

## ELECTORAL REFORMS

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Synopsis: India is the biggest democracy in the world. Since independence, there have been 11 Lok Sabha and a number of elections to the State Assemblies. Elections are controlled and supervised by the Election Commission. But there are many ills and distortions in the process of election and they need an immediate remedy. Because of a lack of political consensus, a wide package of reforms has been pending. The misuse of money power and criminalization are two major evils from which our elections suffer. State funding of elections has been suggested to eradicate the use of money power and its evil influences. A large number of political parties has further increased the confusion. Besides electoral reforms what is most needed is a political culture, ethos, and change of the hearts of the leaders of the parties.

India is the biggest democracy in the world and has completed 50 years. Free, fair peaceful, and regular elections based on the universal adult franchise are the main foundation of democracy. The first general election in the country was held in 1952. Since then there have been eleven general elections to the Lok Sabha and a number of elections to the Legislative Assemblies of the State. Before independence elections were held on the basis of a limited electorate in constituencies formed chiefly on a communal basis. Since the adoption of the Indian Constitution on 26th January 1950, elections are being held on the basis of universal adult suffrage. General Elections are normally held every 5 years but mid-term elections are often held as the circumstances demand. Elections are controlled and supervised by the Election Commission. The main duties of the Election Commission include to superintend, direct, control, and conduct elections; to lay down general rules for elections; to determine constituencies and to prepare electoral rolls; to give recognition to political parties and give them election symbols, and to appoint election tribunals to decide disputes related with elections to Parliament and State Legislatures.

Every adult citizen of the country who has attained the age of 18 years is eligible to cast a vote in an election irrespective of one's race, sex, religion, caste, or social status. In the recently held General Election to the 11th Parliament in April-May 1996 over 59 crores Indian electorate exercised their power to vote. But with the passage of time many distortions and evil practices have crept into the whole electoral process and procedure and need to be addressed urgently. The main ills from which our elections suffer are the use of money and muscle power to affect the election results, criminalization of

politics, misuse of government machinery by the political parties in power, rigging, booth capturing, etc.

Electoral and poll reforms have been in the air for a long time and a few positive steps have also been taken but the full and desired reforms have not been effected for want of political will and consensus. The various political parties have failed time and again to agree on a package of wide-ranging poll reforms. They have failed to evolve a broad and effective consensus on various reform proposals. However, the first positive step towards electoral reform was taken in 1985 when the anti-defection law was passed. The anti-defection law imposes a ban on legislators and MPs defecting from one party to another. Thus, it eliminates the evil of political defections after elections, but there are no disqualifications after splits and mergers. If there is a dispute as to whether an MLA and MP have become subject to disqualification, the matter is to be referred to the Chairman or Speaker of the House as the case may be, and his decision would be final. Another major step taken towards electoral reform was when two bills were passed in Parliament in 1988. One lowered the voting age from 21 to 18 years and the other provided deterrent penal punishment for booth capturing and rigging along with the provision for debarring an offender from contesting elections. The offenders include smugglers, persons convicted of a crime against women, and terrorists.

The Misuse of money power in elections is an establishment facet. The legislative changes effected in 1956 and 1974 in relation to election expenses have further aggravated the situation. Now the period of accounting of election expenses has been limited between the date of filing nomination paper and the date of declaration of results as against the earlier unlimited period when expenses incurred before affidavit accompanying the return of election expenses has been done away with. The candidates are not required to account for expenses incurred by their political parties, friends, relatives, or well-wishers. These amendments have made the law relating to election expenses farcical. However, the Supreme Court, in a landmark judgment in 1996, took note of these changes and has tried to eradicate this evil.

Contributions by corporate houses, firms, business groups, multinational companies, contractors, and such other persons and agencies also affect the free and fair elections. The party in power can manipulate things in favor of the big donors to have access to large election funds from such sources. There should be specific limits to such donation but the law allows them to contribute on the percentage basis of the profits of a company which may run to a very huge amount reaches the personal pockets of political leaders. It is proposed that

there should be State funding and assistance should be only the recognized political parties and that too in kind and not in cash. It would also attract more good and honest people who are now averse to contesting elections in such a corrupt and foul political atmosphere.

It is a statutory obligation for all political parties to file a return of income in regard to each assessment year but they do not file such returns for years together in violation of the statutory provision. And yet there is no action against these parties. These regulations should be strictly enforced and action taken against defaulting political parties. If a political party does not maintain audited and authenticated accounts and fails to file a return each assessment year should be derecognized. It is very essential that some urgent and effective steps are taken to check the role of money power in elections. Until it is done there cannot be any fair, free, and impartial elections. The political parties show themselves as the champion of democracy but do not practice it as far as their internal matters are concerned. They do not follow their party constitutions and do not hold organizational elections in time. Here too, the money and muscle power play their dirty role.

