

**Bill No. 91 of 2021**

THE REPRESENTATION OF THE PEOPLE  
(AMENDMENT) BILL, 2021

By

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A

BILL

*further to amend the Representation of the People Act, 1951.*

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Representation of the People (Amendment) Act, 2021.

Short title and commencement.

5 (2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.



- (d) four hundred per cent. of the amount received as contribution for every subsequent violation:

5 Provided that if a political party fails to pay the amount of fine assessed by the Election Commission within three months, it shall be liable for an additional penalty of nine per cent. interest per annum on the amount of fine:

Provided further that if a political party fails to remit the amount of fine assessed by the Election Commission in addition to any amount which is otherwise due, it shall be liable for a fine of—

- (a) thirty per cent. upto three months after the due date;
- 10 (b) fifty per cent. upto six months after the due date;
- (c) seventy per cent. upto nine months after the due date;
- (d) one hundred per cent. upto one year after the due date:

15 Provided that no fine shall be levied by the Election Commission without giving a reasonable opportunity of being heard to the office bearers of the political party concerned.”.

5. In section 29C of the principal Act, for sub-section (I), the following sub-section shall be substituted, namely:—

Amendment of section 29C.

20 “(I) The treasurer of a political party or any other person authorized by the political party in this behalf shall, in each financial year, prepare a report in respect of the contributions received under sections 29B and 29CD.”.

6. After PART IVA, the following PART and sections thereunder shall be inserted, namely:—

Insertion of new Part IVB.

#### “PART IVB

#### NATIONAL ELECTORAL FUND

25 **29CA. (I) The Central Government shall constitute a Fund to be known as the National Electoral Fund for the purpose of public funding to the political parties and candidates validly nominated by them for the general elections to the House of People and Legislative Assembly of a State under the superintendence, direction and control of Election Commission, which shall be its custodian and exercise such power as conferred upon and perform the functions assigned to it under this Act.**

30

Constitution of National Electoral Fund.

(2) The Fund shall be administered by an Authority consisting of—

- (a) the Chief Election Commissioner – Chairperson;
- (b) one Election Commissioner to be nominated by the Chief Election Commissioner – Vice-Chairperson;
- 35 (c) Finance Minister of the Union Government – *ex-officio* member;
- (d) Leader of Opposition or the Leader of the single largest political party in opposition in the House of People – *ex-officio* member;
- (e) an officer of the Election Commission to be nominated by the Chief Election Commissioner – *ex-officio* member;
- 40 (f) Finance Secretary to the Union Government – *ex-officio* member;
- (g) one leader of a political party in the House of People to be nominated by the Speaker – *ex officio* member;

(h) five members of the House of People representing the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes, minorities and woman members to be nominated by the Speaker – *ex officio* members; and

(i) Leader of Opposition or the Leader of the single largest political party in opposition in the Legislative Assemblies of States and Union territories– *ex-officio* members. 5

(3) The term of office of the *ex-officio* members except the *ex-officio* members under clauses (e) and (f) of sub-section (2) shall be two years and the term of the members under clause (a), (b), (c) and (d) of sub-section (2) shall be five years.

(4) Every decision of the Authority shall be taken by majority. 10

(5) The President may, by order, remove from office any member of the Authority if he–

(a) is, or at any time has been, adjudged as an insolvent; or

(b) has engaged at any time, during his term of office, in any paid employment; or 15

(c) is unfit to continue in office by reason of infirmity of mind or body; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has been convicted of an offence which, in the opinion of the President, involves moral turpitude. 20

Contribution to the Fund.

29CB. (1) The Fund shall consists of contributions from any person, company or corporation.

**(2) The Central Government and the State Governments shall also contribute to the Fund such sums of money, as may be prescribed.**

(3) No company including a foreign company which has been in existence for less than three financial years, shall be eligible to contribute to the Fund. 25

(4) The aggregate of amount which may be contributed by a Company shall not exceed seven and half per cent. of its average net profit during the preceding financial year:

Provided that no company shall be eligible to make contribution to the Fund unless a resolution to that effect has been passed by the Board of Directors of such company. 30

(5) The Fund shall be allocated exclusively for the purpose of public funding of political parties and candidates nominated.

Restriction on contribution by the companies.

29CC. (1) Notwithstanding anything contained in the Companies Act, 2013 (18 of 2013), no company shall directly or indirectly contribute any amount to any political party either as donation or subscription or payment: 35

(2) If any company directly or indirectly,–

(a) contributes any amount to any political party either as donation or subscription or payment caused to be given by the company on its behalf or from its account to a person who is carrying an activity which, at the time at which such donation or subscription or payment was made, is likely to affect public support for such political party; or 40

(b) makes any payment for an advertisement in any publication either in print media or souvenir, brochure, tract, pamphlet or broadcast either in electronic or social media on behalf of any political party, shall be deemed to be a contribution made to a political party.

5 (3) It shall be the responsibility of every company to disclose in its profit and loss Account giving particulars of the total amount contributed to any political party during the financial year to which that account relates.

10 (4) If any company contributes any amount in contravention of the provisions of this Act, such company shall be liable to penalty which may extend upto five times the amount so contributed and every officer of the company in default shall be punishable with imprisonment for a term which may extend upto six months and fine which may extend upto five times the amount so contributed.

