in the country by encouraging large-scale popular participation is a stupendous task. Going by India's record in this regard, periodic elections as a means of smooth transfer of power have been a regular and successful feature of India's democracy in the past seventy years. Not only this, Indians have time and again reposed faith in elections as the most potent means of non-violent and peaceful protest against all acts of omissions and commissions of Government. Elections have thus become integral to India's democracy as elsewhere in other successful liberal democracies, the world over. However, certain aberrations have come to the fore in the very working of the electoral system over the years. The need to address such disturbing factors have generated a debate on electoral reforms in the country. and fair, the stronger the allegiance the electorate will have towards democratic institutions. Contrary to this, if the elections are not fair, people will lose faith in democracy and the institutions as well. Mohan Dharia (Minister of state planning 1971-75) has rightly argued that the Present Election system, which has encouraged the use of black money, casteism, abuse of administrative machinery, rigging and even capturing of booths has thus, eroded the faith of the people towards the system as a whole ( Singh, 1976: p 243).

India is a socialist, secular and democratic republic. In continuance of the British Legacy, India has opted for Parliamentary Democracy where free and fair elections are essential components. Since 1952, the country has witnessed elections to the legislative bodies at the National as well as State levels.

Indian Democracy has reached the pinnacles of maturity appreciated in the whole world, to be called the largest democracy where all the organs of the Government are working to the best of their efficiency and integrity, including the Election commission. Parliament has made a law to ensure free and fair elections and a very comprehensive system of elections to be developed in the country. The experiences of the last 17 General Elections have shown the merits and demerits of the system to the people. Still, our electoral process is beset

with many evils. Some of them can be easily identified. First is the mounting expenditure on elections, incurred both by the Government on organizing them and, more particularly, by the parties and candidates on fighting them. Barring a few rich individuals, nobody can finance an election from their resources. The Political parties and their candidates have, therefore, come increasingly to rely on business sources. The business contributions are mostly in cash and from unaccounted money. Another source is the wealth amassed by the gangs of anti-social elements-smugglers, dacoits and industrial mafias. Secondly, even more than money, power acting in aid of the candidates belonging to dominant castes and communities in a constituency.

Slowly and steadily many discrepancies started creeping in the election system to bring a bad name to the Election commission and also the government. Caste and communal conflicts started taking place and there was an eclipse of idealism and ideology in public life. The evil of booth capturing and rigging the elections made a mockery of free and fair elections. Problems started from Bihar and spread over to the other states (Linaye, 1987: p 194).

Thirdly, it has also been observed that due to a large number of candidates, the winner candidate very often wins by minority voters. The percentage of votes polled by political parties also does not correspond to their percentage of seats. The majority party generally wins with minority voters. A large number of political parties do participate in the electoral fray, but their performance has been negative. For example, in the 2004 Lok Sabha elections, 221 political parties could not open their account and their presence only mitigated the Electoral Process. Fourthly, the abject dependence of the Election commission on the Central and State Government for the conduct of the polls is another serious defect in the existing electoral system. Many Presiding Officers at the polling booths have been caught stamping the ballot papers and putting them inside the ballot boxes during the night before the poll. Fifthly, candidates with criminal records are contesting elections and get elected by using strong arms. For example, a record 435 candidates with criminal backgrounds stood for 11<sup>th</sup> Lok Sabha elections in 1996 and 27 of those made it to the Parliament. Around 162 MPs in the 15<sup>th</sup> Lok Sabha have criminal charges against them. Indeed, the battles of ballots have been turned into battles of bullets. On the Election days booths are captured, polling agents attacked, and booths are thrown to prevent weaker sections from exercising their franchise.

The role of the chief election commissioners from time to time has been compared by many critics who had to rise to the occasion to handle the situation existing at that time. According to Alok Tiwari, the first chief election commissioner Su Kumar Sen had built up an institution that became an example to the newly free countries in the 1950s and 1960s. The conduct of subsequent incumbents too mostly has been beyond suspicion. Even as the political culture steadily deteriorated, the election machinery by and large remained free of contrivers (Tiwari, 1991: p 10).

Reacting on the situation available at that time, S. Nihal Singh, Columnist had described Mr. T.N. Seshan as the most controversial chief election commissioner in India's electoral history.

### Major election reforms started by the T.N. Seshan were;

- i. Introduction of voter Identity card for all eligible voters.
- ii. Strict actions for implementation election code of conduct.
- iii. Set an expenditure limit for candidates in the elections.
- iv. Prohibited of distribution of liquor/money during elections.
- v. Prohibited bribing or intimidating voters.
- vi. Use of official machinery for campaigning. But unfortunately, this practice still prevalent.
- vii. Implementation of the laws in the election process.
- viii. Autonomous status to election commission of India.
- ix. Prohibition of use of loudspeakers and high-volume music without prior written permission.
- x. Prohibited candidates from demanding votes based on caste or communal feelings.
- xi. Prohibition of use of the religious place for election campaigns.

T.N. Seshan was the father of electoral reforms in India. He imitated many crucial reforms to clean Indian politics but unfortunately, due to the unwillingness of the political parties the Indian politics is still dominated by the rich people and now Indian politics has become the symbol of 3Ms; money, muscles, and mind (Election reforms by T. N. Seshan).

