



IN NATIONAL ELECTION, CHALLENGING BEFORE ELECTORAL SYSTEM IN INDIA: IN GENERAL ELECTIONS

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ABSTRACT

The fact that the General Elections for Parliament and States Assemblies are approaching, this paper discusses the importance of voting and EVM machines. As we will see that the use of these machines is so simple and effective, they definitely have the potential to make the coming General Elections the most fair and successful in the history of Democracy of the nation. The malpractices that are rigging our present election system will be removed and most of all the percentage of voting may touch the unbelievably high level which is the real mark of any democracy. This paper tests the effectiveness of electronic voting against the eight essential requirements that any electoral process need to satisfy to make them both free and fair in modern society.

INTRODUCTION

India is largest Democracy in World but we feel that due to certain reasons, Democracy isn't working properly. So, now the I feel that why this largest Democracy is not working properly? There is some thing wrong in the Electoral process. Here I have indicated the total happenings in the present days Electoral exercise and also suggested some remedies for the betterment of the Electoral system. This has been amongst the most widely discussed electoral reforms in India. Multi-cornered contests have become a norm in India than an exception due to the increase in the number of smaller and regional parties. There have been cases in the state assembly and Parlelections where a candidate has been declared winner with the victory margin of less than 100 votes. Apart from this anomaly, in most cases, a candidate wins the election by securing just 30 -35 per cent of the total number of votes polled. Hence he or she cannot be deemed to be a choice of majority of the electorate. To overcome this limitation, the first-past-the post system should be replaced with a two stage electoral process. In this, a second round of election will be held if none of the candidates in the fray is able to get 50 per cent of the total number of votes polled in the first round. The two candidates who have obtained the maximum number of votes in the first round will fight in the second round. Whoever between the two gets more than 50 to 51 per cent of the total votes polled in the second round is declared the winner. Simultaneous elections for Union and state legislatures. Currently 4- 5 states in India go for elections every year. This undermines the working of the union government as the regime in power cannot take tough decisions due to the fear of a backlash in the next round of assembly election. Hence simultaneous elections will not only ensure that governments at the centre and the states carry out their responsibilities in a smooth manner but also curtail unnecessary election expenditure. The arrangement of simultaneous elections can be extended to the elections for the

municipal corporations and other Panchayati Raj System. India has the distinction of being the largest democracy of the world. Elections are the most important and integral part of politics in a democratic system of governance. While politics is the art and practice of dealing with political power, election is a process of legitimization of such power. Democracy can indeed function only upon this faith that elections are free and fair and not rigged and manipulated, that they are effective instruments of ascertaining popular will both in reality and in form and are not mere rituals calculated to generate illusion of difference to mass opinion, it cannot survive without free and fair elections. The election at present are not being held in ideal conditions because of the enormous amount of money required to be spent and large muscle power needed for winning the elections. While the first three general elections (1952-62) in our country were by and large free and fair, a discernible decline in standards began with the fourth general election in 1967.¹No such events were reported till the fourth general election. Over the years, Indian electoral system suffers from serious infirmities. The election process in our country is the progenitor of political corruption. The distortion in its working appeared for the first time in the fifth general elections, 1971 and multiplied in the successive elections especially those held in eighties and thereafter.²Some of the candidate and parties participate in the process of elections to win them at all costs, irrespective of moral values. The ideal conditions require that an honest, and upright person who is public spirited and wants to serve the people, should be able to contest and get elected as people's representatives. But in actual fact, such a person as aforesaid has no chance of either contesting or in any case winning the election.

Issues in Electoral System

The election at present are not being held in ideal conditions because of the enormous amount of money required to be spent and large muscle power needed for winning the elections. The major defects which come in the path of electoral system in India are money power, muscle power, criminalisation of politics, poll violence, booth capturing, communalism, casteism, non-serious and independent candidates etc.

