

## CHAPTER XII

### NOMINATION OF CANDIDATES

It has already been mentioned that in the light of the The law. experience gained in the first general elections of 1951-52, extensive amendments were made to simplify the law and procedure relating to elections. The law relating to the presentation and scrutiny of nomination papers and specifying the requirements of a valid nomination has been materially simplified by some of these amendments. These amendments have dispensed with all intrinsically unnecessary particulars and declarations to be included in a nomination paper. The nomination paper has in fact been simplified as far as practicable.

In order that a person may be qualified to be chosen to Qualification and dis-qualification for membership. fill a seat in the House of the People or the Legislative Assembly of a State he must—

- (a) be a citizen of India;
- (b) not be less than twenty-five years of age; and
- (c) possess such other qualifications as may be prescribed by law.

A candidate is disqualified for election to the House of the People or the Legislative Assembly of a State—

- (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holders;
- (b) if he is of unsound mind and stands so declared by a competent court;
- (c) if he is an undischarged insolvent;
- (d) if he is not a citizen of India or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;
- (e) if he suffers from any other disqualification under the law.

A person is not deemed to hold an office of profit under clause (a) merely because he is a Minister either for the Union or for a State.

Any person whose name is entered in the electoral roll of a Parliamentary constituency in a State for the time being in force and who is not subject to any of the disqualifications mentioned above, may be nominated as a candidate for election to fill a seat in any Parliamentary constituency in that State or Eligibility of candidates.

any other State. But in order to be eligible for election to a seat in the Legislative Assembly of a State, a candidate must be registered as an elector in the electoral roll of an Assembly constituency of that State.

More than one nomination paper can be filed by a candidate but each nomination paper filed by him must have a different proposer. It is no longer necessary under the amended law to have a seconder, nor is it now compulsory for a candidate to appoint an election agent at the time of filing his nomination paper.

If the candidate so desires, he may appoint an election agent at the stage of filing his nomination paper or at any subsequent time. In other words, the appointment of an election agent has been made entirely optional and independent of the nomination.

Filing of nomination papers,

As soon as the notification has been issued calling upon a constituency to elect a member or members to the legislature, the Returning Officer is required to issue a public notice of the election. By this notice the Returning Officer invites nominations. Nominations must be filed within ten days of the notification.

A candidate may present his nomination paper on the very day of the notification or any of the ten days following that day, unless any of these days is a public holiday. Nomination papers may be presented either before a Returning Officer or before any of his Assistant Returning Officers in his office on any of these days at any time between 11 a.m. and 3 p.m.

Every candidate presenting a nomination paper is required to deposit in cash with the Returning Officer or in the Reserve Bank of India or a Government Treasury the appropriate sum under section 34 of the Representation of the People Act, 1951. Except in such cases where the sum is deposited in cash with the Returning Officer, a receipt in proof of the deposit must be enclosed with the first nomination paper presented on behalf of the candidate.

One such deposit only is required from a candidate in respect of his candidature in the same constituency, and once such a deposit has been made, the candidate is not required to make any further deposit in respect of any subsequent nomination papers which may be presented on his behalf in that constituency.

If a candidate offers himself for election in more than one constituency, he must make a separate deposit in respect of each such constituency.

A candidate who is a member of a scheduled caste or a scheduled tribe is entitled to deposit only half the normal rate

of deposit. He must, however, satisfy the Returning Officer that he is in fact a member of a scheduled caste or of a scheduled tribe. A candidate who wishes to contest a seat reserved for the scheduled castes or scheduled tribes is compulsorily required to make a declaration to that effect in the nomination paper. If a candidate has not made such a declaration, he is not entitled to contest the reserved seat. But if he belongs, in fact, to a scheduled caste or a scheduled tribe, he can be accepted as a candidate for the unreserved seat, if any, although he may have paid only the concessional rate of deposit.

As each nomination paper is filed, the Returning Officer or the Assistant Returning Officer is required to examine it for technical defects, if any. If there are any clerical or technical errors in the nomination paper, the candidate is allowed to correct the same at this stage. Formal scrutiny of the nomination papers is held, however, on the day fixed therefor at a later stage.

The Returning Officer gives a notice to every candidate of the date and time for scrutiny.

The proceedings relating to the scrutiny of nomination papers are summary in nature and have been made less technical by the recent amendments. The grounds on which a nomination can be rejected have been made simpler so that the Returning Officers may take quick and correct decisions. Scrutiny of nomination papers.

On the day and at the hour fixed for the purpose, the Returning Officer scrutinises all the nomination papers presented to him and the Assistant Returning Officers.

If, at the scrutiny, any objection is raised to any nomination paper, the Returning Officer holds a summary enquiry to decide the same.