To remove the maladies prevailing in the elections system in India, the process of Electoral Reforms was initiated slowly and steadily and the efforts picked up soon and are still going on. Electoral Reforms refer to the introduction of the best practices in ensuring better democracy, clean politics, fair elections, ideal members of Legislative House, true representation and so on. Article 324-329 of the Indian Constitution deal with elections and electoral reforms. The focus of electoral reforms is on broadening the core meaning of democracy and making it more citizen-friendly along with the implementation of adult suffrage in true sense.

### Constitutional article related to electoral reforms

Article 324-329 deals with elections and electoral reforms.

- i. Article 324 deals with the Superintendence, direction, and control of elections to be vested in an election commission (Sawant, 1991, SC 1745).
- ii. Article 325 states that no anyone to be unqualified for inclusion in or to claim to be incorporated in a special, electoral roll on grounds of religion, race, caste or sex.
- iii. Article 326 deals with the Elections to the House of the People and the Legislative Assemblies of States to be the basis of adult suffrage (Ahmadi, 1995, SCC (4) 611).
- iv. Article 327 provides power to the Parliament to make provisions concerning Elections to Legislatures.
- v. Article 328 provides power to Legislature of a State to make provision concerning elections to such Legislature.
- vi. Article 329 provides to create a bar on Court to make any interference by Courts relating to electoral matters

(Ganguly, 1995, SC Pat 173).

### Aspects of electoral reforms

The Electoral Reforms contain the following aspects: -

- i. Transparency about the background of the candidates.
- ii. Freeing the election process from muscle and money power.
- iii. Prohibiting the nexus between business and politics.
- iv. Availing all the citizens, eligible to a comfortable, friendly and assured facilitation of vote casting.
- v. Upholding the secrecy of votes
- vi. Fair registration and recognition of the political parties and without any kind of influence.
- vii. The solution of delisting of illiterate voters.
- viii. Non-partisan role of media.
- ix. Applying the model code of conduct efficiently (Chakraborty, 2006, SC 3127).
- x. Streamlining the preparation of electoral rolls.
- xi. Expediting the election processes.
- xii. Rationalizing electoral processes.

### Requirement of electoral reforms

The need for electoral reforms has also been felt mainly to shun the malicious people and malevolent activities they are involved in it. Their requirement can further be elaborated as follows-

- i. The election process should reflect the situation of the day and should not be imposed on contemporary society.
- ii. To prohibit the criminalization of politics.
- iii. To stop the misuse of government pieces of machinery.
- iv. To discourage money and muscle power to contribute to election processes.
- v. To dismay non-serious candidates to contest in the election.
- vi. Election processes should be neutral, free from any biasness for any political parties.
- vii. To enhance trust in the eyes of citizens towards electoral processes.
- viii. To employ the use of technology to further the election processes and be in synch with modern days methods.
- ix. Some candidates fight election from two seats, so it is the need of the hour that makes it compulsory for the candidates to pay the expenses occurred on the election of their second constituency.

### History of electoral reforms

The first exercise at what could be called comprehensive reforms was made in 1971 when a joint parliamentary committee of the two Houses of Parliament was appointed under the chairmanship of. Jagannath Rao. The committee submitted two reports on January 18, 1972, and March 10, 1972. The first contained recommendations for the amendment of the Representation of the People Acts of 1950 and 1951 while the



second dealt with certain basic questions such as the voting age, the electoral system, etc. Some of the amendments in the Representation of the People Acts suggested by the committee were incorporated in a Bill introduced in the Lok Sabha in 1973 (Lok Sabha Bill No.100 of 1973). This Bill found some important provisions missing such as-

- i. Specifying four qualifying dates in a year instead of one for the qualifications of voters.
- ii. Prohibiting capricious transfers of election staff on the eve of elections.
- iii. Disqualification of persons with contracts with the Government or any public sector undertaking for contesting elections.
- iv. Counting of election expenses from the date of notification calling for the election instead of the date of nomination.
- v. Enhanced punishments for certain offenses etc.

This bill was not passed by Lok Sabha in 1975 before dissolution and got lapsed. Thereafter, another important development took place when during the period from 1974 to 1976 some important amendments were placed in section 77 relating to election expenses which are mentioned here below-

- i. Election expenses to be counted from the date of nomination of the candidate and not from the date of nomination of the election (Act No. 40 of 1975);
- ii. Election expenses by political parties or individuals other than the candidate or his agent not to be taken into account (Act No. 50 of 1974);
- iii. Expenditure by a Government servant during his duty to be excluded (Act No. 40 of 1975). This was apparently to shield Mrs. Gandhi whose election had been declared void because of some minor assistance she got from a government department (Gadkari, 1996: pp 13-14).