15 29CD. (1) Every political party registered under section 29A and nominating its candidates for contesting general elections shall be entitled to receive public funding out of the Fund.

Political parties and candidates to receive public funding.

(2) The moneys to a political party shall be credited to a separate bank account opened for the purpose of receiving such funding.

(3) The moneys received from the Fund by a political party shall be utilized as follows:-

20 (a) rupees three lakhs for every valid nomination filed by the candidate of a political party for contesting election to the House of People and rupees fifty thousand for contesting election to the Legislative Assembly of a State as election cost;

25 (b) rupees fifty thousand for every valid nomination filed by the candidate of each political party for contesting election to the House of People and rupees twenty thousand for contesting election to the Legislative Assembly of a State as administrative cost:

Provided that every expenditure above rupees five thousand and as received under clause (a) shall be made only through cheque or electronic transfer by the political party.

30 (2) Every candidate nominated by the political party for contesting general elections and whose nomination papers are found valid after the expiry of date of withdrawal shall be entitled to receive public funding out of the Fund in a separate bank account as follows-

35 (a) rupees hundred per vote polled in the last general election to the House of People or rupees twenty lakhs lumpsum whichever is higher and rupees fifty per vote polled in the last general elections to the Legislative Assembly of the State or rupees fifteen lakhs lumpsum whichever is higher;

40 (b) rupees six lakhs as lumpsum for elections to the House of People and rupees three lakhs as lumpsum for elections to Legislative Assembly if the political party has nominated its candidates for first time:

Provided that every expenditure above rupees one thousand as received under clauses (a) and (b) shall be made only through cheque or electronic transfer by the candidates.

45 (3) For all payments made during election by the candidates, necessary bills and vouchers shall be obtained in respect of such payments and any amount so unused by the candidates after the day of counting and shall stand forfeited to the Fund:

Provided that the political party shall be allowed to retain the administrative cost.

Limitation of election expenses by political parties.	29CE. (1) Every political party shall maintain a statement of election expenditure in such form and manner as may be notified by the Election Commission by order, in respect of every constituency.	5
	(2) The Election Commission shall before making any such order consult the political parties.	
Penalties on political parties for failure to observe limitations of election.	29CF. If any political party fails to observe the limit imposed on the election expenses during elections to the House of People or Legislative Assembly, as the case may be, the Election Commission shall by order, published in the Official Gazette, impose a fine on such political party as under—	10
	(a) twenty per cent. of the amount spent in excess of the ceiling for first violation and reduction of twenty-five percentage in public funding to such political party;	
	(b) forty per cent. of the amount spent in excess of the ceiling for second violation and reduction of forty-five percentage in public funding to such political party;	15
	(c) eighty per cent. of the amount spent in excess of the ceiling for third violation and reduction of fifty percentage in public funding to such political party;	
	(d) hundred per cent. of the amount spent in excess of the ceiling for fourth violation and reduction of sixty percentage in public funding to such political party;	20
	(e) two hundred percent of the amount spent in excess of the ceiling for fifth violation and reduction of eighty percentage in public funding to such political party;	
	(f) stoppage of complete public funding to such political party for two subsequent general elections for the sixth violation; and	25
	(g) stoppage of complete public funding to the party and its candidates nominated for three subsequent general election for the seventh violation:	
	Provided that no fine shall be imposed by the Election Commission without giving a reasonable opportunity of being heard to such political party to present its case:	30
	Provided further that the Election Commission may for reasons to be recorded in writing reduce the percentage of fine up to third violation but may not waive it off completely:	
	Provided also that if any political party fails to remit the amount of fine within three months, the Election Commission may levy an additional penalty of one hundred per cent. on the amount of fine.”.	35
Substitution of new sections for section 39A.	7. For section 39A of the principal Act, the following sections shall be substituted, namely:—	
Allocation of fair and equitable sharing time.	“ 39A. (1) Notwithstanding anything contained in any other law for the time being in force, the Election Commission shall, allocate a fair and equitable sharing of time to political parties on the cable television network operations and other electronic media, both public and private, in such manner, as it may deem appropriate to display and propagate any matter in electronic form and to address public in connection with elections.	40

(2) While allocating time under sub-section (1), the Election Commission shall take into consideration the performance of the political parties at the last general elections.

5 (3) The allocation of fair and equitable sharing of time under sub-section (1) shall be made after the publication of list of contesting candidates and shall be valid till forty-eight hours before the hour fixed for poll for such election.

(4) The cable television network, broadcasters, service providers and electronic media shall be paid adequate amount from the Fund for the purposes of sub-section (1).

10 (5) The allocation of fair and equitable sharing of time to all political parties under sub-section (1) shall be binding on cable television operators, broadcasters, service providers and other electronic media.

15 (6) The Election Commission may, for the purpose of this section, issue a code of conduct for cable operators, broadcasters, service providers and electronic media and every person managing or responsible for the management of the cable network or electronic media shall abide by such code of conduct.