Money Power

Electioneering is an expensive affair in every democratic polity which plays a more vital role in India. Money power plays in our electoral system destructive role affecting seriously the working of periodic elections, It leads to all round corruption and contributes mainly to the generation of black money economy which rules at present our country? A prospective candidate in each constituency has to spend millions of money towards transport, publicity and other essential items of election campaign. In recent years the election expenses have increased beyond any limits due to the desire on the part of every political party to spend more than their rivals in the fray. The elections were not as costly in 1952 as they have become today. Political leaders and workers considered it unethical to work with a desire for any reward. But scenario now has changed.³The elections in Indian polity are becoming increasingly expensive and the gap between the expenses incurred and legally permitted is increasing over the years. The observers are watching the system that requires unbelievably enormous expenditure collected through the dubious means by political parties and their Candidates. The adoption of planning and of mixed economy with a large amount of control, regulation, licenses, permits and quotas in free India provided enormous opportunities for political corruption and resulted in an unethical nexus between the electoral politics and the business sector of the country. This seems to be continued even today with more disastrous consequences of an overflow of black money into the corridors of political parties despite the liberalized economy induced to the political system of country. Elections in India so far from a common man, only those people can participate in elections as a candidate who has a lot of money, because today vote is not a mean of public opinion. It is being purchased.

¹ Sukhiya, Subhash-2008-Issue in Indian Politics, New Delhi, Anamika Publication, Page No : 219

² Kaur, Amanjeet-2009-Electoral Reform in India Problem and Needs 1989 to 2009 Unistar Publication Page-35.

³ Ganeshan K, 1994-Electoral Reforms Parliamentary Affairs, Vol-12 Sangalare, Page-18

Muscle Power

In General Election, Violence, pre-election intimidation, post-election, victimisation, most of the riggings of any type, booth capturing both silent and violent are mainly the products of muscle power. These are prevalent in many parts of the country like Bihar, Western Uttar Pradesh, Maharashtra etc. and this cancerous disease is slowly spreading to south like in Andhra Pradesh, Criminalisation of politics and politicalisation of criminals, freely indulged in now, are like two sides of the same coin and are mainly responsible for the manifestation of muscle power at elections.⁴By using of violence, the criminals are able to achieve success at elections for their benefactors.

Misuse of Governmental Machinery in Election

It is generally complained that the government in power at the time of election misuse official machinery to further the election prospects of its party candidates.⁵The misuse of official machinery takes different forms, such as issue of vertisements at the cost of government and public exchequer highlighting their achievements, disbursements out of the discretionary funds at the disposal of the ministers, use of government vehicles for canvassing etc. The misuse of official machinery in the ways mentioned above gives an unfair advantage to the ruling party at the time of elections. This leads to misuse of public funds for furthering the prospects of candidates of a particular party.

Criminalisation on Politics

During the election period in General Election, newspapers are usually full of information about the number of criminals in the field sponsored by every party. The reason of the criminals behind entrance to politics is to gain influence and ensure that cases against them are dropped or not proceeded with. They are able to make it big in the political arena because of their financial clout. Political parties tap criminals for fund and in return provide them with political patronage and protection.⁶Rough estimates suggest that in any state election 20 (At Present Election 2014-More then 30 Cendidates are criminals) percent of candidates are drawn from criminal backgrounds, Mafia dons and other powerful gangsters have shown that they can convert their muscle power into votes often at gun point. Voters in many parts in the country are forced to vote for the local strongman. Tickets were given to the can didates with criminal records even by National Party. All these instances reported time and again show that democracy in India has largely failed to be what it was meant to be because the electoral system has been perverted. Our politics have been corrupted because the corrupt and criminals have to entered it,⁷Criminalisation of politics has become an all-pervasive phenomenon. At one time politicians hired criminals to help them win elections by booth capturing. Today, those same criminals have begun ente ring parliament and the state legislature. Non -Serious Candidates in Political Parties.In recent years there has been a steady increase in the number of candidates in elections. The number of candidates has swelled due to the participation of Independents. They contest elections light heartedly and lose their deposits. Non-serious candidates are largely floated by serious candidates either to cut sizeable portion of votes of rival candidates or to split the votes on caste lines or to have additional physical force at polling station and counting centers.⁸The multiplicity of candidates causes inconvenience to election authorities in the management of elections. The voters are also handicapped in identifying the candidates of their own choice. This affects the sanctity of elections. This onslaught of non-seriousness has to be halted.

