

LL.B. VI Term

Paper : LB-6033-Election Laws

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* (4thed., 2017).
2. Kiran Gupta and P.C. Jain, *Chawla's Elections - Law & Practice* (10th ed., 2014).

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

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| 1. <i>N.P. Ponnuswami v. The Returning Officer, Namakkal Constituency</i> , | 1 |
| AIR 1952 SC 64 | |
| 2. <i>Mohinder Singh Gill v. Chief Election Commissioner, New Delhi</i> , | |
| AIR 1978 SC 851 | |
| 3. <i>Election Commission of India through Secretary v. Ashok Kumar</i> , | 12 |
| AIR 2000 SC 2979 | |
| 4. <i>G.V. Sreerama Reddy v. Returning Officer</i> , (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 | |
| 5. <i>Manohar Joshi v. Nitin Bhaurao Patil</i> , AIR 1996 SC 796 | 27 |

6.	<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.	
7.	<i>Udhav Singh v. Madhav Rao Scindia</i> , AIR 1976 SC 744	55
8.	<i>Jyoti Basu v. Debi Ghosal</i> , AIR 1982 SC 983	65
1.4	Recriminatory petition- section 97, R.P. Act, 1951	
9.	<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 of India

2.1 Composition and dissolution of Parliament and state legislatures

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

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

The Jammu and Kashmir Reorganisation Act, 2019

2.3 Election of the President and Vice-President of India

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

The Presidential and Vice-Presidential Elections Act, 1952

10.	<i>Charan Lal Sahu v. Giani Zail Singh</i> , AIR 1984 SC 309	80
11.	<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

12.	<i>S.S. Dhanoa v. Union of India</i> , AIR 1991 SC 1745	
13.	<i>T.N. Seshan, Chief Election Commissioner of India v. Union of India</i> (1995) 4 SCC 611	102

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
14. *Mohinder Singh Gill v. Chief Election Commissioner, New Delhi*,
 AIR 1978 SC 851
 15. *Indian National Congress(I) v. Institute of Social Welfare*, AIR 2002 SC 2158 119
 16. *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)
 17. *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

18. *Guru Gobind Basu v. Sankari Prasad Ghosal*, AIR 1964 SC 254 134
19. *Joti Prasad Upadhyaya v. Kalka Prasad Bhatnagar*, AIR 1962 All 128
20. *Ashok Kumar Bhattacharya v. Ajoy Biswas* (1985) 1 SCC 151 142
21. *Jaya Bachchan v. Union of India*, AIR 2006 SC 2119 150
22. *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

23. *Konappa Rudrappa Nadgouda v. Vishwanath Reddy*, AIR 1969 SC 447 172
24. *Smt. Aslthing v. L.S. John*, AIR 1984 SC 988

4.3. Disqualification on conviction for certain offences

R.P. Act, 1951-section 8

25. *B.R. Kapur v. State of Tamil Nadu* (2001) 7 SCC 231
 26. *K. Prabhakaran v. P. Jayarajan* (2005) 1 SCC 754 178
 27. *Nayjot Singh Sidhu v. State of Punjab*, (2007) 2 SCC 574
 28. *Lily Thomas v. Union of India*, (2013) 7 SCC 653 197
 29. *Public Interest Foundation v. Union of India*, (2019) 3 SCC 224
- 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

30. *Kihoto Hollohan v. Zachillhu*, AIR 1993 SC 412
31. *Ravi S. Naik v. Union of India*, AIR 1994 SC 1558 214
32. *G. Viswanathan v. Hon'ble Speaker Tamil Nadu Legislative Assembly*, AIR 1996 SC 1060
33. *Rajendra Singh Rana v. Swami Prasad Maurya*, AIR 2007 SC 1305
34. *D. Sudhakar v. D.N. Jeevaraju*, (2012) 2 SCC 708
35. *Balchandra L. Jarkiholi v. B.S. Yeddyurappa*, (2011) 7 SCC 1
36. *Shrimanth Balasaheb Patil v. Hon'ble Speaker, Karnataka Legislative Assembly*, (2020) 2 SCC 595
37. *Keisham Meghachandra Singh v. The Hon'ble Speaker, Manipur Legislative Assembly* 2020 SCC OnLine SC 55

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)

38. *Rangilal Choudhury v. Dahu Sao*, 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)
39. *N.T. Veluswami Thevar v. Raja Nainar*, AIR 1959 SC 422 237
40. *Vashist Narain Sharma v. Dev Chandra*, AIR 1954 SC 513 245
41. *Chhedi Ram v. Jhilmit Ram*, AIR 1984 SC 146 250
42. *Santosh Yadav v. Narender Singh*, AIR 2002 SC 241 253
43. *Ram Phal Kundu v. Kamal Sharma*, 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)

44. *H.V. Kamath v. Ch. Nitiraj Singh*, AIR 1970 SC 211

45. *Ghasi Ram v. Dal Singh*, AIR 1968 SC 1191

7.2.2 Undue influence (section 123(2), R.P. Act, 1951)

46. *Narbada Prasad v. Chhaganlal*, AIR 1969 SC 395

47. *Manubhai Nandlal Amersey v. Popatlal 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)

48. *Kultar Singh v. Mukhtiar Singh*, AIR 1965 SC 141

49. *S. Harcharan Singh v. S. Sajjan Singh* (1985)1 SCC 370

50. *Manohar Joshi v. Nitin Bhaurao Patil*, AIR 1996 SC 796

51. *Dr. Ramesh Yeshwant Prabhoo v. Prabhakar Kashinath Kunte*, AIR 1996 SC 1113 283

52. *Abhiram Singh v. C.D. Commachen*, (2017) 2 SCC 629

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

Law Commission of India, 170th Report on Reform of the Electoral Laws(May, 1999)

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| 56. | <i>Union of India v. Association for Democratic Reforms</i> , (2002) 5 SCC 294 | |
| 57. | <i>People's Union for Civil Liberties (PUCL) v. Union of India</i> ,
AIR 2003 SC 2363 | 322 |
| 58. | <i>Resurgence India v. Election Commission of India</i> , 2013 (11) SCALE 348 | 342 |
| 59. | <i>Lok Prahari v. Union of India</i> , (2018) 4 SCC 699 | |

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.

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