

Bill No. L of 2023

THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
BILL, 2023

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BILL

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

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

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2023. Short title and commencement.
(2) It shall come into force immediately.

43 of 1951. 5 2. In the Representation of People Act, 1951, after sub-section (3) of Section 8, the following provisos shall be inserted, namely:— Amendment of Section 8.

"Provided that in case of a person who on the date of conviction is a member of Parliament or the Legislature of a State, the disqualification shall take effect from the date of dismissal of the appeal by the Supreme Court against such conviction.

10 Provided further that at any stage, an appeal or application for revision in respect of the conviction or the sentence shall be preferred within a period of one month and in case such appeal is not preferred within the said period, the disqualification shall be deemed to be effective from the day immediately following the expiration of the said period."

STATEMENT OF OBJECTS AND REASONS

In the recent years, following the judgment of Hon'ble Supreme Court in the case of Lily Thomas & Union of India, there have been instances where Members of Parliament and State Legislatures, who were falsely implicated by the political rivals, were convicted by the lower courts and subsequently disqualified from their Membership. The Election Commission of India notified & conducted the elections to fill the vacant seats of convicted Members and as a result, other individuals were elected in the by-elections. Later, the convicted Members were acquitted from the higher courts. However, due to election of other individuals as Member of Parliament/State Legislature, the membership of acquitted Members could not be restored.

Hence, the Bill.

JAVED ALI KHAN

ANNEXURE

EXTRACT FROM THE REPRESENTATION OF THE PEOPLE ACT, 1951

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

Disqualification
on conviction
for certain
offences.

(a) section 153A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or section 171E (offence of bribery) or section 171F (offence of undue influence or personation at an election) or sub-section (1) or sub-section (2) of section 376 or section 376A or section 376B or section 376C of section 376D (offences relating to rape) or section 498A (offence of cruelty towards a woman by husband or relative of a husband) or sub-section (2) or sub-section (3) of section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between classes or offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) or the Indian Penal Code; or

45 of 1860.

(b) the Protection of Civil Rights Act, 1955, which provides for punishment for the preaching and practice of "untouchability", and for the enforcement of any disability arising therefrom; or

22 of 1955.

(c) section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962; or

52 of 1962.

(d) sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967; or

37 of 1967.

(e) the Foreign Exchange (Regulation) Act, 1973; or

46 of 1973.

(f) the Narcotic Drugs and Psychotropic Substances Act, 1985; or

61 of 1985.

(g) section 3 (offence of committing terrorist acts) or section 4 (offence of committing disruptive activities) of the Terrorist and Disruptive Activities (Prevention) Act, 1987; or

28 of 1987.

(h) section 7 (offence of contravention of the provisions of section 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988; or

41 of 1988.

(i) section 125 (offence of promoting enmity between classes in connection with the election) or section 135 (offence of removal of ballot papers from polling stations) or section 135A (offence of booth capturing) or clause (a) of sub-section (2) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act; ²[or]

²[(j) section 6 (offence of conversion of a place of worship) of the Places of Worship (Special Provisions) Act 1991], ³[or]

⁴[(k) section 2 (offence of insulting the Indian National Flag or the Constitution of India) or section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971 (69 of 1971) ⁵[or];]

3 of 1988.

⁵[(l) the Commission of Sati (Prevention) Act, 1987; or

49 of 1988.

(m) the Prevention of Corruption Act, 1988; or

(n) the Prevention of Terrorism Act, 2002,]

[shall be disqualified, where the convicted person is sentenced to— 15 of 2002.

(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,]

(2) A person convicted for the contravention of—

(a) any law providing for the prevention of hoarding or profiteering; or

(b) any law relating to the adulteration of food or drugs; or

(c) any provisions of the Dowry Prohibition Act, 1961; 28 of 1961.

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and sentenced to imprisonment for not less than six months, shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

(3) A person convicted of any offence and sentenced to imprisonment for not less than two years other than any offence referred to in sub-section (1) or sub-section (2)] shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.]

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RAJYA SABHA

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

(Shri Javed Ali Khan, M.P.)