#### **Appointment of Justice V.H. Tarkunde (1974)**

Another landmark development in Electoral Reforms was the appointment of Mr. Justice V.H. Tarkunde as the head of the Committee, nominated by Shri. Jayprakash Narayan in August 1974, on behalf of citizens for Democracy. The members of the committee were as under: -

- i. V.H. Tarakunde
- ii. M.R. Masani
- iii. P.G. Mavalankar
- iv. A.G. Noorani
- v. R.D. Desai
- vi. E.P.W. Decosta

This Committee made some radical recommendations which were aimed at reducing or curbing some of the advantages enjoyed by the party in power which had been more or less the monopoly of Indian National

Congress because it has been in power during all these years since 1952. It made the following recommendations-

- i. The Election commission should be appointed by the President on the advice of a committee consisting of the PM (Prime Minister), the leader of the opposition in the Lok Sabha and Chief Justice.
- ii. The Election commission should be a three-member body.
- iii. The minimum age for voting should be 18 years.
- iv. The TV (Television) and Radio should be placed under the control of the autonomous statutory corporation.
- v. The Committee recommended the formation of Voter's Council in as many constituencies as possible which can help in a free and fair election.
- vi. Introduction of a partially proportional representation system of election.
- vii. The Government in the office should work only as a caretaker government during the election period.
- viii. Prohibition of contribution by companies to political parties.
- ix. Audit of accounts of candidates and political parties.

This Committee was formed during the Janta Party Government which was torn by internal problems and could not last long and no action was taken by the Government on the above said recommendations of the Tarkunde Committee and the report was filed (Bhalla, 1998: pp 2-4).

During the Prime Minister ship of Mr. Rajiv Gandhi, some far-reaching changes were made in the electoral law.

They were: -

- i. Reduction of the minimum age for voting to 18 years.
- ii. Insertion of the tenth schedule of the Constitution to put some checks on defections.
- iii. Provision for registration of political parties.
- iv. Use of voting machines (which has remained a dead letter).
- v. More stringent punishment for booth capturing which was declared a "corrupt practice" if practiced by a candidate or his agent; and
- vi. Permitting companies to make contributions to political parties (Kumar, 2002: p 13).

### **Goswami committee report and recommendations (1990)**

By the election manifesto of Janata Dal, the National front Government headed by the Prime Minister V.P. Singh announced in Lok Sabha on January 9, 1990, about the appointment of a committee on Electoral Reforms under the chairmanship of the then law minister Dinesh Goswami and on the 4<sup>th</sup> May 1990 about a bill for major electoral reforms including a time limit for bye-elections, increase in deposits from independents, a control on advertisement in the newspapers and strengthening of the election commission to be introduced soon in the Parliament. The Committee headed by Dinesh Goswami made the Following recommendations:

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- i. On booth- capturing, the committee felt that even after the 1988 amendment (Article 326) of the Representation of the People's Act the evil persisted and recommended a series of Legislative measures to eradicate booth-capturing, rigging, and intimidation. The recommended steps including not only on the re-poll or counter-mending not only on the report of the returning officer but even otherwise and giving the Commission the power to appoint investigation agencies, prosecuting agencies and ask for the constitution of special courts.
- ii. The Committee also called for amendment of the anti-defection law to restrict disqualification only to those cases where an elected member voluntarily gives up his membership of the political party, or when he votes or abstains from voting contrary to the party whips, directions only in respect of motion of vote of confidence or a motion amounting to none- confidence of a money bill or motion of vote of thanks to the President's address the power of deciding the legal aspect of disqualification should be taken away from the Speaker or Chairman and entrusted to the President or Governor who will act according to the election commission's recommendations. The nominated members of the House should also incur disqualification if they joined any political party at any period.
- iii. There was a difference of opinion on switching over from the present electoral system to proportional representation or the list system. The committee has, in this case, recommended the Constitution of an experts committee by the Law Ministry in consultation with the Election commission.
- iv. A fresh delimitation based on the 1981 census and a provision for rotation of seats reserved for Scheduled Castes.
- v. Photo identity should be made a multipurpose card and a time-bound program for covering the entire country with the proposed scheme should draw up.
- vi. A person should not be allowed to contest election from more than two Constituencies. Age qualification for contesting elections to Legislative Assemblies and Lok Sabha should be reduced to 21 years and Legislative Councils and Council of States to 25 years.
- vii. To discover aging non-serious, the security deposit in their cases should be Rs. 5000/- for Lok Sabha Elections and Rs. 2500/- for Assembly elections. This will be forfeited if they fail to secure one-fourth of the votes instead of one-sixth as at present. The number of proposers to nomination papers filed by them should be ten, drawn from different Assembly segments.
- viii. The Committee has said that there should be statutory backing for some of the important provisions of the model code of conduct like use of official machinery and personal, including aircraft and vehicles, issue of advertisement or sanctioning of financial grants in any form or making payments out of discretionary funds and laying of foundation stones for projects.
- ix. It called for a ban on transfer of officials and staff connected with election work and giving the Commission's observers statutory powers.
- x. The panel called for fixing of a six-month time limit for holding bye-elections.



