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)

viii. The Presidential and Vice-Presidential Elections Act, 1952

Prescribed Books:


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


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


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

1.3 Contents of election petition—material facts and particulars—section 83, R.P. Act, 1951.


1.4 Recriminatory petition—section 97, 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. Baburao v. Dr. Zakir Hussain, AIR 1968 SC 904
15. Special Reference No. 1 of 1974, AIR 1974 SC 1682

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
17. T.N. Seshan, Chief Election Commissioner of India v. Union of India (1995) 4
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
20. Union of India v. Association for Democratic Reforms, AIR 2002 SC 2112

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, 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
26. Jaya Bachchan v. Union of India, AIR 2006 SC 2119

4.2. Disqualification for government contracts

The Constitution of India- Article 299
R.P. Act, 1951-section 9A

4.3. Disqualification on conviction for certain offences

R.P. Act, 1951-section 8
    Lily Thomas v. Union of India, (2013) 7 SCC 653
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. Kihoto Hollohon v. Zachillhu, AIR 1993 SC 412
34. Ravi S. Naik v. Union of India, AIR 1994 SC 1558
35. G. Viswanathan v. Hon’ble Speaker Tamil Nadu Legislative Assembly, AIR 1996 SC 1060
38. Balchandra L. Jarkiholi v. B.S. Yeddyurappa, (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)


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. N.T. Veluswami Thevar v. Raja Nainar, AIR 1959 SC 422
41. Vashist Narain Sharma v. Dev Chandra, AIR 1954 SC 513
42. Chhedi Ram v. Jhilmit Ram, AIR 1984 SC 146
44. Ram Phal Kundu v. Kamal Sharma, AIR 2004 SC 1657

**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. Nitrai 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

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
52. Dr. Ramesh Yeshwant Prabhoo v. Prabhakar Kashinath Kunte, AIR 1996 SC 1113

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)

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
57. People’s Union for Civil Liberties (PUCL) v. Union of India, AIR 2003 SC 2363

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.

* * * * *