



LL.B. VI Term

LB-6033 - Law Relating to Elections

Cases Selected and Edited by
Monica Chaudhary

**FACULTY OF LAW
UNIVERSITY OF DELHI
DELHI-110007
January, 2017**

LL.B. VI Term

Paper : LB - 6044 - Law Relating to Elections

Prescribed Legislations:

- i. The Constitution of India, 1950
- ii. The Representation of the People Act, 1950
- iii. The Representation of the People Act, 1951
- iv. The Delimitation Act, 2002
- v. The Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991
- vi. The Indian Penal Code, 1860 (Selected Relevant Provisions)
- vii. The Parliament (Prevention of Disqualification) Act, 1959
- viii. The Presidential and Vice-Presidential Elections Act, 1952

Prescribed Books:

1. V.S. Rama Devi and S.K. Mendiratta, *How India Votes – Election Laws, Practice and Procedure* (3rd ed., 2013).
2. Kiran Gupta and P.C. Jain, *Chawla's Elections - Law & Practice* (9th ed., 2009).

Topic 1 : Introduction - Meaning of Election and Disputes Regarding Elections to Parliament and State Legislatures

The Constitution of India – Preamble, Part XV- Articles 324-329

The Representation of the People Act, 1951 (R. P. Act, 1951) – Part VI (sections 79-122)

1.1 Meaning of election; election petition– forum, presentation, grounds and relief that may be claimed by the petitioner.

The Constitution of India - Article 329(b)

R. P. Act, 1951- sections 80, 80A, 81, 84, 86, 98, 99, 100, 101

1. *N.P. Ponnuswami v. The Returning Officer, Namakkal Constituency*, AIR 1952 SC 64 1
2. *Mohinder Singh Gill v. Chief Election Commissioner, New Delhi*, AIR 1978 SC 851
3. *Election Commission of India through Secretary v. Ashok Kumar*, AIR 2000 SC 2979 12
4. *Indrajit Barua v. Election Commission of India*, AIR 1986 SC 103
5. *G.V. Sreerama Reddy v. Returning Officer*, (2009) 9 SCC 736 23

1.2 Time for presentation of an election petition- section 81 read with section 86(1) , R.P. Act, 1951

6.	<i>Manohar Joshi v. Nitin Bhaurao Patil</i> , AIR 1996 SC 796	27
7.	<i>Raj Kumar Yadav v. Samir Kumar Mahaseth</i> , (2005) 3 SCC 601	51
1.3	Contents of election petition-material facts and particulars- section 83, R.P. Act, 1951.	
	Parties to election petition- sections 82 read with sections 84, 86, R.P. Act, 1951.	
8.	<i>Udhav Singh v. Madhav Rao Scindia</i> , AIR 1976 SC 744	55
10.	<i>Jyoti Basu v. Debi Ghosal</i> , AIR 1982 SC 983	65
1.4	Recriminatory petition- section 97, R.P. Act, 1951	
11.	<i>Jabar Singh v. Genda Lal</i> , AIR 1964 SC 1200	71
1.5	Withdrawal (sections 109-111, R.P. Act, 1951), abatement (sections 112, 116, R.P. Act, 1951) and dismissal (section 86, R.P. Act, 1951) of election petitions; appeal (sections 116A, 116B, 116C, R.P. Act, 1951)	

Topic 2: Composition of Parliament and Election of President and Vice President

2.1 Composition and dissolution of Parliament and state legislatures

The Constitution of India - Articles 79-83, 85, 168-172, 174, 330-334

12. *Special Reference No. 1 of 2002*, AIR 2003 SC 87

2.2 Delimitation of constituencies

The Constitution of India - Articles 329(a), 81, 82, 170, 330, 332

R.P. Act, 1950- sections 3-13

The Delimitation Act, 2002

2.3 Election of President and Vice-President

Constitution- Articles 52, 54-59, 62-68, 71

The Presidential and Vice-Presidential Elections Act, 1952

13.	<i>Baburao v. Dr. Zakir Hussain</i> , AIR 1968 SC 904	
14.	<i>Charan Lal Sahu v. Giani Zail Singh</i> , AIR 1984 SC 309	80
15.	<i>Special Reference No. 1 of 1974</i> , AIR 1974 SC 1682	92

