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“INDIA'S ELECTORAL POLITICS: RELEVANCE AND SIGNIFICANCE.”

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I. ABSTRACT:

“India is the astronomical democracy in the cosmos as far as population is taken up. It is Interesting to note that in India, more than the population of the second largest democracy, i.e., the United States of America, does not participate in elections, for so many reasons. However, since democracy essentially postulates for the participation of all, our main emphasis has been on conducting free and fair elections. Free and Fair elections mean free from all the vices or malpractices and where there is a level playing field made available to all the stakeholders in every respect. It is altogether a different fact that free and fair elections cannot be ensured unless the population is free, physically as well as mentally. The Constitution of India (Preamble¹, Part III Fundamental Rights², and Part IV Directive Principles of State Policy³) guides us on how to achieve such freedom. Unfortunately, even after 72 years of independence, people in India are still divided on so many lines. Deeply rooted illiteracy and poverty help the rift becoming wider.

¹ Preamble of the Constitution of India, (Apr. 27, 2019, 10:00 AM)
<http://legislative.gov.in/sites/default/files/COI-updated.pdf>.

² Part III (Fundamental Rights) of Constitution of India, (Apr. 27, 2019, 10:05 AM)
<http://legislative.gov.in/sites/default/files/COI-updated.pdf>.

³ Part IV (Directive Principles of State Policy) of Constitution of India, (Apr. 27, 2019, 10:10 AM),
<http://legislative.gov.in/sites/default/files/COI-updated.pdf>.

Elections, which cannot be described as free and fair, will necessarily lead to corrupt almost every aspect of life; therefore, it becomes the duty of all the right-thinking people in the society to fight tooth and nail against corruption in electoral politics using all the available means and law is only one of them. Sanctity of democratic institutions like Election Commission should be maintained and the model code of conduct should not be violated.”

II. INTRODUCTION:

The Preamble to the Constitution declares India to be a sovereign, socialist, democratic republic. “*A democratic government*”, Abraham Lincoln had echoed, is “*by the people, for the people, of the people*⁴”. This implies that all citizens who are eligible to vote will have the right to participate in the elections. We have a parliamentary form of government wherein the party securing a major share of the vote of the citizens or a coalition of parties, who are able to obtain the support of, a majority of legislatures in the popular house (Lok Sabha or Vidhan Sabha as the case may be) form the government. Each voter has one vote, which is not transferable.

There is no provision for negative voting. *Part XV of the Constitution provides for “Elections”*⁵. *Article 326*⁶ districts that elections to the House of people and to the Legislative Assembly of States are to be on the ground of Vote. Earlier, the eligibility for voting was fixed at 21 years but by the *Constitution (Sixty-First) Amendment Act, 1988*⁷, the same was reduced to 18 years. It means that the figure of voters has increased and apart from other threats to conduct free, fair and peaceful elections such as communalism, casteism, etc. another danger of exploiting youth sentiments during elections is also present. Are we really equipped with effective tools to fight electoral corruption? Electoral reforms have always been on the prime agenda of the government,

⁴ Abraham Lincoln, *Democratic Government*, (Apr. 28, 2019, 10:30 AM), https://www.brainyquote.com/quotes/abraham_lincoln_101395.

⁵ *Part XV (Elections) of Constitution of India*, (Apr. 28, 2019, 10:35 AM), <http://legislative.gov.in/sites/default/files/COI-updated.pdf>.

⁶ *Article 326, of Constitution of India*, (Apr. 28, 2019, 10:40 AM), <https://indiankanoon.org/doc/1620503/>.

⁷ *The Constitution (Sixty-First Amendment) Act, 1988*, (Apr. 28, 2019, 10:45 AM), <http://legislative.gov.in/constitution-sixty-first-amendment-act-1988>.

but rarely is it given the formal shape of the law. Recently, the Government of India has constituted yet another Committee to look into the matter of electoral reforms⁸.

Candidates contesting elections more than often take recourse to certain malpractices called “corrupt practices”. *Section 2(c) of the Representation of People Act, 1951⁹, states that “corrupt practices”, means any of the practices specified in section 123.* Corrupt practices and illegal practices are technical terms to denote particular offences defined by statute. Corrupt practices are for the most part aimed at abuses of influence, for example, bribery, treating or intimidation. Attempts to influence voters by other means are not unlawful subject to certain restrictions imposed by the statute law relating to illegal practices, for example restricting election expenses. Nevertheless, the dividing between corrupt practices and illegal practices is not clearly drawn. However, the most serious obstacle in this regard is the mushroom growth of the political parties and independent candidates. If the State bears the expenses of elections it must also be ensured that the legislature should complete its term, which does not seem possible in today’s era of coalition politics. Menace of corruption is continuously haunting the smooth conduct of free, fair and peaceful elections.