(7) Any violations of the order of the Election Commission shall be punishable under this Act with a fine—

(a) upto rupees fifty lakhs for first violation;

(b) upto rupees fifty lakhs for every subsequent violations; and

20 (c) a maximum upto twenty five crores, and suspension of the licences:

Provided that any fine if not paid within specified time shall attract an additional interest of nine per cent. per annum and a penalty upto one hundred per cent.

(8) The fine recovered under sub-section (6) shall be credited to the Fund.

*Explanation.*— For the purposes of this section,-

25 (a) “electronic media” includes radio and any other broadcasting media notified by the Central Government in the Official Gazette;

(b) “cable television network” and “cable operators” have the meanings respectively assigned to them under the Cable Television Network (Regulation) Act, 1995 (7 of 1995).

30 39AA. (1) Notwithstanding anything contained in any law for the time being in force, the Election Commission shall notify subsidized rates of advertisements for political parties on cable television networks, electronic media, newspapers and magazines and allocate a fair and equitable quota of time for advertisement on the cable television network and other electronic media, both public and private.

Advertisement rates and slots of advertisement, etc.

35 (2) Every political party contesting elections shall be eligible for availing facility of advertisement at subsidized rates.

(3) Every broadcaster, cable television operator, service provider, other electronic media, newspaper and magazine shall abide by the orders of the Election Commission for the matter provided in sub-section (1).

40 (4) If any broadcaster, cable operator, service provider or other electronic media violates the orders of the Election Commission such service provider shall be liable to pay—

(i) a fine upto rupees fifty lakhs, or three times of the amount charged in excess, whichever is higher, for first violation;

- (ii) a fine upto rupees eighty lakhs, or four times of the amount charged in excess, whichever is higher for second violation;
- (iii) a fine of ten times the amount charged in excess for every subsequent violation thereafter.

(5) If any newspaper or magazine violates the orders of the Election Commission, such newspaper or magazine shall be liable to pay— 5

- (i) a fine upto rupees five lakhs, or three times of the amount charged in excess, whichever is higher for first violation;
- (ii) a fine upto rupees ten lakhs, or four times of the amount charged in excess, whichever is higher for second violation; 10
- (iii) a fine of rupees ten times of the amount charged in excess for every subsequent violation thereafter.

(6) The Election Commission shall take into consideration the grades of broadcasters, cable operators, service providers, electronic media, newspapers and magazines for the purposes of notifying rates as specified in sub-section(1). 15

(7) Every broadcaster, cable operator, service provider, electronic media, newspaper and magazine shall maintain such books of accounts, other documents and electronic record, as the Election Commission may direct, for the purposes of sub-sections (1), (2) and (3).

Powers of the Election Commission to call for information, conduct investigations, etc.

39AB. (1) Where the Election Commission considers it expedient so to do for the purposes of this Act, it may, by order in writing,— 20

(a) call upon any cable television network, broadcaster, service provider, other electronic media, newspaper and magazine to furnish such information or explanation relating to its affairs as it may require; or

(b) appoint one or more persons to make an inquiry in relation to the affairs of any cable television network, broadcaster, service provider, other electronic media, newspaper and magazine; or 25

(c) direct any of its officers or employees to inspect the books of accounts, other documents and electronic data of any cable television operator, broadcaster, service provider, other electronic media, newspaper and magazine. 30

(2) Where any inquiry in relation to the affairs of a cable television network operator, broadcaster, service provider, other electronic media, newspaper or magazine has been undertaken under sub-section (1)—

(a) every cable television operator, broadcaster, service provider, other electronic media, newspaper or magazine; or 35

(b) every director, manager, secretary or other officer, if the cable operator, broadcaster, service provider, other electronic media, newspaper and magazine is a company; or

(c) every partner, manager, secretary or other officer, if the cable operator, broadcaster, service provider, other electronic media, newspaper and magazine is a firm; or 40

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c); or

(e) every authority, shall furnish to the Authority making the inquiry, all such books of accounts, other documents and electronic data in his custody or 45



power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required by him, within such time as may be specified.

5 (3) Every cable television operator, broadcaster and other electronic media shall maintain such books of accounts, other documents and electronic data as may be prescribed by the Election Commission.

(4) The officer conducting the inquiry under sub-section (1) shall, for the purpose of such inquiry, have the same powers as vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908), for trying a suit in respect of the following matters, namely –

- (a) enforcing the attendance of any person or examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witness,

15 and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

(5) The officer conducting inquiry under sub-section (1) may, for the purposes of sub-section (4) of section 29B, section 29CF, sub-section (7) of section 39A or sub-section (4) of section 39AA,–

- (a) assess the amount of fine; and
- (b) issue an order for recovery of fine or penalty amount, as the case may be;

25 Provided that if the person upon whom a written notice or order is served fails to present his case even after affording a reasonable opportunity the case shall be decided *ex parte*.

(6) Every appeal against the order of an officer under sub-sections (1), (2) and (5) shall lie with a panel of two senior most officers of the Election Commission to be constituted by the Chief Election Commissioner in such manner as may be prescribed.

30 (7) Every recovery of fine as assessed by the Election Commission shall be recovered by an officer authorized for the purpose.