Topic 3: Composition, Powers and Functions of the Election Commission

3.1. Composition of the Election Commission

The Constitution of India – Article 324

The Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991

16.	<i>S.S. Dhanoa v. Union of India</i> , AIR 1991 SC 1745	
17.	<i>T.N. Seshan, Chief Election Commissioner of India v. Union of India</i> (1995) 4	102

- SCC 611
- 3.2. Powers and functions of the Election Commission**
 The Constitution of India – Articles 324- 328, 103(2), 192(2)
 R.P. Act, 1951- sections 8A, 10A, 11, 11A, 11B, 28A(read with section 13CC,
 R. P. Act, 1950), 29A, 77, 78, 146, 146A, 146B, 146C
 The Election Symbols (Reservation and Allotment) Order, 1968
18. *Mohinder Singh Gill v. Chief Election Commissioner, New Delhi*,
 AIR 1978 SC 851
19. *Indian National Congress(I) v. Institute of Social Welfare*, AIR 2002 SC 2158 119
20. *Union of India v. Association for Democratic Reforms*, AIR 2002 SC 2112
21. *Special Reference No. 1 of 2002*, AIR 2003 SC 87

Topic 4 : Qualifications And Disqualifications of Candidates

The Constitution of India - Articles 84, 101-104, 173, 190-193
 R.P. Act, 1951- sections 3-6,7, 8, 8A, 9, 9A, 10, 10A, 11, 100(1)(a)
 22. *Kuldip Nayar v. Union of India*, AIR 2006 SC 3127

4.1. Disqualification for holding an office of profit

The Constitution of India- Articles 102(1)(a), 191(1)(a)
 R.P. Act, 1951 -section 10

The Parliament (Prevention of Disqualification) Act, 1959

23. *Guru Gobind Basu v. Sankari Prasad Ghosal*, AIR 1964 SC 254 134
24. *Biharilal Dobray v. Roshanlal Dobray*, AIR 1984 SC 385
25. *Ashok Kumar Bhattacharya v. Ajoy Biswas* (1985) 1 SCC 151 142
26. *Jaya Bachchan v. Union of India*, AIR 2006 SC 2119 150
27. *Consumer Education & Research Society v. Union of India* (2009) 9 SCC 648 154

4.2. Disqualification for government contracts

The Constitution of India- Article 299

R.P. Act, 1951-section 9A

28. *Konappa Rudrappa Nadagouda v. Viswanath Reddy*, AIR 1969 SC 447 172
29. *Smt. Aslhing v. L.S. John*, AIR 1984 SC 988

4.3. Disqualification on conviction for certain offences

R.P. Act, 1951-section 8

30. *B.R. Kapur v. State of Tamil Nadu* (2001) 7 SCC 231
31. *K. Prabhakaran v. P. Jayarajan* (2005) 1 SCC 754 178
32. *Nayjot Singh Sidhu v. State of Punjab*, (2007) 2 SCC 574
- Lily Thomas v. Union of India*, (2013) 7 SCC 653 197

Law Commission of India, 244th Report on Electoral Disqualifications (February, 2014).

Topic 5: Anti-Defection Law

The Constitution (Fifty-second Amendment) Act, 1985

The Constitution of India - Tenth Schedule, Articles 101(3), 102(2), 190(3), 191(2)

The Constitution (Ninety-first Amendment) Act, 2003

The Constitution of India- Articles 75(1A), 75(1B), 164(1A), 164(1B), 361B

- | | | |
|-----|---|-----|
| 33. | <i>Kihoto Hollohon v. Zachillhu</i> , AIR 1993 SC 412 | |
| 34. | <i>Ravi S. Naik v. Union of India</i> , AIR 1994 SC 1558 | 214 |
| 35. | <i>G. Viswanathan v. Hon'ble Speaker Tamil Nadu Legislative Assembly</i> , AIR 1996 SC 1060 | |
| 36. | <i>Rajendra Singh Rana v. Swami Prasad Maurya</i> , AIR 2007 SC 1305 | |
| 37. | <i>D. Sudhakar v. D.N. Jeevaraju</i> , (2012) 2 SCC 708 | |
| 38. | <i>Balchandra L. Jarkiholi v. B.S. Yeddyurappa</i> , (2011) 7 SCC 1 | |

Topic 6 : Nominations

6.1 Requirements of valid nomination of candidates for election- procedure for filing nomination paper, number of proposers, security deposit, scrutiny of nomination papers, grounds of rejection of nomination papers, withdrawal of nomination papers etc.