III. ADVANTAGES OF ELECTORAL POLITICS:

Elections lie at the heart of a democracy. Everything that a democratic rule ensures from equality and justice for all to the right to representation is ensured via electoral politics. A democracy simply provides that the ruling body, the government, must be elected via discussion via the mandate of the people. As elections lie at the heart of democracy, the power eventually lies in the hands of the people in a democracy. There is, in a way, passive governance where the people choose who should be governing them on their behalf as their representatives, but, the choice is made actively by active participation via elections as the voters choose by casting the vote in favour of the candidate whose views appeal or resonate with theirs.

⁸ *Committee on Electoral Reforms*, MINISTRY OF LAW & JUSTICE, (Apr. 28, 2019, 11:00 AM), [25http://lawmin.gov.in/sites/default/files/bgp_0.doc](http://lawmin.gov.in/sites/default/files/bgp_0.doc).

⁹ *Representation of the People Act, 1951*, (Apr. 28, 2019, 11:30 AM), http://legislative.gov.in/sites/default/files/04_representation%20of%20the%20people%20act,%201951.pdf.

Elections provide the best expression of an electorate's political preferences. The outcome of any electoral process not only indicates the majority's preference but also the plurality of the public the electorate and the diversity that exists there. Elections, by enabling the voters to choose their leadership, ensure that the will and voice of the electorate are reflected in the candidates who are elected. The same electoral process also provides the people with a platform to voice their resentment against the then governing rule in a very ethical and appropriate manner. By voting the ruling regimes out of power and bringing new representatives, new parties, and new governments in, the people demonstrate that it is only them who possess the ultimate power and authority in a democracy.

Elections also make sure that every citizen is allowed a fair & equal chance to political participation and representation. Any citizen with the motive of raising the issues and voicing the demands of the people is free to contest in the electoral process either independently or by joining a political party, or, if needed, by forming one of his/her own.

Especially for the socio-culturally marginalized communities and sections of the society, elections provide an opportunity to empowerment through representation. When one is represented, then only one can make sure that his/her issues are paid attention to.

The mandate of the people also chooses the opposition against the elected government whose duty is to maintain the check and balances. Elections disregard a dictatorial or autocratic rule where there is no space for opposing opinions and views. The electoral system not only paves the way for dissent in a democracy but also values it. The self-correcting tendency of democracy is maintained through electoral politics. The public makes sure that the ruling governments and parties are held accountable for their promises, kept in check, and made to consider the demands of the former who would otherwise elect the latter out of power.

Basically, free & fair elections in a democracy legitimize the election of a government. They hold the leaders accountable to the masses and prevent the regime from turning authoritarian. The entire process of election i.e. choosing representative is formal and bound by rules and a code of conduct throughout from the nomination of a candidate to the oath-taking of the

newly formed government. In simple words exercising the right to vote is synonymous with one's right to exercising their voice which is essential to an electoral process.

IV. CRITICALLY ANALYSIS OF ELECTORAL POLITICS:

The mere periodic conduction of elections doesn't establish that India is a republic and an efficacious political orientation; it is determined by the way selection is held, the calibre of people elected and their public presentation that make our democracy efficacious. In the contemporary scene, the far-flung sophistication in our political body part is well in sight. The level of poverty, unemployment and illiteracy indicate the unskilled fullness of our political system of rules. Afterwards, 72 years of our freedom, the citizens of the Republic of India are suffering from deprivation of elementary livelihood in life. Putting the integral blame for the contemporary regime of concern on our political arrangement will not be fair-and-square because it is not working in space; the companionship has a portion in the darn. The conduct of our political group is in consequence of the conduct of the society, and to improve our political method, we need to crusade society and its subsystems. This is where electoral improvement modifies essential.