(8) The authorized officer under sub-section (7) shall–

(a) recover the fine by issuing a notice to any person, who controls the finance of the cable network operator, broadcaster, service provider, other electronic media, newspaper or magazine or the political party to pay the sum;

(b) recover the arrear, if any, by issuing a certificate under his signature specifying the amount of arrears to be recovered by the recovery officer, by initiating the proceedings to recover the amount therein from the cable network operator, broadcaster, service provider, electronic media, newspaper, magazine or the political party by one or more modes mentioned below:–

- (i) attachment and sale of the movable or immovable property of the establishment, or as the case may be, the employer;
- (ii) causing arrest or detention of the employer;

(iii) appointing a receiver for the management of the movable or immovable properties:

Provided that the attachment, any sale of any property under this section shall first be effected against the properties of the cable network operator, broadcaster, service provider, electronic media, newspaper, magazine or the political party and where such attachment and sale is insufficient for recovering the whole of the amount of arrear specified in the certificate, the recovery officer may take such proceedings against their property for recovery of the whole or any part of such arrears, as he may deem appropriate.

(9) The recovery of arrears shall be proceeded with under this section as if it is recovery of arrears of taxes under the Income-Tax Act, 1961 (43 of 1961).

(10) An appeal against the orders of the panel of two senior most officers of the Election Commission under sub-section (6) shall lie to the High Court within sixty days from such order:

Provided that the High Court shall decide the appeal within six months from the day of issue of such notice.”.

Amendment of section 58.

8. In section 58 of the principal Act, in sub-section (1), after clause (aa), the following clause shall be inserted, namely:—

“(ab) voting machine and Voter Verifiable Paper Audit Trail (VVPAT) is tampered or hacked during the course of the recording of votes or upto the period of final counting.”.

Substitution of new section for section 61A.

9. For section 61A of the principal Act, the following section shall be substituted, namely:—

Electronic Voting machines at elections.

“61A. (1) Notwithstanding anything contained in this Act, the giving and recording of votes, and counting of votes by electronic voting machines in elections, in such manner as may be prescribed, may be adopted in such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify.

(2) No elections by electronic voting machines shall be conducted in any constituency, if the electronic voting machines are not manufactured and maintained with such safety measures, as may be prescribed.

(3) The election shall be conducted by ballot if the condition as laid down in sub-section (2) is not fulfilled.

(4) The political parties shall have a right to verify and record their concerns at every stage of elections, which shall be taken into account by the Election Commission.

*Explanation.*— For the purpose of this section, “electronic voting machine” means any machine or apparatus whether operated electronically or otherwise used for giving, recording or counting of votes, and shall include a printer and drop box for recording votes and generating paper trails as valid proof of vote recorded, and any reference to a ballot box or ballot paper in this Act or rules made thereunder shall, save as otherwise provided, be construed as including a reference to such electronic voting machine whenever such electronic voting machine is used at any election.”.

Amendment of section 64A.

10. In section 64A of the principal Act, in the marginal heading and in sub-section (1), for the words “ballot papers”, the words “ballot papers or electronic voting machine” shall be substituted.

Amendment of section 75A.

11. In section 75A of the principal Act, in sub-section(1), after clause (iii), the following clause shall be inserted, namely:—

“(iii) conflict of interest;”.

**12.** In section 77 of the principal Act, in sub-section (1), in *Explanation 1* after paragraph (b), the following paragraph shall be inserted, namely:—

“(ba) the expenditure incurred from—

- 5 (i) public funding money;
- (ii) money received by the candidate in cash or kind from political party;
- (iii) money received from interest groups,

shall be deemed to be expenditure in connection with the election incurred or authorised by a candidate of that political party or his election agent for the purposes of this sub-section.”.

**13.** After section 77 of the principal Act, the following section shall be inserted, namely:—

“77A. Every political party contesting elections shall submit to the Election Commission a statement of account including the expenses made constituency-wise within sixty days from the date of counting in such manner as may be prescribed.

**14.** In section 78 of the principal Act,—

(a) after sub-section (1), the following proviso shall be added at the end, namely:—

“Provided that the district election officer shall forward the account of election expenses to the Election Commission within sixty days from the date of election.”; and

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The Election Commission shall, within one hundred and twenty days from the date of election, compile the data in respect of all accounts of the election expenses lodged by the contesting candidates and all such data shall be uploaded on the website of Election Commission.”

**15.** In section 78A of the principal Act,—

(a) in sub-section (1), for the word, “Government”, the words “Election Commission” shall be substituted; and

(b) in sub-section (2), in clause (i), the words “the Central Government in consultation with” shall be omitted.

**16.** In section 78B of the principal Act,—

(a) in sub-section (1), the words, “as the Central Government may, by order, determine in consultation with the Election Commission”, shall be omitted; and

(b) in sub-section (2), for the words “the Central Government may, in consultation with the Election Commission, impose conditions”, the words “it may impose conditions” shall be substituted.

**17.** In section 81 of the principal Act, in sub-section (1), for the words “any elector”, the words “any elector or Election Commission *suo moto* upon a preliminary inquiry” shall be substituted.

**18.** In section 86 of the principal Act, in sub-section (7), the following proviso shall be inserted, namely:—

Amendment of section 77.

Insertion of new section 77A.