There are a large number of political parties which include national, regional, and other parties. This further adds to the confusion and chaos. The number of parties should be limited and recognition should not be given indiscriminately. The Elections Commission should see that only genuine parties with a good following and members are recognized. It is suggested that every Income Taxpayer, above a certain level, should indicate in his income tax returns the contribution he intends to make in the case of elections to the Lok Sabha and in the case of elections to the State Assembly. The amount thus collected should be under the control and disposal of the Election Commission Santhanam Committee favored contributions from the public. It contributed to the political purpose of one rupee only every year, the amount collected would be sufficient for distribution among the recognized parties.

There are laws and regulations to curb money power and corrupt practices during the elections but unfortunately, they are not strictly observed and enforced. Consequently, there are bribes, illegal, gratification, undue influence, intimidation, and other illegal activities during the elections. Parties indulge in communalism, casteism, and regionalism or appeal to the voters on religious grounds. Attacks and character assassination of rival candidates have become a common feature of Indian elections. There are several deaths at the time of elections because of violence and shooting. In rural and far-flung areas booth-capturing is also not uncommon. The Election Commission should be made more

powerful and effective to check these election-ills. The status of the Election Commission should be made more powerful and effective to check these election-ills. The status of the Election Commission should be improved. Provision should also be made following which the process of removal of CEC and the two election commissioners becomes similar. At present, an Election commissioner can be removed on the recommendation of CEC whereas the grounds for the removal of CEC are similar to those of a Supreme Court Judge. There should be an independent secretariat for the commission on the lines of the secretariat for the Lok Sabha, the Rajya Sabha, and the registries of the Supreme Court and high courts.

The criminalization of politics and the influence of money power are the two main evils to be tackled immediately to make elections fairly free and fair. The expenditure incurred by political parties should be included in the account of election expenses of the candidates. It should be made obligatory on the part of public undertakings of the Central and State governments, statutory bodies, and government agencies to make an available staff for election duty. The question of delimitation of constituencies and the system of rotation of constituencies for reserved seats also deserve consideration. The elimination of non-serious candidates by further increasing security deposits is another point that deserves serious consideration. The use of electronic voting machines (EVM) instead of ballot papers and issues of photo identity cards are other useful suggestions. Switching over to a proportional representation or list system from the present electoral system should also be given due consideration as is the practice in many European countries.

Besides these electoral reforms, we need to develop political culture and ethos that beliefs in honesty, integrity, and social obligations and not personal and party gains. There should be internal as well as an external discipline among the parties so that democratic norms are followed both in letter and spirit. No law or reform, however, judiciously enacted will be fruitful and effective unless there is a change of hearts and attitudes of the political leaders and parties.

Essay No. 02

### Electoral Reforms

In 1974 Jayapraksh Narayan set up the committee on Electoral reforms under the eminent jurist VM Tarkunde which made its first recommendations in 1975.

The Tarkunde Committee opined that state funding of elections in the prevailing conditions was impracticable. According to it, some facilities could be made available to every constituency such as making available school rooms and halls

for meetings, providing lists of registered numbers of voters to candidates, etc. The committee also made a recommendation that all recognized political parties must keep accurate and complete accounts which should include both sources of income and details of expenditure and which should be audited by CA's. The public should be allowed to inspect these accounts on payment of moderate charges.

Most people believe that the political parties receive money from people in the name of party funds to fight elections. This is the root cause of all electoral ills. Money power gathers muscle power and this leads to booth capturing and criminalization of politics. Thus, there emerges the so-called politician-criminal nexus which takes upon itself extrajudicial powers, having no regard to the interests of the common people Whom it professes to represent.

This is the reason that state funding is said to be one of the solutions. An all-India party' meeting was held in May 1998 and Indrajit Gupta Committee was set up in 1998 to study in detail the issue of election funding. The committee held such funding – constitutionally and legally justified, but according to it, it should be allowed only to national and-state parties which are recognised by the Election Commission. The committee recommended state funding only in kind and not in cash.

As per recommendations of the committee, the state should bear only a part of the financial burden of the political parties which could be increased progressively. The committee recommended that at the start a separate election fund of Rs. 600 crore should be created by the central government.

The committee recommended some facilities for each candidate of a political party, among them : (a) specified quantity of petrol or diesel for vehicles for use for the election campaign; (b) a specified quantity of paper for printing election literature and unofficial identity slips to voters; (c) five copies of the electoral roll of the constituency (d) a set of loudspeakers (one set for an assembly constituency and a maximum of six seats for a Parliamentary constituency) (e) one deposit-free telephone, the number of free calls for the main campaign office in every constituency/segment of a parliamentary constituency being fixed. (0 minimum arrangement for the candidates' camp outside each polling station. (It should be restricted to the day of polling only.)

The committee further recommended that each political party must submit its annual accounts regularly to the income tax authorities. It must also submit a complete account of its election expenses in two parts, that is on general expenditure, and expenditure pertaining to each individual candidate. The UPA

government issued a ten-point process of state funding of elections on a limited scale as. a part of electoral reforms. However, on such a matter, a consensus among the political parties is very necessary.