- xi. Enabling the Army personal and those in Paramilitary Forces and persons outside India in diplomatic service to vote through proxy was also recommended by the committee.
- xii. The other recommendations include extensive restructuring of the election expenses account to restore the position as it existed before 1974 and making unauthorized expenditure an offence.
- xiii. Similarly, submission of false accounts and failure to keep an election account should also be made offences. There should be a constant review of the ceiling by the Election commission.
- xiv. There should be the appointment of the adequate number of ad hoc Judges to relieve regular Judges entrusted with the expeditious trial of election petitions.
- xv. The committee said the punishment for offences should be made Stricter. Banning playing of mechanically propelled vehicles on polling day, going about armed with lethal weapons and firearms on polling day and the sale and distribution of liquor were also recommended.
- xvi. It also said that a standing committee of Parliament should be constituted to go into all matters from time to time as electoral reforms were a continuous process.
- xvii. The committee said that it was satisfied that the electronic voting machine was “free from any scope of manipulation or tamper ability” and should be used in all future general and bye-elections (Fadia, 2000: pp 710-711).

A Bill to implement some of these recommendations was introduced in the Rajya Sabha as bill no. 25 of 1970. It includes the following important provisions:-

- i. Statutory status for the election commission's observers.
- ii. Prohibiting a candidate from contesting election from more than one constituency.
- iii. Higher deposits for Independent candidates.
- iv. Counting of election expenses from the date of notification of Election and not the date of nominations.
- v. Some State assistance on a limited scale to candidates of recognized parties.
- vi. Making statutory provision for certain aspects of the Code of Conduct.
- vii. By-election to be held within six months of a vacancy unless general elections are due within a year; and
- viii. Statutory powers for the Election commission to issue an instruction to the Officers and authorities doing election work.

It may be noted that two important recommendations of the Goswami Committee, viz. those relating to identity cards and ban on donations by companies were not included in the Bill- apart from the recommendation regarding defections which would have required an amendment of the Constitution.

A meeting mainly of the representatives of the Political parties in Parliament was conducted to fulfill further demand for electoral reforms in various sectors and to fulfill the election promise made by the national front to undertake urgently the electoral reforms. This meeting was convened by the Prime Minister on 9<sup>th</sup>

January 1990 to discuss the said reforms. Based on the broad consensus arrived at the said meeting, the Government constituted a committee on Electoral Reforms on 19<sup>th</sup> January 1990 consisting of representatives of the political parties and some eminent persons having deep knowledge on the subject. The said committee submitted a detailed report on 4<sup>th</sup> May 1990. The Government had considered the report and had generally agreed with the recommendations made by the said committee. The present Bill gives effect to such recommendations. The salient features of the Bill, as set out therein are as follows:

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- i. Section 8 of the Representation of the People Act, 1951 is proposed to be amended to provide that a person convicted of an offense punishable under section 2 or section 3 of the prevention of insults to National Honor Act, 1971 will be disqualified for six years from the date of such conviction.
- ii. Bill proposed to omit part IV-A relating to registration of political parties. Upon such omission, the provisions of the election symbols (reservation and allotment) order, 1968 shall apply for registration of any association or body of an individual citizen of India as a Political party under that order.
- iii. A new section 20 (b) is proposed to insert on this Bill to enable the Election Commission to nominate observers to watch the conduct of elections. The observers will have the power to direct the returning officers to stop the counting of votes or not to declare the result in certain contingencies like booth capturing. It is also proposed to confer the like powers on the Regional Commissioners or Supervisory Officers of the election commission.
- iv. Section 33 proposed to be amended to provide that a person shall not be nominated as a candidate for election in more than one constituency of the same class.
- v. To increase the security deposits in the case of candidates set up by recognized political parties as well as other candidates, section 34 is proposed in this Bill.
- vi. In this Bill, there is proposed Section 52, whose purpose is to be substituted to provide, inter-alia, that an election should be countermanded on the death of a candidate set up by a recognized political party only.
- vii. Section 58 (A) is being amplified to empower the Election commission to order re-polls also in the entire constituency depending on the nature and seriousness of the cases of booth capturing.
- viii. There is a need to amend Section 77 which is proposed to restore the position obtaining before the 1974 amendment regarding keeping a separate and correct account by a candidate or his election agent. Accordingly, it is proposed to empower the election commission to fix such limits from time to time.
- ix. To make a start concerning State funding towards elections, new Section 78 (A) and 78 (B) are proposed to insert to provide that the government shall supply, free of cost to the candidates of recognized political parties such number of copies of the Electoral Roll, such quantity of diesel or petrol for such number of vehicles as may be laid down in the rules to be made by the Central Government. The government will also pay to the candidates of recognized political parties such amount on account of hire charges for a certain number of microphones as may be specified in the rules. The

State funding can be gradually extended by the government in consultation with the election commission. The election commission shall supply or Cause to be supplied identity slips of elections to all candidates set up by recognized political parties. In cases of State funding and the supply of identity slips to the candidates by the election commission, it is proposed that the central government may, in consultation with the election commission, impose candidates concerning the reduction of maximum expenditure which may be incurred by any candidate under Section 77.