Lodging of account by the political party.

Amendment of section 78.

Amendment of section 78A.

Amendment of section 78B.

Amendment of section 81.

Amendment of section 86.

“Provided that if the trial is not concluded within six months, the petitioner shall be eligible to prefer an appeal to the Supreme Court.”.

Amendment  
of section 100.

**19.** In section 100 of the principal Act, in sub-section (1), in clause (d) after sub-clause (iii), the following clauses shall be inserted, namely:–

“(iii) by irregularities in electoral roll resulting in prevention of electors to vote in significant numbers, or 5

(iiib) by expenses in excess of ceiling by the returned candidate, his election agent, or his political party, or”.

Amendment  
of section  
116C.

**20.** In section 116C of the principal Act, after sub-section (1), the following proviso shall be inserted, namely:- 10

“Provided that the Supreme Court shall dispose of the appeal as early as may be, but not later than three months from the date of entertaining such appeal shall be substituted.”.

Amendment  
of section 123.

**21.** In section 123 of the principal Act,–

(a) in sub-section (3) for the words “religious symbols”, the words “religious symbols, slogans, customs, usages and rituals”, shall be substituted; 15

(b) in sub-section (3B) –

(i) for the words “glorification”, the words “glorification, propagation or practice of untouchability, racism, ethnicism or genecism”, shall be substituted. 20

(ii) for the Explanation, the following explanation shall be substituted;

“*Explanation.*–For the purposes of this clause,—

(a) “sati” and “glorification” in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (3 of 1988); 25

(b) “untouchability” shall have the meanings respectively assigned to it in the Protection of Civil Rights Act, 1955 (22 of 1955);

(c) “atrocities” shall have the meanings respectively assigned to it in the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989); and 30

(d) “racism”, “ethnicism” and “genecism” shall have the meanings respectively assigned to it in the International Convention on the Elimination of All Forms of Racial Discrimination, 1965;”; and

(e) after sub-section (4), the following sub-section shall be inserted, namely:–

“(4A) The propagation of any corrupt practice by cable operators, broadcasters, service providers, other electronic media, newspapers and magazine as mentioned in clause (a) of sub-section (2) and sub-sections (3), (3A), (3B) and (4) for the furtherance of the prospects of election of any candidate or for prejudicially affecting the election of any candidate or a political party: 35

Provided that unfair reporting of any corrupt practice by any cable operator, broadcaster, service provider, other electronic media, newspaper and magazine shall be deemed to be a corrupt practice; and 40

(d) after sub-section (8), the following sub-sections be inserted, namely:–

“(8A) The payment made to cable operator, broadcaster, service provider, other electronic media, newspapers or magazine by any candidate, or his election agent, or any other person with the consent of the candidate or his election agent or a political party for the furtherance of the prospect, or for prejudicially affecting the election of any candidate, or a political party:

Provided that no legal expenses received under this Act, for the purpose of advertisement shall be deemed to be a corrupt practice committed by any cable operator, broadcaster, service provider, other electronic media, newspaper, and magazine.

(8B) The broadcasting or publishing of any opinion or exit poll by any cable operator, broadcaster, service provider, other electronic media, newspaper or magazine without —

(a) expenditure details and source of funding; or

(b) credentials of the persons conducting such polls, and credentials of the agencies involved in opinion or exit poll; or

(c) methodology applied; or

(d) sample size and its nature; or

(e) dates of sample size and survey; or

(f) margin of error, or other riders; or

(g) other criterions as notified by the Election Commission from time to time:

Provided that —

(i) no opinion poll shall be broadcasted before two months of the date of first poll of general elections;

(ii) no exit poll shall be broadcasted from the date of voting to a period before two days, of final counting of general elections.”.

**22.** In section 126 of the principal Act, in sub-section (1), after clause (c) the following clause shall be inserted, namely:—

Amendment  
of section 126.

“(ca) broadcast or publish any election matter in the form of interviews, opinions, clippings, election symbols, themes of any candidate or their election agent or political party by means of television, internet protocol, newspapers, magazines or any other means.”.

**23.** In section 130 of the principal Act,—

Amendment  
of section 130.

(a) in sub-section (1),—

(i) for the words, “one hundred meters”, the words “one hundred and fifty meters” shall be substituted; and

(ii) after clause (e), the following clause shall be inserted, namely:—

“(ea) causing public nuisance, abetting commission of an offence by way of broadcast or publishing any matter relating to election in the form of interviews to the public; or

(eb) rendering, joining or continuing in an unlawful assembly;” and

(b) in sub-section (2) for the words, “two hundred and fifty rupees”, the words “one thousand rupees” shall be substituted.