R.P. Act, 1951 – sections 30-39, 100 (1) (c), 100 (1) (d) (i)

- | | | |
|------------|--|-----|
| 39. | <i>Rangilal Choudhury v. Dahu Sao</i> , AIR 1962 SC 1248 | 233 |
| 6.2 | Consequences of improper rejection and improper acceptance of nomination papers | |
| | R.P. Act, 1951 – sections 100 (1) (c) , 100 (1) (d) (i) | |
| 40. | <i>N.T. Veluswami Thevar v. Raja Nainar</i> , AIR 1959 SC 422 | 237 |
| 41. | <i>Vashist Narain Sharma v. Dev Chandra</i> , AIR 1954 SC 513 | 245 |
| 42. | <i>Chhedi Ram v. Jhilmit Ram</i> , AIR 1984 SC 146 | 250 |
| 43. | <i>Santosh Yadav v. Narender Singh</i> , AIR 2002 SC 241 | 253 |
| 44. | <i>Ram Phal Kundu v. Kamal Sharma</i> , AIR 2004 SC 1657 | 262 |

Topic 7 : Corrupt Practices

7.1 Distinction between corrupt practices (section 123, R.P. Act, 1951) **and electoral offences** (Chapter IXA (sections 171A- 171 I), Indian Penal Code, 1860 and sections 125-136, R.P.Act, 1951)

7.2 Corrupt Practices

R.P. Act, 1951 – section 123 read with sections 8A, 79, 98, 99, 100(1)(b), 100(1)(d)(ii), 100(2), 101

- 7.2.1 Bribery** (section 123(1), R.P. Act, 1951)
45. *H.V. Kamath v. Ch. Nitiraj Singh*, AIR 1970 SC 211
46. *Ghasi Ram v. Dal Singh*, AIR 1968 SC 1191
- 7.2.2 Undue influence** (section 123(2), R.P. Act, 1951)
47. *Narbada Prasad v. Chhaganlal*, AIR 1969 SC 395
48. *Manubhai Nandlal Amersey v. Papatlal Manilal Joshi*, AIR 1969 SC 734 277
- 7.2.3 Appeal on the grounds of religion, race, caste, community or language etc.; promotion of feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language** (sections 123(3), 123(3A), R.P. Act, 1951)
49. *Kultar Singh v. Mukhtiar Singh*, AIR 1965 SC 141
50. *S. Harcharan Singh v. S. Sajjan Singh* (1985)1 SCC 370
51. *Manohar Joshi v. Nitin Bhaurao Patil*, AIR 1996 SC 796
52. *Dr. Ramesh Yeshwant Prabhoo v. Prabhakar Kashinath Kunte*, AIR 1996 SC 1113 283
- 7.2.4 Publication of false statement of fact in relation to the personal character or conduct of any candidate** (section 123(4), R.P. Act, 1951)
53. *Dev Kanta Barooah v. Golok Chandra Baruah*, AIR 1970 SC 1231 311
54. *Gadakh Yashwantrao Kanakrao v. Balasaheb Vikhe Patil*, AIR 1994 SC 678
- 7.2.5 Free conveyance of voters** (section 123(5), R.P. Act, 1951), **incurring or authorising expenditure in excess of the permissible limit** (section 123(6), R.P. Act, 1951) **and booth capturing** (section 123(8), R.P. Act, 1951)
- 7.2.6 Obtaining or procuring the assistance of a government servant** (section 123(7), R.P. Act, 1951)
55. *Indira Nehru Gandhi v. Raj Narain*, AIR 1975 SC 2299

Topic 8 : Voters' Right to Know the Antecedents of the Candidates

R.P. Act 1951 - sections 33A, 33B, 125A

The Goswami Committee Report on Electoral Reforms, 1990

The Vohra Committee Report on Criminalisation of Politics, 1993

170th Report of the Law Commission on Electoral Laws, 1999

56. *Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294
57. *People's Union for Civil Liberties (PUCL) v. Union of India*, AIR 2003 SC 2363 322
- Resurgence India v. Election Commission of India*, 2013 (11) SCALE 348

IMPORTANT NOTE:

1. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.
2. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.
3. Question papers set for previous academic years are printed below for guidance.

* * * * *