Problems of Hung Parliament And Assemblies

There has been a great deal of political instability during the last decades. The result has been unstable administration and unstable policies, the hallmark of minority governments. The reasons are not far to seek. The Westminster Model adopted by us, works mainly on the basis of a limited number of political

⁴ Sundriyal, R.B and Dighe, Sharde_Edition-1997Electrol Refors, Shree Publishing House, Page-122

⁵ L.M.Singavi-1971Election and Electrol reform in India,Sterling Publishing House, Page-165

⁶ S.C.Gupta-2004 - Essay -151-Meeruth.

⁷ Summer Kaul, 2002,Who wants clean electrol system ?Not the Politician's, Parliamentary Affairs, August, Bangalore. Page-13

⁸ Ibid.

parties. In the United Kingdom, there are only two major political parties. Contrarily in India, politicisation at ground level coupled with a highly fragmented society, has given rise to a multiplicity of political parties. Each one of these exists not on a different ideology or economic programme, but on the basis of having nursed a narrow parochial, mostly caste or religion based, identity for itself and its band of followers. Even this support is usually earned not by doing some constructive work for the concerned group but negatively by bad-mouthing others and all the time pitting one group against the other.⁹The resultant divided vote has made it increasingly difficult for single parties to get a workable majority to form a government at the centre, In order to cobble up a workable majority to form governments, compromises have had to be made and all ideology or notions of quality of governance have disappeared from the scene. This has had a very negative repercussion on the quality of governance with several consequences. Corruption has flourished, law and order has suffered and control mechanisms have broken down or become very loose. The common citizen has been the victim of all resultant misgovernance.¹⁰This situation has generated its own debate and suggestions have been made to limit the number of political parties as well as independent candidates that are allowed to contest for national elections.

Castliism

Although there is hardly any instance in India of a political party being totally identified with any particular caste group, yet there are cases of certain castes lending strong support to particular political parties. Thus while political parties struggle among themselves, to win different caste groups in their favour by making offers to them, caste groups too try to pressurize parties to choose its members for candidature in elections, If the caste group is dominant and the political party ,is an important one, this interaction is all the more prominent.¹¹In many political parties, in place of ideological polarization there occur the det Ermination of policies and programmes as well as the nomination of electoral candidates and the extension of support to them on caste consideration. Caste dominates the political field, especially at the lower level.¹²The emergence of regional parties and the „withering away of national outlook and spirit“ thus sets off another crisis. Candidates come to be selected not in terms to accomplishments, ability and merit but on the appendages of caste, creed and community. Ultimately caste becomes the deciding factor on selection. Caste based politics and castism are eroding the „unity“ principle in the name of regional autonomy.

Communalism

The emergence of India as a „secular“ state, the politics of communalism and religious fundamentalism in the post indep endence period has led to a number of separate movements in various states and regions of the country. Communal polarization, rather multi-polarization, has posed a threat to the Indian „political ethos of pluralism, parliamentarianism and federalism. Desp ite the adoption of the „principle of „Secularism“ as a constitutional creed, which ironically allows communal parties to compete, the trend towards communalism and fundamentalism in Indian politics have been growing day by day. The spirit of tolerance that is essential for a „secular“ society seems to have completely vanished from the body politics of India. The dynamics of national and state politics of the last decade is a mute witness of the clashes and conflicts between the so-called. Secularist and the communalist“. Although a comprehensive constitutional amendment Bill (80th Amendment Bill) and Representation of the People (Amendment) Bill 1993 were introduced to de-link polities from communalism, castism, and linguism etc. by the

⁹ Sundriyal, R.B and Dighe, Sharde_Edition-1997Electrol Refors, Shree Publishing House, Page-128

¹⁰ V.A.Pandikar & Subhash C Kashyap-2001,Political Reforms Asserting Civil Sovereignty New Delhi, Konark Publication, Page-135

¹¹ V.A.Pandikar & Subhash C Kashyap-2001,Political Reforms Asserting Civil Sovereignty New Delhi, Konark Publication, Page-135.