- Amendment of section 131. **24.** In section 131 of the principal Act, in sub-section (3), after the words “polling station”, the words “or district election officer, observer, returning officer, assistant returning officer, polling officer or any other officer appointed for the conduct of election”, shall be inserted.
- Amendment of section 135. **25.** In section 135 of the principal Act, in sub-section (1), for the words “a ballot paper out of a polling station”, the words “ballot paper or electronic voting machine out of polling station or attempts to hack or tamper the electronic voting machine” shall be substituted. 5
- Amendment of section 135A. **26.** In section 135A of the principal Act,—  
 (a) in sub-section (1),— 10  
 (i) for the words, “booth capturing”, the words “booth capturing or hacking or tampering electronic voting machine” shall be substituted; and  
 (ii) in the *Explanation*, after paragraph (d), the following paragraph shall be inserted, namely:—  
 “(da) hacking or tampering the electronic voting machines by any person or persons so as to affect the outcomes of elections fraudulently.” 15
- Amendment of section 136. **27.** In section 136 of the principal Act, in sub-section (1), after clause (g), the following clause shall be inserted, namely:—  
 “(ga) fraudulently hacks or attempts to hack or tamper the electronic voting machines.”. 20
- Amendment of section 169. **28.** In section 169 of the principal Act, in sub-section (2),—  
 (a) after clause (bb), the following clauses shall be inserted, namely:—  
 “(bba) the regulation of rates of advertisements for the electronic and print media;  
 (bbb) the manner in which opinion and exit polls to be regulated;” 25  
 (b) for clause (gg), the following clause shall be substituted, namely:—  
 “(gg) the procedure as to counting of votes, and of paper trails recorded and printed by printer attached to the electronic voting machines”; and  
 (c) after clause (hh), the following clause shall be inserted, namely:—  
 “(hha) the manner and time in which the public funding to the political parties, and candidates is given, and procedures to be followed for maintaining account of expenditure; and 30  
 (hhb) the guidelines to be followed by the cable television network operators, broadcasters, service providers, other electronic media, newspapers and magazines.”. 35

## STATEMENT OF OBJECTS AND REASONS

Having ratified the International Bill of Human Rights *viz.* Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, 1966; International Covenant on Economic, Social and Cultural Rights, 1966; and other treaties like International Convention on the Elimination of All Forms of Racial Discrimination, 1965; Convention on the Elimination of All Forms of Discrimination Against Women, 1979, it becomes obligatory upon the State to make necessary changes in our electoral system and outcomes.

Signing of Inter Parliamentary Union (IPU) Declarations by India of which she is a member on Free and Fair Elections (Paris Declaration 1994) and Universal Declaration on Democracy (Cairo Declaration 1997) and the various resolutions adopted by United Nations General Assembly, it becomes necessary that the best practices and designs in the electoral system and outcomes across the world be incorporated in our electoral system. The letter and spirit of our great Constitution which enshrines Justice, Liberty, Equality and Fraternity assuring the dignity of individual has made these long standing 'comprehensive electoral reforms' overdue.

There have been seven to eight reports from Goswami Committee (1990), Vohra Committee (1993), Indrajit Gupta Committee (1998), 170th Law Commission Report (1999) and 255th Report (2015), ECI proposed Electoral Reforms (2004), 2nd Administrative Reforms Commission Report (2008) pending consideration, with considered advice of political parties and civil society associations.

The Bill intends to bring in "electoral system, laws, methods, process and outcomes" with an objective to realise the principle of our Parliamentary Democracy.

The Bill, therefore, seeks to amend the Representation of the People Act, 1950 with a view to:-

- (a) constitute a National Electoral Fund for provisions for public funding to political parties and candidates;
- (b) ensure fair media regulation and equitable access for political parties and candidates for advertisements relating to elections;
- (c) provide for ceiling on expenditures of political parties and third party interest groups;
- (d) empower the Election Commission to call for information and conduct of investigations in certain matters of media regulation and imposing fines thereto;
- (e) empower the Election Commission to impose penalty on political parties for failure to adhere to expenditure limit during elections; and
- (f) provide for political parties to lodge account with the Election Commission regarding expenses incurred in the elections.

The Bill seeks to achieve the above objectives.

NEW DELHI;  
February 11, 2020

THOL. THIRUMAAVALAVAN

## PRESIDENT'S RECOMENDATION UNDER ARTICLE 117(3) OF THE CONSTITUTION

[ Copy of DO Letter No. 11018/02/2020-Leg.II dated 9 September, 2021 from Prof. S.P. Singh Baghel, Minister of State for Law and Justice to the Secretary General, Lok Sabha].

The President, having been informed of the subject matter of the Representation of the People (Amendment) Bill, 2021 (*Amendment of section 2, etc.*) by Dr. Thol. Thirumaavalvan, M.P., Lok Sabha, recommends the consideration of the Bill in Lok Sabha under article 117(3) of the Constitution.



## FINANCIAL MEMORANDUM

Clause 6 of the Bill *vide* proposed section 29CA provides for the constitution of a National Electoral Fund for the purpose of public funding to the political parties and candidates validly nominated by them for the general elections to the House of People and Legislative Assembly or a State. It also *vide* proposed section 29CB provides that the Fund shall constitute contributions from the Central Government and the State Governments. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is estimated that a recurring expenditure of about rupees one hundred crore would be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill *vide* proposed section 29CA empowers the Central Government to make rules regarding the proposed National Electoral Fund for carrying out the purposes of the Bill. It also *vide* proposed clause 28 empowers the Central Government to make rules regarding regulation of rates of advertisements for the electronic and print media. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

ANNEXURE

EXTRACT FROM THE REPRESENTATION OF THE PEOPLE ACT, 1950

\* \* \* \* \*

2. (1) In this Act, unless the context otherwise requires,—

Interpretation

(e) “elector” in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950 (43 of 1950);

(f) “political party” means an association or a body of individual citizens of India registered with the Election Commission as a political party under section 29A.