- x. The Code of Conduct laid down by the election commission on the suggestions from various quarters by the election commission is being provided with statutory backing incorporating new Section 124.
- xi. It is proposed that bye-elections be held within six months from the date of the occurrence of the vacancy.
- xii. Certain amendments are proposed to ensure peaceful conduct of elections by reducing the influence of money and muscle power by prohibiting the carrying of arms, etc. on the polling day and also by enhancing the punishment in certain cases. The Bill containing the above provisions however could not be passed by the Parliament for the reasons unrelated to weakness in the Bill.

### **The Vohra committee (1993)**

In 1993, The Vohra Committee was appointed by the Government of India. According to the Vohra Committee, the nexus between Crime Syndicates and Political Personalities was very deep. The entry of criminals into politics is a matter of great concern. According to the Central Bureau of Investigation (CBI) and the Report of the Vohra Committee, Crime syndicates all over India have become a law unto themselves. Even in the smaller urban and rural areas, muscle men have become the order of the day. Hired assassins have become part of these organizations. The committee quoted other agencies to state that the mafia Network is virtually running a parallel Government, pushing the state Apparatus into irrelevance. Some Political leaders become leaders of these gangs and over the years, got themselves elected to Local Bodies, State Assemblies and National Parliament. The committee recommended the barring of criminals from politics (Election in India, Events and New Initiatives, 2000: pp 339-341).

### **Indrajit Gupta committee on state funding of election (1998)**

To tackle the complicated issue of the state funding of the elections, a committee was appointed under Inderjit Gupta, a senior member of the Communist Party, as Chairman to decide the modus operandi of state funding of the elections by different parties. Dinesh Goswami Committee had recorded doctoral reforms and to provide for funds by the government to the political parties for contesting for the elections. The Union Government took up on a priority basis consideration of unimplemented recommendation of Dinesh Goswami Committee, A Meeting of leaders of various political parties was held on 22<sup>nd</sup> May 1998 appointing Inderjit Gupta, MP as chairman of the Committee to suggest concrete measures for providing state funding to recognized political parties (Committee on State Funding Report, 1998: p 17).

Committee was also requested to consider the related proposals about maintenance of accounts by political parties and audit thereof, the donations by companies to political parties, inclusion of expenses of

political parties in the election expense of the candidates for calculating election expenses, and empowering of election commission of India to fix ceiling on election expenses before every general election.

### **Law commission report on reform of electoral laws (1999)**

In 1999, a commission headed by B.P. Jeewan Reddy was appointed who gave a report recommending various measures to be taken: -

- i. To make the electoral system more representative, fair and transparent.
- ii. To strengthen democracy.
- iii. To introduce stability in the governance.

Commission also made the following suggestions: -

- i. Inclusion of a chapter regulating the formation and functioning of political parties, particularly to ensure internal democracy.
- ii. Recommendations for introducing the List System.
- iii. To address the defections, the Commission proposed that a pre-election front/coalition of political parties should be treated as a "Political Party".
- iv. The Commission has also suggested that any political party whichever less than 5% of the total valid votes cast in the general election to the Lok Sabha or a State Legislative Assembly, as the case may be, shall not be entitled to any seat in the Lok Sabha/Legislative Assembly even if it wins any seat(s).
- v. The Commission has also opined that at the time is now ripe for barring independent candidates from contesting elections for Lok Sabha and Legislative Assemblies and has made recommendations accordingly.
- vi. The Commission has recommended enactment of provisions requiring the political parties to maintain accounts, have them audited and file them before the election commission.
- vii. On State funding of political parties, the Commission has reiterated the recommendations in the Inderjit Gupta Committee report subject to certain reservations.
- viii. The Commission has also recommended that in case of electoral offenses and certain other serious offenses, the framing of a charge by the Court should itself be a position of ineligibility in addition to conviction.
- ix. To bar the independents altogether and permitting only political parties to contest elections subject to the requirement of obtaining 5% of the total valid votes cast to enable them to get a seat in Lok Sabha/State Assembly.
- x. In the interest of transparency, we have also suggested provisions making it obligatory upon every candidate to declare the assets possessed by him or her or by his/her spouse and dependent relations and the particulars regarding criminal cases pending against him/her, in the nomination paper itself.
- xi. We have also suggested measures for ensuring the stability of governments. One of the measures suggested is a new rule, Rule 198 A in the Rules an established and organize of Business in Lok Sabha.

We have stressed the necessity of having one election once in five years for Lok Sabha as well as State Assemblies and made some suggestions on that behalf.

- xii. We have also set out the desirability of adopting the rule requiring that only a candidate obtaining 50% +1 votes will be declared elected and the holding of a “run-off” election wherever necessary. The concept of the negative vote also has been discussed and recommended for consideration.
- xiii. Another connected suggestion was to delete Article 331 of the Constitution which empowers the President to nominate two members of the Anglo-Indian community to the Lok-Sabha. It was explained that this provision which may have been good when the Constitution was enacted, has become irrelevant with the substantial fall in the number of Anglo-Indians over the years and in the light of the minuscule number of this community obtaining today (Saha, 2005: pp 51-53).