¹² Review of the working Political Parties Specially in relation of Election Reforms and reform Options. Consulation. Publish Paper In Nirvachan Sadan 2001-page-425.

minority Government, these could not pass through the Parliament.¹³ Caste and religion have in recent years emerged “as rallying points to gain electoral” support. Unfortunately there is a tendency to play upon caste and religious sentiments and field candidates in elections with an eagle eye on the caste equations and communal configurations.

Moral Values in Politics

There has been very sharp erosion in the ideological orientation of political parties. Party dynamics in India has led to the emergence of valueless politics much against the ideals of the father of the nation, Mahatma Gandhi, who suggested that the Congress party should be disbanded after the achievement of Independence and its members should engage themselves in the service of the people. While Gandhi taught us tremendous selflessness, self sacrifice and service, to the people, such inspirational values, the democratic norms and institutions have been destroyed systematically over the last years of the working of the Constitution. In the process, both the politicians and political parties have lost their credibility, the ultimate value that should bind them with the masses. There seems to be a crisis of character amongst the politicians, as the system does not encourage the honest leader. Because of the falling moral standards both in the public and among the leaders, criminalisation of politics and politicization of criminals has become the norm. Due to degeneration of leadership, parties have been entangled in power struggle for the sake of personal ends.¹⁴ In a moral pursuit of power politics, every major player seems to be playing a no holds barred game. The Gandhian value of the spirit of service to the nation has become completely extinct from the present day politics. The money and muscle powers are the basic evils that pollute and defile the process and motivate participants to resort to mal practices in elections. This leads to the decline of moral values in the arena of electoral politics. Radical measures-legislative administrative and reformatory are needed to stem the root that is eating vitiate of the democratic process. A game can be fair only if the players are honest and true to its spirit. Steps Taken by the Government The reports of various EC and a number of formal informal group discussions at various forums and by individuals have categorically pointed out the defects in the electoral system, some of them have ventured to come out with some useful suggestions, yet the problems remaining to be as critical and challenging as ever. The Joint Parliamentary Committee on Amendments to Election Law (1971-72), the Tarkunde Committee Report of 1975, the Goswami Committee Report of 1990, The Constitution Bill 1994 and the Representation of the People (Second Amendment) Bill, 1994 (passed by Parliamentary), the Election Commission’s Recommendations in 1998 and Indrajit Gupta Committee Report of 1998 etc. produced comprehensive set of recommendations regarding electoral reforms. A few reforms have been implemented but „a lot has to be done. The whole country is now expressing serious concern over the anti-social and criminal elements entering into the electoral arena. An indomitable Mr. T.N. Seshan tried his best to cleanse the system, but he failed Mr. Seshan’s successor, Mr. Gill faced the same problem. The Ex -CEC, Mr. Lingdoh also found himself in such a pitiable position, that he has found no suitable remedy to malpractices in elections. This leads to clean the political System but, to appeal the voters not to vote for the criminals. Mr.T.S. Krlshnamurthy, N. Gopalaswami and Navin B. Chawala the CECs also faced the same problem. CEC, T. S. Krishnamurthy has in a proposal letter suggested to Pri Minister Manmohan Singh a set of poll reforms¹⁵ that anyone charge sheeted at least six months before elections should be barred from contesting elections. The EC has taken several new initiatives in the recent past as a use of state owned Electronic Media for broadcast or telecast by political parties, checking, criminalisation of politics, providing with electoral identify cars, streamlining the procedure for registration of political parties and requiring them to hold regular organizational elections, a variety of measures of strict compliance of Model Code of Conduct for providing a level playing field to contestants during the elections, and so on.¹⁶ In India, the BC has established a set of guidelines known as the Model Code of

¹³ Review of the working Political Parties Specially in relation of Election Reforms and reform Options. Consultation. Publish Paper In Nirvachan Sadan 2001-page-425.

¹⁴ Kaur, Amanleep-2009-Electrol Reform in India Problem and Needs 1989 to 2009 Unistar Publication Page-53..

¹⁵ Shyam Sundar Agrawal, Edition 1988-Religion and Cast Politics, Rawat Publication – Page No-118

¹⁶ Prakash Chandra, Changing Dimention of the communal Politics in India, Dominant Publishars, page-18.

