

**Bill No. XXXVIII of 2016**

THE CONSTITUTION (AMENDMENT) BILL, 2016

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BILL

*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.

(2) It shall come into force at once.

5 2. In article 324 of the Constitution, after clause (1), the following provisos shall be inserted, namely:

Amendment  
of article  
324.

"Provided that notwithstanding any judgement or order of any court, nothing in clause (1) of article 324 shall authorise the Election Commission to pass any order or issue any instruction covering a substantive law with respect to which Parliament has the legislative competence:

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Provided further that the Election Commission shall be authorised to deliberate on matters which do not fall within its jurisdiction for the purpose of recommending to the Union for intimating legislation on the subject".

#### STATEMENT OF OBJECTS AND REASONS

Under article 324(1) of the Constitution of India, Election Commission of India has power of "superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State."

However, at times the Election Commission issues instructions and orders purportedly under the above clause, which cover substantive law.

India has two substantive laws, namely the Representation of the People Act, 1950 and the Representation of the People Act, 1951. These legislations are exhaustive in nature and no other legislations are needed to conduct elections in free and fair manner.

Article 324 does not authorise the Election Commission to play the role of law maker which has been assigned to Parliament. It is, therefore, necessary to amend the Constitution.

Hence this Bill.

SHANTARAM NAIK

*ANNEXURE*

EXTRACTS FROM THE CONSTITUTION OF INDIA

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**324.** (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution shall be vested in a Commission (referred to in this Constitution as the Election Commission).

Superintendence,  
direction and  
control of  
elections to  
be vested in  
an Election  
Commission.

(2) *	*	*	*	*
(3) *	*	*	*	*
(4) *	*	*	*	*
(5) *	*	*	*	*
(6) *	*	*	*	*

RAJYA SABHA

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*(Shri Shantaram Naik, M.P.)*