Here are several of the flaws in the electoral method of India:

- Even though they are de jure obligatory, the candidates do not reveal the full information regarding the legal proceeding of the judgment of conviction and pending accusation against them and provide wrong or partial data regarding their possession, liabilities, financial gain and educational qualifications. This infringes with the rights of the people to know and choose for whom they are selecting, and judge whether the candidate is the effective, impersonal and visionary leader who will give a path to them.
- As per *Sec. 34 (1) (b) of the Representation of People Act, 1951*¹⁰, The Person who is contesting the Lok Sabha elections can deposit the security money of Rs.10000 while the person who is contesting the State assemblies, Council of States and Legislative Council, the security deposit money is Rs.5000. The Candidate who files a nomination for the election has very bad intention in their mind to disrupt the election. By this type of activities the election got affected and also there is a misuse of citizen's payer's tax, the

¹⁰ *Ibid.*

expenditure of government, electronic voting machine and also breaking of law and order. As per a recent epoch amendment, an individual can rivalry from at most 2 constituencies. But in cases candidate wins both, there are times when he chooses any one constituency, which then outcome in the need for the by-election, leading to gratuitous financial loss.

- One of the most hypercritical defects is the criminalisation of politics, which has destroyed all appearance of the system. An individual becomes triumphant by the prohibited use of muscle and monetary power apart from their main works, behaviour or absolute. The ellipse doesn't stop there, as in return for taking the assistance of big dealings business leader and criminals to victory, they bias their power towards these anti-social elements which contrary impact our society. Nowadays, criminals are entering into politics rapidly. The main reason behind is that our judicial system is too weak and the corruption is increasing day by day. The plans of action in which 25 per cent to 28 per cent of legal votes affirm victory in exercise, the preponderance of uneducated, illiteracy and financial condition is too miserable are promoting the blame personality and infringed elements.
- The maintenance and the balancing of Audit accounts of the political parties is not fair and fully crystal clear procedure. According to *Section 77(1) of the Representation of the People Act, 1951¹¹*, the Election expenditure received by the political parties, someone and influence persons of the candidate will not be marked as election expenditure of the candidate. According to the Supreme court of India, this section has removed even the “fig leaf to hide the reality” of the result of black money on the conclusion of elections. Many Government Parental Functionaries joins Politics and won the election by which they worked in the department. They can motivate people by their work which they have done before in the department but many people are unaware of what they have done before.
- The impact of exits polls and opinion poll play an important role in change the mindset of the voters and individuals. These are Dominance over the voters of the rural areas specifically. The advertisements from the government agencies are very unfair and injustice to society. We all know that the individual pay taxes for any service rendered

¹¹ *Ibid.*

and it is a heavy levy tax. It's the duty of the government to provide all the facilities to the persons and citizens. Every time when elections are nearby the ruling parties announce the benefits for certain groups to attract and impress voters of that community or caste. This may also play a crucial role. Every Party criticises each other and their failures too but no one can change the scenario of the society. Only the citizens of the country will suffer a lot.

- Another flaw of the system is the bureaucratization of politics. This happens when the parties bring off to acquire the authority, which is with them, to be the electoral federal agency in their constituencies. After making efforts and all the measures have been taken regarding our autonomous body, i.e., Election Commission of India by the Constitution of India, still, we are facings lots of loopholes in the system especially in financial powers of the candidate.
- It seems to be casual for any class of individuals to get themselves enrolled as a political organization, directing to mushrooming of non-sincere organization, which in-turn creates unnecessary load on election management. Several of the parties, which have become inoperative, are still there as a structural political organization in Commissions lists.
- According to statistics, the rate of flow of black money is much greater than other days or time, provincial tendencies performing their duty insistence society, buying them, and creating impressions in their brain.
- During elections, a lot of complaints are received from the public itself that their name does not exist from the electoral database; thousands of officials, designated on election responsibility, also are incapable to cast vote; murdering the very intention of selecting the absolute majority sound.

V. MODEL CODE OF CONDUCT¹²:

V.I MEANING:

Model Code of Conduct or often said as General Code of Conduct is a set of guiding principles framed by the Election Commission to monitor and regulate political parties and

¹² *Election Commission of India's Model Code of Conduct*, (Apr. 29, 2019, 11:00 AM), https://en.wikipedia.org/wiki/Election_Commission_of_India%27s_Model_Code_of_Conduct.

their candidates contesting elections, prior to elections or polls, to assure even-handed or impartial elections. This is the purview or ambit of Article 324 of the Constitution of India, which extends power to conduct elections or polls to the State legislature and Parliament. Such elections shall be conducted free, fair and partial. The Model Code of Conduct comes in operation or functioning from such date on which the schedule of the election is declared or made public.