### **National commission to review the working of constitution (2000)**

The National Commission to Review the working of the Constitution also known as Justice Manepalli Narayana Rao Venkatachaliah Commission was set up by a resolution of the NDA Government of India led by Atal Bihari Vajpayee on 22 February 2000 for suggesting a possible amendment to the Constitution of India. It submitted its report in 2002. Among other members of the Commission were-B.P. Jeewan Reddy, R.S. Sarkaria, K.Punnayya, Soli Sorabjee, K. Parasaran, Subhash C. Kashyap, C.P. Irani, Abid Hussain, Sumitra Kulkarni and P.A. Sangma (Laxmikanth, 2010: p 64).

The Commission was required to examine and give its report among a review of Election Law, Processes and Reform options, etc.

Commission was asked to complete its work as early within one year. It submitted its report on 31<sup>st</sup> March 2002 in 2 volumes which were received by Law and Justice Minister, Arun Jaitley. However, the recommendations of the Commission were not accepted by consecutive Governments.

### **The representation of the people (amendment) act (2002)**

This Act was passed to amend the Representation of the People Act, 1951. It led to the amendment of Section 8 of Act of 1951. This Act inserted provisions for disqualification as it stated that a person shall be disqualified, where the convicted person is sentenced to:

- (i) Only fine, for six years from the date of such conviction.
- (ii) Imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

Further, under the National Democratic Alliance (NDA) Government, the Constitution's 91<sup>st</sup> Amendment regarding Anti-Defection Law and Restricting the size of the Council of Minister was introduced in 2003 by which the number of cabinet births was limited to just 15% of the total number of legislators to prevent horse-trading during regime change. The 2003 Act provides-

Article 164 of the constitution, after a clause was inserted, namely;

(1A) the total number of Ministers, including the Chief Minister in a State, shall not exceed 15% of the total



number of members of the Legislative Assembly of that state. Provided that the number of Minister, including Chief Minister in a State, shall not be less than twelve, provided further that where the total number of Minister including the Chief Minister in the Council of Ministers in any State at the commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said 15% or the number specified in the first provision as the case may be, then, the total number of Minister in that State shall be brought in conformity with the provisions of this clause within 6 months from such date as the President may by public notification appoint. A Candidate disqualified as a member of the House shall be disqualified to work as a minister also if he happens to be a minister. Companies were made eligible to make donations to political elections and other related laws, Amendment Bill, 2003 and pumping in of black money in elections to parliament and state assemblies.

### **Election commission of India-proposed electoral reforms (2004)**

During the Prime Ministership of Dr. Manmohan Singh, the then Chief Election Commissioner, T.S. Krishna Murthy prepared a proposal for Election Reforms in two parts and submitted to the P.M. on July 30, 2004, for consideration and approval. The contents of the report are summed up as under.

#### **Part-01 of the report**

- i. Affidavits to be filled by candidates on criminal antecedents, assets, etc. and to amend Form 26.
- ii. Need to increase the Security Deposit of Candidates to Rs. 20000/- for Lok Sabha, Rs. 10000/- for State Assembly.
- iii. Criminalization of political candidates against whom cases were filed before 6 months of election to be disqualified.
- iv. Restriction on the number of seats from which one may contest-Nobody should be allowed to contest from more than 1 seat.
- v. Exit polls and opinion polls should be banned.
- vi. Prohibition of surrogate advertisements in print media-name and address of publisher should be published.
- vii. Negative/ Natural Voting with a clause none of the above.
- viii. Appointment of Appellate Authority in Districts against Orders of Electoral Registration officers by amending section 24 of the Representation of the People's Act, 1950.
- ix. Compulsory Maintenance of Accounts by political parties and Audit thereof.
- x. Government-Sponsored Advertisements should be prohibited for 6 months before the date of end of the term of the home.
- xi. Political notice on television and cable interne under suitable advertisement code and monitoring mechanism.
- xii. Composition of election commission and Constitutional Protection of all Members of the Commission and Independent Secretariat for the Commission under Article 324 (5) of the constitution to ensure the independence of the Commission.

- xiii. Expenses of election commission to be treated as charged instead of lapsed with the dissolution of Lok Sabha.
- xiv. Ban on Transfers of Election Officers on the Eve of Election for smooth Conduct of elections.
- xv. All officials appointed in connection with conduct of elections to be included in Clouse (7) of Section 123 of Representation of the People Act 1951 so that there is no technical difficulty in future elections (Ramesh, 2011: pp 1330-1331).

## **Part-02 of the report**

- i. Anti-Defection Law.
- ii. Use of common electoral rolls at elections conducted by the election commission and the state election commissions.
- iii. Simplification of procedure for disqualification of a person found guilty of corrupt practice.
- iv. Some number of proposers for all contesting candidates-amendment of section 33 of the Representation of the People Act, 1951.
- v. Making of false declaration in connection with election to be an offense.
- vi. Rule making authority to be vested in election commission.
- vii. Registration and de-registration of political parties strengthening of existing provisions.

## **Reforms of election commission in India**

- **Prevent criminalization of politics**

The Commission proposed to debar a person, who is accused of serious criminal charges and where the Court is satisfied with his/her involvement in the crime, and consequently framed charges, from contesting elections in the public interest. As a precautionary measure it also proposed that to prevent the filling of any motivated cases by the ruling party, it may be provided that only those cases which were filed before six months before an election alone would lead to disqualification as proposed. It also suggested that persons found guilty by a Commission of Enquiry should also stand disqualified from contesting elections.

