

**Bill No. XXIV of 2016**

THE CONSTITUTION (AMENDMENT) BILL, 2016

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*further to amend the Constitution of India.*

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2016.

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.

2. After article 21A of the Constitution, the following new article shall be inserted, namely:—

Insertion of  
new article  
21A.

10 “21B. (1) Notwithstanding anything contained in Part IX and Part IXA, every citizen of India, shall have the right to be chosen as and for being a member of Parliament, State Legislatures, Panchayats, and Municipalities, in accordance with the provisions of this Constitution.

(2) The State may provide for any disqualifications for being chosen as and for being a member of Parliament, State Legislatures, Panchayats, and Municipalities, on grounds of non-residence, unsoundness of mind, crime or corrupt or illegal practice.

15 (3) Notwithstanding anything in the Constitution, or any judgement or order of any court, any law inconsistent with clauses (1) and (2) shall, to the extent of such inconsistency, be void.”

## STATEMENT OF OBJECTS AND REASONS

The Preamble to the Constitution of India declares India as a Sovereign Socialist Secular Democratic Republic and guarantees its citizens Political, Social and Economic Justice and Equality of status and of opportunity.

The Supreme Court of India, while interpreting the Constitution of India, has repeatedly held that Democracy is part of the basic structure of the Constitution. The right to vote and the right to contest for an election are integral to representative democracy and hence part of the basic structure of the Constitution.

India is a signatory to and has ratified the International Covenant of Civil and Political Rights, 1966 that mandates State Parties to guarantee to their citizens the right to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

However, in express opposition to the democratic scheme of the Constitution and international obligations of India, executive decisions of some Governments have imposed qualifications on the citizen's right to contest, which debar more than fifty per cent of the electorate from exercising their right to contest for electoral office. This has been made possible due to a lacuna in the Constitution which does not explicitly guarantee the citizen's right to contest for electoral office.

While this power has so far only been exercised for elections to local self-governments, the current Constitutional scheme as interpreted by some political parties and the Courts does not bar similar exclusions to elections to the State Legislature or Parliament thereby undermining the very foundation of our democracy.

It is thus important to clarify and secure the fundamental status of the citizen's right to contest for all public offices and it is thought fit to elevate the right to be chosen as a member to the House of the People, State Legislature, Panchayats and Municipalities as a fundamental right.

Hence this Bill.

GHULAM NABI AZAD

RAJYA SABHA

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*(Shri Ghulam Nabi Azad, M.P.)*