V.II NEED FOR MODEL CODE OF CONDUCT:

Model Code of Conduct is meant to furnish a balanced field for all the contesting parties involved in elections to upkeep the campaign right and impartial, circumvent disputes and conflicts between contestants and assure peace, law and order. One of the primary objectives of Model Code of Conduct is assuring that the ruling political party either at the state legislatures or at the centre shall not misuse its position or power to earn an impartial or unfair advantage in the election.

V.III EVOLUTION OF MODEL CODE OF CONDUCT OVERTIME:

A kind or form of Model Code of Conduct was for the first time introduced in the state Assembly polls in Kerala, 1960. It was a set of guiding principles for political parties giving directions regarding slogans, meetings and speeches, etc. concerning elections. In the year 1962 general elections, the Model Code of Conduct was followed by the political parties at large scale and continued to be followed in the upcoming general elections. A new provision of “Party in power” was added by the election commission in the year 1979 to direct and control the elections. Supreme Court of India in the year 2013 instructed the Election Commission to insert guidelines concerning election manifestos, which was implemented or executed in 2014 general elections¹³.

V.IV KEY PROVISION OF THE MODEL CODE OF CONDUCT:

The Model Code of Conduct comprises the following provisions dealing with the regulations of the candidate and political parties:

- No candidate or political parties should indulge in such acts which lead to creative differences or hatred between various communities and caste.

¹³ *Model Code of Conduct and the 2014 General Elections*, PRS LEGISLATIVE RESEARCH, (Apr. 29, 2019, 11: 10 AM), <https://www.prsindia.org/theprsblog/model-code-conduct-and-2014-general-elections>.

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- There shall be no criticism of parties and their candidates concerning their private life, not subject to public activities. Such criticism shall be limited to past work and records, programme and policies.
- No campaigning or appeal of votes shall be made on communal feelings of the voters. Any place of worship be it Temple or Mosque or any such place shall be subject to election purposes.
- Corrupt practices such as bribing and intimidations of voters shall be avoided by all the political parties.
- The political party contesting candidates and workers shall inform the local police authorities about the time and venue for any pre-decided meeting so that such authorities shall proper arrangement along with the maintenance of peace and order.
- If any permission or license is to be taken regarding the usage of loudspeakers or any such facility, then the permission for its usage shall be obtained in advance from the authorities concerned by the political parties or candidate.
- All the candidates and political parties must co-ordinate and co-operate on the Election Day with officers on duty to assure orderly elections.
- All candidate and political parties shall give to their workers appropriate badges or identity cards.
- All candidates and political parties shall avoid distribution or supply of liquor on the polling day.
- Except for the voters, nobody shall be permitted without legal parts from Election Commission to enter the polling booths.
- During the election, the Election Commission is entrusted with the responsibilities to appoint observer¹⁴, to whom any political party or candidate can report problems concerning the conduct of the election.
- There are certain restrictions or prohibition enshrined in Model Code of Conduct regarding the regulations of the conduct of the party in power, i.e., no ruling political parties either at centre or state level shall misuse its power in earning or gaining votes.

¹⁴ *Model Code of Conduct for the Guidance of Political Parties and Candidates*, (Apr. 29, 2019, 11:15 AM), <https://eci.gov.in/mcc/>.

- This provision was added in 2013 after the suggestions made by the apex court¹⁵ which means that political parties shall make manifesto which shall include policies, programme, aims and objectives to be achieved by the party contesting the elections.

VI. LEGAL SANCTITY OF MODEL CODE OF CONDUCT:

Though the Model Code of Conduct has no legal Sanctity, yet there have been various recommendations by the Law Commission which demands for its legal existence. The Model Code of Conduct is not backed by law because the wrongs and the offences which can be made during the course of conduct of elections are already punishable under different established statutes in India, e.g., *Indian Penal Code, 1860, Code of Criminal Procedure, 1973 and The Representation of Peoples Act, 1951.*

VII. CONCLUSION:

An endeavour has been successful to form a critical appraisal of the problem of corrupt practices in conducting free, fair and peaceful elections in the light of cases decided by various High courts and Supreme Court of India in the exercise of their power conferred on them by the constitution of India and the law made thereunder. From the very beginning, the provisions of the Constitution and the law made by the Parliament in this regard have been interpreted by the Supreme Court in their proper perspective so that idea of the universal adult franchise be realized in its letter and spirit.