A nomination paper cannot be rejected on the ground of any defect which is not of a substantial character. The law requires any mistake or error of a technical or clerical nature to be ignored by the Returning Officer.

A nomination paper is rejected by the Returning Officer if—

- (i) the candidate is clearly not qualified in law to be a member of the legislature concerned, or
- (ii) the candidate is clearly disqualified in law to be such a member, or
- (iii) the nomination paper has not been delivered in time, or
- (iv) the nomination paper has been delivered to the Returning Officer or to the Assistant Returning

- Officer by a person other than the candidate himself or his proposer, or
- (v) the nomination paper has not been delivered at the place specified in the public notice issued by the Returning Officer, or
  - (vi) the nomination paper has been delivered to a person other than the Returning Officer or any of his Assistant Returning Officers, or
  - (vii) the nomination paper is not substantially in the prescribed form, or
  - (viii) the nomination paper has not been signed by the candidate and his proposer, or
  - (ix) the proper deposit has not been made by the candidate in accordance with section 34 of the Representation of the People Act, 1951.

A candidate to whose nomination paper an objection has been taken may apply for time to rebut such objection. In such a case he is allowed an adjournment upto two days.

An important change made by the law relates to the choice of symbols made by a candidate in the nomination paper. If a candidate has presented more nomination papers than one, the choice of symbols made by him in the nomination paper first delivered is binding on him. A different choice of symbols made in a nomination paper subsequently filed by him is not taken into consideration at all.

Form.

The prescribed form of nomination paper has been made simpler so that a duly qualified candidate may not run any undue risk of his nomination paper being rejected on mere technical grounds.

The Election Commission directed the Returning Officers to accept all nomination papers whether they were in manuscript, typewritten, cyclostyled or privately printed copies of the prescribed form, so long as they conformed to the prescribed form substantially correctly.

A printed form of receipt for the nomination paper as also a notice to the candidate of the date and time fixed for the scrutiny were also incorporated in the nomination paper form so that every candidate might receive the same as soon as he had filed the nomination paper.

Improper rejection  
of nomination  
papers.

In the general elections of 1951-52 there were numerous instances where nomination papers were rejected on flimsy grounds, e.g., for mistakes made in a nomination paper regarding (a) the year of the election, or (b) the meticulously exact name of the House of the Legislature or the Constituency, or (c) the

description of an electoral roll number, or (d) the choice of symbols. Some nomination papers were also rejected on that occasion by reason of immaterial discrepancies in respect of the age, name or other particulars of the candidate or his proposer as given in the nomination paper compared to the relevant entries in the electoral roll. Such orders of rejection of nomination papers on flimsy or purely technical grounds were improper and led to a large number of election petitions and the eventual setting aside of numerous elections.

The Commission was anxious that similar instances of improper rejections should not occur during the second general elections. The attention of the Returning Officers was pointedly drawn to the important changes in the law in this regard and they were warned by the Commission against improper rejection of nomination papers on flimsy grounds. It was further impressed upon them that there was a legal presumption that every nomination paper was valid unless the contrary was *prima facie* obvious or had been made out.

The following table shows the number of candidates, (i) who filed nomination papers, (ii) whose nomination papers were all rejected, (iii) who withdrew their candidatures, (iv) who were left as contesting candidates after withdrawal, and (v) who retired from the contest subsequent to the last date for withdrawals :—

Statistics.

	No. of candidates who filed nomination papers.	No. of candidates whose nominations were rejected.	No. of candidates who withdrew their candidatures.	No. of contesting candidates.	No. of candidates who retired subsequently.
House of the People.	2,281	44	643	1,594	75
State Legislative Assemblies.	16,484	361	5,329	10,794	617

A total of 93 nomination papers in respect of elections to the House of the People and 839 in respect of elections to the Legislative Assemblies of the various States were rejected by the Returning Officers on various grounds.

While most of the nomination papers were rejected on grounds specified by law, there were a few isolated instances of rejection on flimsy grounds, e.g., choice of only one symbol instead of three in the nomination paper.

No difficulty has been reported in following the amended procedure for the receipt of nominations and their scrutiny.

Working of the amended law.

Some candidates were reported to have filed as many as ten or more nomination papers each in the same constituency. The

Multiple nominations.

number of nomination papers an individual candidate may present is not restricted by law and this omission appears to have been taken undue advantage of. A multiplicity of nomination papers filed by the same candidate unnecessarily increases the labour of the Returning Officer and the other candidates during scrutiny.

The Election Commission considers that the maximum number of nomination papers that may be presented by or on behalf of the same candidate in the same constituency should be restricted to four only—which is a reasonably large enough number for safeguarding the interests of a candidate who may conceivably have been careless in respect of one or two nomination papers. A candidate who is unable to present even one correct nomination paper out of four certainly deserves to have his candidature rejected outright.