- **Restriction on the number of seats from which one may contest-**

The Commission is of the view that the law should be amended to provide that a person cannot contest from more than one constituency at a time. The Commission also suggested that if the present provision allowing a person to contest from two constituencies as existing at present is to be retained, then there should be an express provision in the law requiring a person who contests and wins election from two seats, resulting in a bye-election from one of the two constituencies, to deposit in the government account an appropriate amount of money being the expenditure for holding the by-election. The amount could be Rs. 500000 for State Assembly and Council election and Rs. 1000000 for election to the house of people.

- **Restriction on exit polls and opinion polls**

The Commission proposed some restrictions on publishing the results of opinion polls and exit polls to ensure free and fair elections. The Commission recommended that there should be a restriction on publishing the results of exit polls and surveys for a specified period during the election process.

- **Prohibition of surrogate advertisements in print media**

The Commission was of the view that there should be clear provisions to deal with cases of surrogate advertisements in print media. For this purpose, Section 127 A of the Representation of the People Act, 1951 may be suitably amended, adding a new sub-section (2A) to the effect that in the case of any advertisements election matter for or against any political party or candidate in print media, during the election period, the name and address of the publisher should be given along with the matter/advertisement. Sub-section (4) should also be suitably amended to include in its ambit the new proposed sub-section.

- **Provision for negative / natural voting**

The Netherlands was the first country to introduce a provision for marking “None of the above” for a Voter if he decided not to vote for any of the Candidates. Similarly, in India at the suggestion of the Election commission under Clause 22 and 49 (B) conduct of Election Rules, 1961, the addition of a provision in the Ballot paper for NOTA if any voter does not want to vote at all and he can press the button of NOTA. For him, all candidates stand rejected and his vote will not be counted for any candidate (Reforms Committee, Fourth Report, 2007: pp 87-88).

- **Control on government sponsored advertisement**

The Commission proposed that where any general election is due on the expiration of the term of the house, advertisements of achievements of the governments, either central or state, in any manner, should be prohibited for six months before the date of expiry of the term of the House. And in case of premature dissolution, the date of dissolution of the house, however, advertisements, dissemination of information on poverty alleviation and health-related schemes could be exempted from the purview of such a ban.

- **Amendments to election law**

During the decade of the eighties, either new statutory measures were enacted or the existing provisions of election law were amended to strengthen the system. The first noteworthy measure was taken in 1985 with the passage of the Anti-Defection Act. The enactment prohibited floor crossing for personal gains. It ushered in a period of a stable government at the state level. The provisions of the Act in respect of split and merger in a political party are, however, defective and may disrupt its strength, stability, and status in the legislature. The Companies Act was also amended in the same year to permit any company to contribute to a political party for political purposes up to five percent of the average net profit of the

company during three immediately preceding financial years. This enactment liberalized under the table donations made by business houses to political parties.

- **Booth capturing**

The provisions of the Representation of the People Act, 1951 should also be tightened for eradicating the malpractice of booth- capturing. An additional Section 135 (A) was inserted in the Act to provide for stringent punishment. The capturing of a polling booth was also made a corrupt practice by adding a new sub-section in Section 123. The Election commission was empowered to countermand the poll in the entire constituency, based on the returning officer's report, if it finds that the result of the election was materially affected on account of booth-capturing on a large scale.

- **The registration of political parties**

According to the People's Representation Act, it is essential and mandatory for every political party contesting the elections to get itself registered with the Election commission of India. However, it has been noticed that many small and regional political parties are not getting themselves registered as required under law, which must be checked and streamlined. Further, the officials connected with the preparation of electoral rolls and the conduct of elections during the period of their work area to be treated on deputation to the election commission which is not being implemented everywhere. It has been made known to everybody by adding new Sections 13CC to the Act of 1950 and Section 28 (A) to the People's Representation Act, 1951.

- **Independence of election commission**

To achieve the target of electoral reforms, it is essential that the chief election commissioner and the other election commissioners should be given a six years term or till the age of 65 years for Chief Election Commissioner and 62 years for Election commissioners. Their salary and perks should be equated with chief justice of Supreme Court and other judges of Supreme Court. The appointment of the chief election commissioner was allowed to remain within the authority of the President on the advice of the Prime Minister, the normal method of functioning in a parliamentary government. This method of appointment is open to suspicion. The vesting of the Power of selection of the chief election commissioner and another election commissioner with the executive makes them under obligation to the government of the day. In the interest of fairness, appointing authority should be independent of the executive the Goswami Committee proposed that the appointment of chief election commissioner may be made by the president in consultation with the chief justice of Supreme Court and the leader of the opposition in the Lok Sabha. For appointments of election commissioners, the panel may include chief election commissioner (Agariwal and Chaudhary, 2000: pp 141-142).