Conduct that must be obeyed by political parties and candidates in the run-up to an election. These guidelines are intended to ensure that the ruling party at both the national and state levels -does not misuse its official position to gain an unfair advantage in an election.¹⁷There is a pervasive feeling that something is wrong with the way elections are conducted in India. ¹⁸Keeping in mind the centrality of elections in renewing the legitimacy of the democratic political system and its vital role in the Constitution of the Political Community, It is expected that the distortions adversely affecting the conduct of free and fair elections will be immediately controlled and eliminated if by nothing else, than, at least, by making suitable changes in the law governing the conduct of elections. Now, time has come to provide some hard rules and laws in our constitution to keep away those anti-social evils from legislative and parliament

SUGGESTIONS

The following suggestions should be taken into consideration for making electoral system free and fair manner. At Present, the EC does not have independent staff of its own. Whenever elections take place, the Election Commission has to depend upon staff of Central and State Governments. The dual responsibility of the administrative staff, to the government for ordinary administration and to the EC for electoral administration is not conducive to the impartiality and efficiency of the Commission. Along with it comes the problem of disciplinary control over the staff deputed to do election work which generally generates confrontation between the Government and the EC. Now, when the elections have ceased to be a mere periodical affair, it is desirable that the EC should have a permanent electoral administration with adequate disciplinary control over the staff. Efficient Electoral Commission is a requirement of the day to conduct free and fair elections. Democracy and fearless elections cannot exist without each other. To stop unfair practices in elections like rigging by using official machinery and to ensure existence of democracy, following methods or means should be adopted. The EC should not be at the mercy of Executive and Parliament for its requirements. He should have separate and independent election department to enhance its objectivity and impartiality. Political corruption should be stopped by providing funds to genuine candidates through political parties whose account should be auditable. Candidate involving in corruption should be disqualified. For having a true democracy the registration and recognition of the political parties should be fair and without any kind of influence. Mass Media should play a non-partisan role in election and as a safeguard of democracy. Periodic elections are the foundation of a democratic system. For fair electoral system every aspiring candidate must have fettered freedom to offer himself as a candidate for election and to conduct his election campaign in his own way so long as he keeps him within the law. Every voter must be perfectly free to vote as he likes without any fear of consequences and without being unduly influenced by anyone by improper means and inducement or pressure of any kind. The secrecy of voters' preference to any candidate should be maintained. The election machinery must function honestly and impartially at every stage. Parliament must pass a law dealing with this serious problem of de-listing of valid electorates from electoral rolls because illiterate electorate residing in far villages cannot watch over publication of electorate lists. Preparation of electoral rolls by EC are to be supervised at village level and certificates from officials who prepare electoral rolls to the effect that the electoral rolls have been thoroughly revised. They do not include those persons and legally disenfranchised citizens and intentionally no name should be left in them. Accountability to be fixed for intentional exclusion of name of voters from electoral rolls.

The names of the voters may be included in the electoral rolls even at the time of casting of votes by the polling officer, when he finds a genuine case. Unearth and confiscate black money, which is widely used for buying votes. Make politicians as well as voters law abiding. Strictly apply the Code of Conduct and punish those who violate it. Revise voters' lists in time to avoid bogus polling and correct mistakes in the lists. Prompt action by the judiciary, if any kind of violation is detected during elections. Declare elections

¹⁷ Mahindra Prasad Singh, Communalism and Party Politics in India, Trend in Social Research, January-1984 (1) Page -18.

¹⁸ C.P. Banthri, Party without Ideology, Hindustan Times, 31st March 1998.

results in mandatory. In democracy the public is most powerful entity. If the public do not vote in favour of criminals, dishonest and corrupt politicians who wish to purchase their votes by money or muscle powers, everything shall function nicely and the democracy will shine in the dark spectrum of hitherto corrupt and criminalised political system. So, though the EC is working hard in this direction, but it cannot succeed unless all political parties and voters realize their responsibility. Finally there should proper mechanism, fully functional and fully equipped to fight with any triviality.

REFERENCES

- Election Commission of India, Proposed Electoral Reforms, New Delhi: Nirwahan Sadan, 2004.
- Election Commission of India, Model Code of Conduct for the Guidance of Political Parties and Candidates, New Delhi Nirwahan Sadan, 2009.