\* \* \* \* \*

8. (1) A person convicted of an offence punishable under—

Disqualification on conviction for certain offences.

(n) the Prevention of Terrorism Act, 2002 (15 of 2002), shall be disqualified, where the convicted person is sentenced to—

(i) only fine, for a period of 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.

\* \* \* \* \*

29B. Subject to the provisions of the Companies Act, 1956 (1 of 1956), every political party may accept any amount of contribution voluntarily offered to it by any person or company other than a Government company:

Political parties entitled to accept contribution.

Provided that no political party shall be eligible to accept any contribution from any foreign source defined under clause (e) of section 2 of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976).

*Explanation.*—For the purposes of this section and section 29C,—

(a) “company” means a company as defined in section 3;

(b) “Government company” means a company within the meaning of section 617; and

(c) “contribution” has the meaning assigned to it under section 293A, of the Companies Act, 1956 (1 of 1956) and includes any donation or subscription offered by any person to a political party; and

(d) “person” has the meaning assigned to it under clause (31) of section 2 of the Income-tax Act, 1961 (43 of 1961), but does not include Government company, local authority and every artificial juridical person wholly or partially funded by the Government.

\* \* \* \* \*

29C. (1) The treasurer of a political party or any other person authorised by the political party in this behalf shall, in each financial year, prepare a report in respect of the following, namely:—

Declaration of donation received by the political parties.

(a) the contribution in excess of twenty thousand rupees received by such

political party from any person in that financial year;

(b) the contribution in excess of twenty thousand rupees received by such political party from companies other than Government companies in that financial year.

(2) The report under sub-section (1) shall be in such form as may be prescribed.

(3) The report for a financial year under sub-section (1) shall be submitted by the treasurer of a political party or any other person authorised by the political party in this behalf before the due date for furnishing a return of its income of that financial year under section 139 of the Income-tax Act, 1961 (43 of 1961), to the Election Commission.

(4) Where the treasurer of any political party or any other person authorised by the political party in this behalf fails to submit a report under sub-section (3) then, notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), such political party shall not be entitled to any tax relief under that Act.

\* \* \* \* \*

Allocation of equitable sharing of time.

**39A.** (1) Notwithstanding anything contained in any other law for the time being in force, the Election Commission shall, on the basis of the past performance of a recognised political party, during elections, allocate equitable sharing of time on the cable television network and other electronic media in such manner as may be prescribed to display or propagate any election matter or to address public in connection with an election.

(2) The allocation of equitable sharing of time under sub-section (1), in respect of an election, shall be made after the publication of list of contesting candidates under section 38 for the election and shall be valid till forty-eight hours before the hour fixed for poll for such election.

(3) The allocation of equitable sharing of time under sub-section (1) shall be binding on all political parties concerned.

(4) The Election commission may, for the purpose of this section, make code of conduct for cable operators and electronic media and the cable operators and every person managing or responsible for the management of the electronic media shall abide by such code of conduct.

*Explanation.*—For the purposes of this section,—

(a) “electronic media” includes radio and any other broadcasting media notified by the Central Government in the Official gazette;

(b) “cable television network” and “cable operator” have the meanings respectively assigned to them under the cable Television Networks (Regulation) Act, 1995 (7 of 1995).

\* \* \* \* \*

Fresh poll in the case of destruction, etc., of ballot boxes.

**58.** (1) If at any election,—

\* \* \* \* \*

(aa) any voting machine develops a mechanical failure during the course of

the recording of votes; or

\* \* \* \* \*

**61A.** Notwithstanding anything contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify.

Voting machines at elections.

*Explanation.*—For the purpose of this section, “voting machine” means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.

\* \* \* \* \*

**64A.** (1) If at any time before the counting of votes is completed any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that the result of the poll at that polling station or place cannot be ascertained, the returning officer shall forthwith report the matter to the Election Commission.

Destruction, loss, etc., of ballot papers at the time of counting.

\* \* \* \* \*

**75A.** (1) Every elected candidate for a House of Parliament shall, within ninety days from the date on which he makes and subscribes an oath or affirmation, according to the form set out for the purpose in the Third Schedule to the Constitution, for taking his seat in either House of Parliament, furnish the information, relating to—

Declaration of assets and liabilities.

- (i) the movable and immovable property of which he, his spouse and his dependant children are jointly or severally owners or beneficiaries;
- (ii) his liabilities to any public financial institution; and
- (iii) his liabilities to the Central Government or the State Government,

to the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

\* \* \* \* \*

**77.** (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

Account of election expenses and maximum thereof.

*Explanation 1.*—For the removal of doubts, it is hereby declared that—

(a) the expenditure incurred by leaders of a political party on account of travel by air or by any other means of transport for propagating programme of the political party shall not be deemed to be the expenditure in connection with the election incurred or authorised by a candidate of that political party or his election agent for the purposes of this sub-section.