However, the sketchy and unsettled position of fast developing law relating to the election can be judged from the fact that the Act has been amended more than 45 times out of which almost on ten occasions the provisions relating to corrupt practices in the name of clarifying the provisions. Though the Court have tried their best not only to fill in the gaps but also evolved, shaped and laid down the correct proposition of law so as to restore the pristine glory of the temples of democracy, i.e., the legislatures, the ever increasing misuse of freedoms guaranteed by the Constitution combined with the pitfalls provided in the Act,

¹⁵ *Election Manifestos*, (Apr. 29, 2019, 11:30 AM), <https://eci.gov.in/election-manifestos/>.

approach¹⁶ adopted by the Supreme Court in handling and deciding the cases containing allegations of corrupt practices compels us to react cautiously.

However, the contribution of the courts in interpreting the provisions of the Constitution and the law relating to corrupt practices and other related offences can never be underestimated and it will be no exaggeration to submit that law developed by Courts have become the bedrock of election law through additions and alterations; be it upholding the right to know about the antecedents of a prospective candidate¹⁷; treating convicted members of legislatures at par with the other convicts so far as disqualification under section 8 of the Act is concerned¹⁸; judgement rendered by Justice Bhagwati (as he then was) in *Kanwar Lal v. Amarnath*,¹⁹ about the election expenditure incurred at by the candidate or his agent or settlement of dispute regarding the status of Chief Election Commissioner vis-a-vis other Election Commissioners.

Discussion about the role of Election Commission as a Constitutional authority charged with the duty of securing due conduct of election reveals that the Commission with its limited powers can take appropriate actions for preventing the occurrence of corrupt practices more effectively since the role of judiciary in relation to the prevention of corrupt practices is limited to declaring the election void and recording findings regarding that of nature and proof of the corrupt practice (whether a particular corrupt practice has been proved or not) committed and if proved the name or names of the person or persons held guilty of any corrupt practice paving the way for his or their disqualification under section 8-A of Act.

Further, taking recourse of judicial remedy depends on so many others factors viz. strict procedure laid down in the Act to be followed, recourse to judicial remedy can be taken only after declaration of result of the election and providing the allegations of corrupt practices

¹⁶ *The Supreme Court in Indira Nehru Gandhi v. Raj Narain, AIR 1975 SC 2299, while holding that the principle of free and fair elections as an essential postulate of democracy upheld the validity of amendments made to the Act, though it was clear that the amendments were made to save an individual from the clutches of provisions of corrupt practices and the concerned High Court had held the election void because the commission of corrupt practice was proved beyond doubt.*

¹⁷ Union of India v. Association for Democratic Reforms, (2002) 5 S.C.C. 294 (India).

¹⁸ "The Hindu" (Delhi) dated Jan. 13, 2005.

¹⁹ A.I.R. 1975 S.C. 308 (India).

beyond reasonable doubt because the Courts have unanimously held that proceedings to establish corrupt practices are quasi-criminal in nature. It is the Constitutional mandate to ensure the independence of working of the Election Commission.

In Chief election Commissioners case, the Constitution provides certain measures to make the office of the Chief Election Commissioner independent but the appointment of another Election Commissioners is completely in the hands of the Central Government. Besides, the arrangements made under Article 324 ensuring the independence of the office of Chief Election Commissioner, it is highly desirable that his and his companion's appointments should be done in such a way that they are obliged to the Government.

It is recommended that the Chief Election Commissioner and other Election Commissioners should be appointed by the President in consultation with a six members committee comprising the Chief Justice of India, Chairman of the Council of States, the Prime Minister, Speaker of Lok Sabha and Rajya Sabha and the leaders of the opposition in both the Houses of Parliament. To avoid any possibility of confrontation among the members of the Commission it is suggested that in case of appointment of other Election Commissioners, the Chief Election Commissioners should also be consulted.

Websites and Articles referred:

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- 3) <https://www.orfonline.org/expert-speak/why-indian-democracy-is-underrated-50303/>
- 4) *Elections in India: Everything You Need to Know: Robin age.*
- 5) *The Great March of Democracy: Seven Decades of India's Elections.*