- **Consideration for political advertisements on television and cable**

The Commission was of the view that the Government may consider amending the relevant provisions of the Cable Television Network Rules, 1994, to provide for suitable advertisement code and monitoring mechanism. Composition of the election commission and Constitutional Protection of all Members of the Commission and Independent Secretariat for the Commission. To ensure the independence of the Election commission and to keep it insulated from external influences, the Commission recommends that Clause (5) of Article 324 of the Constitution, interlaid, provides the process of removal of the chief election commissioner, but it does not provide similar protection to the Election commissioners. It merely says that they cannot be removed from office except on the recommendation of the chief election commissioner. The provision seemed to be inadequate and the election commission proposed an amendment to provide the same protection and safeguard in the matter of removability of election commissioners from office as is available to the chief election commissioner.

- **Maintenance of proper account of election expenditure**

At present several political parties are not maintaining the proper account of expenditure made in the election. It is also not included in the candidate's expenditure return as well. This loophole in the law leads to flagrant violation of the ceiling on the expenditure of the candidate. The amount is increasing every time required to maintain accounts of the funds received and disbursed under various heads. Funds spent by a party for a candidate should form a part of his election return. Supreme Court had in the case (1995) of G.K Bapat and Dutta Megha, advised Parliament to enact a law so that strict financial discipline is maintained by each party (Grover and Arora, 1996: p 327).

- **Use of muscle power**

In some parts of the country, when money power fails, muscle power is employed for increasing the prospects of winning an election. This is done in two ways: -

- i. By preventing the voters of weaker sections of society on their way to polling stations for casting their ballots; and By forcibly capturing polling booths for marking and inserting ballot papers in the ballot box of the candidate of choice. The original poll was disrupted, and re-poll held at 1601 polling stations in the Parliamentary general elections 1989. The figure of re-poll increased to 2601 polling stations. Forty-eight persons were killed in violence in the eighth general elections and the figure of such killings reached 130 and 150 in the ninth and tenth general elections respectively. Even in 1996, despite elaborate security measures, 52 persons lost their lives. The tightening of the legal provisions relating to booth capturing and other malpractices have not been effective in curbing the tendency of use of violence. The remedy for eradicating such Acts of violence lies in toning up the moral values of the electorate not to vote for candidates who indulge in malpractices. The parties should decide to follow the rules of the game and instruct their supporters not to indulge in such actions in the interest of free elections in the



country. Voluntary organizations can also play an effective role in arousing the public against such evil practices (Pankaj, 2007: p 193).

- **Impersonation of voters**

Impersonation is a piece of common knowledge, in metropolitan cities and other urban areas, for the dead and absentee voters is practiced, notwithstanding the mark of indelible ink on the forefinger of the voter. To eliminate this practice, photo-identity cards for the voters should be made obligatory, as suggested by the Election commission. And the photo-identity cards should be made useful to the citizens, apart from elections, in other areas as well, such as obtaining a ration card, passport, admission to educational institutions, employment, etc. The state government of nearly half of the number of states has already completed the process of issuing photo-identity cards to citizens. The government of other states and union territories should also expedite the completion of this process.

- **Discipline on the part of political parties, candidates and the voters**

Recently, elections were held to the 17<sup>th</sup> Lok Sabha, the results of which were declared in June 2019. Holding the elections in a free and fair manner by the Chief Election commission's Office advising the voters to vote freely, fearlessly and make an informed and ethical choice was a gigantic task. There were 900 million eligible voters, 1 million voting booths, 10 million elections officials excluding the security staff, and expected 10,000 candidates for 545 seats and more than 500 political parties were contesting the elections. It was much like a festival. To conduct the elections in the whole of India at such a wide level, there is a need for close cooperation, co-ordination, sincerity, and honesty on the part of all the stakeholders, nearly 1 or 2 electoral reforms cannot do.

According to the news appearing in the newspapers and internet in the recent past, there is the demand for simultaneous elections for India for Lok Sabha and State Assemblies. Mamta Banerjee has also supported it. The election commission has filed an affidavit in Supreme Court asking for the power to de-register political parties. Ex. Chief Election Commissioner O.P. Rawat (2018) also supports one nation one poll. Supreme Court has criticized Centre over non-disclosure of action on rising assets of politicians.

### **Corrupt practices-**

The election commission is a neutral organization, which has reduced corruption in the elections. At the time of the elections, we can get biographical data of each candidate; get complete information about their property as well. Elections have improved tremendously over the past 10 years. Therefore, they are a positive sign of democracy.

**Conclusion:-** It is an accepted fact that the electoral process in the country has developed certain shortcomings over the years which need to be corrected. But this should be done through extensive debate and discussion and in a gradual and continuous manner. Successive Governments at the Centre have realized the importance of the issues relating to electoral reforms. Suggestions made either by the Election Commission or by the various committees on electoral reforms from time to time, have been regularly considered and also implemented. While considering the proposals and suggestions of reforms of the electoral process, it has also been underlined that consensus of political parties in the country is necessary. Government recognized that electoral reforms is a continuous process and it shall be the endeavour of all the stakeholders including Government, Election Commission of India, Law commission, etc. to implement such proposals on electoral reforms on which consensus emerges, from time to time.

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