(b) any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate or by his election agent for the purposes of this sub-section.

Lodging of account with the district election officer.

**78.** (1) Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the 5 [district election officer] an account of his election expenses which shall be a true copy of the account kept by him or by his election agent under section 77.

\* \* \* \* \*

Free supply of copies of electoral rolls.

**78A.** (1) The Government shall, at any election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State, supply, free of cost, to the candidates of recognised political parties such number of copies of the electoral roll, as finally published under the Representation of the People Act, 1950 (43 of 1950) and such other material as may be prescribed.

(2) The material referred to in sub-section (1) shall be supplied,—

(i) subject to such conditions as may be imposed by the Central Government in consultation with the Election Commission with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77; and

(ii) through such officers as may be specified by the Election Commission who shall act in accordance with such general or special directions as may be given by the Election Commission.

\* \* \* \* \*

Supply of certain items to candidates, etc.

**78B.** (1) The Election Commission shall, at any time between the date of publication of the notification calling the election for the purposes of constituting the House of the People or the Legislative Assembly of a State and the date on which the poll is to be taken, supply or cause to be supplied, such items as the Central Government may, by order, determine in consultation with the Election Commission, to the electors in the constituencies concerned or to the candidates set up by the recognised political parties.

(2) Where the Election Commission supplies the items to the candidates under sub-section (1), the Central Government may, in consultation with the Election Commission, impose conditions with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77.

*Explanation.*—For the purposes of section 39A, this Chapter and clause (hh) of sub-section (2) of section 169, the expression “recognised political party”, has the meaning assigned to it in the Election Symbols (Reservation and Allotment) Order, 1968.

\* \* \* \* \*

**81.** (1) An election petition calling in question any election may be presented on one or more of the grounds specified in sub-section (1) of section 100 and section 101 to the High Court by any candidate at such election or any elector within forty-five days from, but not earlier than the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates.

Presentation of petitions.

*Explanation.*—In this sub-section, “elector” means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

\* \* \* \* \*

**86.** (1) \* \* \* \* \*

Trial of election petitions.

(6) The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(7) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.

\* \* \* \* \*

**100.** (1) Subject to the provisions of sub-section (2) if the High Court is of opinion—

Grounds for declaring election to be void.

(a) \* \* \* \* \*

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(i) by the improper acceptance or any nomination, or

(ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent, or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act,

the High Court shall declare the election of the returned candidate to be void.

\* \* \* \* \*

**116C.** (1) Subject to the provisions of this Act and of the rules, if any, made thereunder, every appeal shall be heard and determined by the Supreme Court as nearly as may be in accordance with the procedure applicable to the hearing and determination of an appeal from any final order passed by a High Court in the exercise of its original civil jurisdiction; and all the provisions of the Code of Civil Procedure, 1908 (5 of 1908), and the Rules of the Court (including provisions as to the furnishing of security and the execution of any order of the Court) shall, so far as may be, apply in relation to such appeal.

Procedure in appeal.

\* \* \* \* \*

**123.** The following shall be deemed to be corrupt practices for the purposes of this Act:—

Corrupt practices.

(1) \* \* \* \* \*

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.

\* \* \* \* \*

(3B). The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

*Explanation.*—For the purposes of this clause, “sati” and “glorification” in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (3 of 1988).

(4) The publication by a candidate or his agent or by any other person with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate’s election.

\* \* \* \* \*

(8) booth capturing by a candidate or his agent or other person.

*Explanation.*—(1) In this section, the expression “agent” includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

\* \* \* \* \*

Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll.

**126. (1)** No person shall—

(a) convene, hold or attend, join or address any public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto, in any polling area during the period of forty-eight hours ending with the fixed for the conclusion of the poll for any election in the polling area.

\* \* \* \* \*

Prohibition of canvassing in or near polling station.

**130. (1)** No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of 3 [one hundred metres] of the polling station, namely:—

(a) canvassing for votes; or



- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

\* \* \* \* \*

**131. (1)** \* \* \* \* \*

Penalty for disorderly conduct in or near polling stations.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

\* \* \* \* \*

**135. (1)** Any person who at any election unauthorisedly takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

Removal of ballot papers from polling station to be an offence.

\* \* \* \* \*

**135A. (1)** Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.

Offence of booth capturing.

*Explanation.*— For the purposes of this sub-section and section 20B, “booth capturing” includes, among other things, all or any of the following activities, namely:—

- (a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;
- (b) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes.

\* \* \* \* \*

**136. (1)** A person shall be guilty of an electoral offence if at any election he—

Other offences and penalties therefor.

(a) \* \* \* \* \*

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

\* \* \* \* \*

**169. (1)** The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

\* \* \* \* \*

(bb) the manner of allocation of equitable sharing of time on the cable television network and other electronic media;

\* \* \* \* \*

(f) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote;

\* \* \* \* \*

(gg) the procedure as to counting of votes recorded by means of voting machines;

\* \* \* \* \*

(hh) the material to be supplied by the Government to the candidates of recognised political parties at any election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State.

\* \* \* \* \*

LOK SABHA

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BILL

further to amend the Representation of the People Act, 1951

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*(Dr. Thol. Thirumaavalavan, M.P.)*